

**Submission
No 412**

INQUIRY INTO STUDENTS WITH A DISABILITY OR SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS

Organisation: Disability, Abuse and Corruption in (NSW) Education (DACE)

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NSW Legislative Council
General Purpose Standing Committee No. 3

Inquiry into Students with disability or special needs in New South Wales schools

Submission

**Disability, Abuse and Corruption in (NSW) Education
DACE**

Disability, Abuse and Corruption in (NSW) Education welcomes the opportunity to make a submission to Inquiry into Students with disability or special needs in New South Wales schools, which we have been involved with since its inception as a potential.

Context

Disability, Abuse and Corruption in (NSW) Education (DACE) is a support and advocacy group set up to defend the right of children, families and education staff whom systems have dismissed and in many cases targeted for challenging systemic wrong doing.

We are over 350 individuals and made up from a diverse demographic of academics, teachers and parents, mainly from NSW but with national and international members. We have forged close links with journalists and politicians across Australia.

It was members of this group that were asked to present to representative members of the NSW Parliament in April 2016, after the initial processes for initiating the current inquiry were instigated.

Sadly there is a similarity in most members' stories as to the ways in which the school systems and the Ministers office have dealt with complaints and concerns, the overwhelming majority of which are with the Department of Education itself. In all these cases, the Employment Performance and Conduct (EPAC) section of the DoE has been alleged to dismiss complaints, pass information back to the schools and in many cases partially involved in threats and intimidation of 'whistle-blowers', if not covering allegations of abuse under the pretext of 'not proven'.

Parental statements

"My five-year-old autistic son was tied to a chair with a foot box, ankle straps and a weighted belt that were used to restrain him in a NSW DoE special needs unit"

"When I noticed bruising on my son in the shape of four fingers and a swollen area with broken skin. Upon questioning him he told me, 'Oh a teacher did that'."

"My son experienced constant physical restraint and was dragged by 2 teachers aids by his wrists in a fight or flight mode in front of the whole school from his classroom to the fenced sensory playground which is 50 meters distance."

"A teacher picked up a large stick and began hitting it over my daughter's head."

"The staff members grabbing one arm each and dragging my son out of the class backwards, with his legs dragging across the floor. They put him outside in a fenced in area (corral) and left him alone and isolated."

"My daughter's school had a store cupboard which was used, where the children were locked in."

"My son who is 6 last year was restrained and pushed face first into the library brick wall which left him with scratches to his face."

"My 7 year old was being physically restrained, segregated and isolated daily since the start of the school year with his new teacher."

"A teacher had her hand around my son's throat."

"My 5 year old non-violent son was restrained by two staff members by the arms and dragged backwards with his legs dragging across the floor."

"Teachers often pinned my daughter down."

"A teacher abused my son when he was in Year 7 (grabbed him by the back of the neck and left a mark)."

“The teacher’s aide forced him to the ground and twisting of the arm on the child causing him pain and to scream out loud, followed with him sobbing whilst nursing his reddening arm.”

“It was witnessed of our son being physically dragged by two teacher aids back into the school building and had heard the door slam.”

Department of Education/EPAC Reporting

What concerns members of DACE increasingly, is in those cases where wrong doing has been found to have taken place, little to no action appears to have been taken, or it is too often dismissed as not sustained. The Department of Education also gives no clarity as to what ‘management action taken’ means .

NSW DoE GIPA release April 2016

Received Date	Employee Type	Initial Allegation	Action Taken
29/06/2012	Teacher	It is alleged that a male permanent teacher grabbed a male Year 5 autistic student by the hair, including grabbing a handful of the student’s hair to remove the student from a swing.	Conduct sustained. Management action taken
19/10/2012	Principal	It is alleged that a female Principal engaged in 'unlawful and restrictive practices' by having restricted a Year 8 male student inside an outdoor gated area.	Not sustained
29/06/2012	Assisted Student Transport Driver	It is alleged that a female driver was yelling and screaming and shaking a male student by holding onto the back of his shirt.	Conduct sustained. Management action taken
9/07/2012	Assisted Student Transport Driver	It is alleged that a male taxi driver engaged in a physical restraint of a female student with Autism resulting in significant bruising to her abdomen.	Not sustained
23/08/2012	Teacher	It is alleged that a female teacher kicked a student and also stepped on him while the student was rolling on the floor having a tantrum.	Not sustained
6/09/2012	Assistant Principal and Teacher	It is alleged that two male staff members dragged a male Year 6 student across an Astro turf resulting in an injury to his back.	Not sustained
20/02/2012	School Learning Support Officer	It is alleged that a female School Learning Support Officer grabbed a female student with special needs, on the arm, which caused bruising to the student's upper arm.	Conduct sustained. Management action taken
5/03/2013	School Learning Support Officer	It is alleged that a School Learning Support Officer hit a student on the face whilst travelling home on a bus from swimming. The student allegedly responded by striking the School Learning Support Officer	Not sustained

Released by NSW Department of Education under the GIPA Act 2009. Ref: GIPA-15-230

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Received Date	Employee Type	Initial Allegation	Action Taken
19/02/2013	Teacher	It is alleged that 3 male teachers used excessive force by restraining a male student with special needs and forcing him onto a bus. They are further alleged to have locked the student in the bus as well as sitting on the student's knees causing distress.	Incident sustained but action considered reasonable. Management action taken
24/10/2013	Teacher	It is alleged that a female teacher dragged a male autistic and intellectually disabled Year 3 student by his legs which resulted in the student receiving carpet burns to his chest.	Conduct sustained. Remedial action taken
24/10/2013	Teacher	It is alleged that a male teacher forcibly removed a male 9 year old autistic/intellectually disabled student from a classroom	Incident sustained but action considered reasonable.
2/09/2013	Teacher	It is alleged that a female teacher has kicked a Year 8 male student 2 or 3 times after he violently attacked her and was restrained.	Conduct sustained. Remedial action taken
13/12/2013	Teacher	It is alleged a female teacher took hold of a male Year 9 support student by the back of his neck to move him to another area.	Incident sustained but action considered reasonable
19/11/2013	Principal	It is alleged that a male Principal restrained a male Year 11 student who was engaged in violent behaviour and who assaulted the Principal.	Incident sustained but not misconduct. Management action taken
17/05/2013	Teacher	It is alleged that a female teacher twice grabbed and then dragged by his arm an 11 year old male student with an intellectual disability causing the student distress.	Incident sustained but actions considered reasonable.

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Received Date	Employee Type	Initial Allegation	Action Taken
7/06/2013	Assistant Principal	It is alleged that a permanent female Assistant Principal has yelled at and intimidated a class of intellectually disabled students.	Not sustained
25/02/2013	Assisted School Travel Officer	It is alleged that an Assisted School Travel officer yelled at and hit an 11 year old student, with severe intellectual disability and autism, on the shoulder.	Not sustained
14/06/2013	Teacher	It is alleged that an unknown male staff member restrained a female student with severe autism by placing his hand around her neck with some force.	Insufficient evidence to determine
11/06/2013	Teacher	It is alleged that a male teacher in a Support Unit grabbed a male Year 8 student with Autism by the arm and twisted it behind his back in order to check his pockets for lego.	Conduct sustained but not misconduct
3/09/2013	School Learning Support Officer	It is alleged that a female School Learning Support Officer grabbed a female student around the back of the neck and held her while escorting her into the classroom.	Insufficient evidence to determine
6/06/2013	Principal	It is alleged that staff grabbed a 12 year old Autistic male student, restrained him, which triggered physical aggression from the student and subsequently the school phoned the Police.	Not sustained
13/03/2013	Teacher	It is alleged that a male teacher pushed a Year 8 student against a wall and screamed at him. It is further alleged that he grabbed the student's hair and had wrestled him to the ground. The student has a severe intellectual disability, non verbal and autistic.	Conduct sustained. Remedial action taken

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Received Date	Employee Type	Initial Allegation	Action Taken
14/05/2014	Teacher	It is alleged that a male teacher made an inappropriate comment to a male 16 year old student. It is alleged that by making this comment the teacher has provoked the student and escalated his behaviour which led to the student being disciplined.	Incident sustained but not misconduct.
18/02/2014	Teacher	It is alleged that an RFF teacher grabbed the hair of a male Kindergarten student with Autism and pulled his head down toward desk level to look at his book. It is further alleged that during the same lesson the teacher has dragged the student by his wrists and ankles to his seat.	Conduct sustained but not misconduct. Management action taken
17/06/2014	Teacher	It is alleged that a female teacher at a behavioural school pushed a Year 2 male student causing him to fall and graze his chin and hip.	Incident sustained but not misconduct
31/10/2014	Teacher	It is alleged that a permanent SSP teacher has dragged a special needs student resulting in him having multiple bruises along his spine.	Incident sustained but not misconduct
14/11/2014	School Learning Support Officer	It is alleged that a female School Learning Support Officer grabbed the hair of a female Year 9 student after the student spat on her.	Not sustained
24/11/2014	Teacher	It is alleged that a female temporary teacher made a male year 9 student drink a glass of soapy water.	Conduct sustained. Management action taken

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Received Date	Employee Type	Initial Allegation	Action Taken
16/12/2014	Assistant Principal	It is alleged that a female assistant principal grabbed a Year 2 (severe intellectual and autistic) male student by his neck and/or shirt collar and put him in a headlock and dragged him along the corridor with his feet off the ground.	Conduct sustained. Management action taken
29/01/2015	School Learning Support Officer	It is alleged that a female Student Learning Support Officer has 'bonked' on the head a male autistic Year 7 student with a hard cover A4 sized book.	Conduct sustained. Remedial action taken
3/02/2015	Teacher	It is alleged that an unknown male teacher grabbed a female Year 10 student by the arm and pushed her into a classroom, and locked the door.	Insufficient evidence to determine
2/03/2015	School Learning Support Officer	It is alleged that a male casual School Learning Support Officer bullied, verbally and physically abused a male student and failed to follow behaviour management plans.	Investigation in progress
14/05/2015	Teacher	It is alleged that a male teacher grabbed a 15 year old female who is described as a severely autistic child, and forcibly removed her from an area of the classroom.	Incident sustained but action considered reasonable
21/08/2015	Teacher	It is alleged that a female teacher grabbed a student by the arm, pulled him off play equipment, and dragged him inside a classroom while yelling at him.	Investigation in progress
25/08/2015	Teacher	A female casual teacher self reported that while she was trying to move a male Year 6 student with threatening and violent behaviour away from other students and staff, and after he threw sand at her and other staff, she threw sand back at him.	Not misconduct

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Received Date	Employee Type	Initial Allegation	Action Taken
26/08/2015	School Learning Support Officer	It is alleged that a female School Learning Support Officer engaged in inappropriate physical contact with a class of Year 8 students.	Investigation in progress
31/08/2015	Teacher	It is alleged that a male teacher has hit a Year 10 male student.	Not sustained

Too often it appears that the DoE puts job protection before child protection. We believe strongly that there is no excuse for abuse.

Other Organisation Responses

Too often it appears that abuse allegations are not deemed as ‘reportable conduct’ through the ‘class and kind agreement’ between the DoE and the NSW Ombudsman. The NSW Ombudsman has been fully aware of this issue for many years and yet it is only at the initiation of this inquiry that the Ombudsman is starting to question that arrangement. We believe it must be recognised that the NSW Ombudsman has been in part at fault in this system.

Too often it appears that the NSW Police, whilst having the best intentions, have failed to fully recognise the special requirements needed when engaging with children with a disability as part of the investigative process. We strongly believe that the special measures that have been adopted in the UK for dealing with vulnerable witnesses, and that the Royal Commission into Sex Abuse has recommended for children who are victims, should also be applied to alleged abuse victims in education who are disabled.

In those cases where legal proceedings have been initiated, we have multiple reports of the DoE making confidential settlements, so that allegations of abuse are hidden, through legal protection barriers. We believe it is important for this committee to have knowledge of how much public money has been spent in the last 10 years to ‘cover-up’ allegations of abuse.

We also have multiple instances of GIPA requests being not fully provided, including members own emails being redacted, as obviously the Department of Education believes that parent's own writing is too sensitive for the parents to read again. We believe that the DoE as a publically funded body should be more transparent and open in the material that it provided through GIPA, and whilst individual names may be redacted, in documents, whole documents should not be redacted – simply in sense of honest transparency that all publicly funded bodies should have.

DACE is also deeply concerned at the role that some Federally funded disability advocates, groups and Education Unions have played in being complicit in dealing with parents and teachers to undermine concerns and protect those with allegations of abuse and impede investigations, thus becoming enablers of abuse.

DACE has forged links with similar organisations established in other Australian states and has found that the same issues resound across Australia. We welcome this Inquiry and believe that the members of the committee will find methods to recommend change.

Recommendations

- Inclusion (not integration) be the default position for children with a disability in education.
- Replace EPAC with an independent separate investigative body.
- Reviewing all allegations of abuse of children with a disability in the past 7 years (since the last inquiry) that have been dismissed by the DoE or the NSW Ombudsman
- Change the interview process that involves the police so that specialist support procedures are used.
- All allegations of abuse against children with a disability should be reportable conduct.
- The DoE should be more transparent in communications, especially through the GIPA process.
- Children with a disability should not be denied enrolment at their local school under the pretext of 'reasonable adjustment'.
- Parents should part of the IEP process.
- Schools should maintain records of exclusion and inform parents.
- Schools should maintain records of injury reports and inform parents immediately of any injuries (especially to vulnerable children with a disability).
- So called 'time-out' rooms must be a last resort and parents fully informed of their use in every instance. They should be clearly identified in school plans, a clear school policy of their usage be published by all schools, they should have a staff member supervising (visually) at all times, and an accurate record (available to all parents) be kept of their usage. They should actual rooms with ventilation and windows, not store cupboards.
- The DoE should consider allowing parents who home school to have access to Distance Education resources as part of the right to a public education.

However we also believe there are systemic and embed attitudinal disregards for the rights of children with a disability in Australia, in education and in the wider community. The only real hope for lasting attitudinal change is for the recommendation of the Inquiry to be for a Federally instigated Royal Commission in to the abuse of disabled peoples (including children) in Institutions (including Education).