

Submission
to the
**Senate Education and Employment References
Committee**

**Inquiry into current levels of access and attainment for
students with disability in the school system,
and the impact on students and families associated with
inadequate levels of support**

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17 July 2015

Summary:

This experiential submission focusses on students with **disability** who are also **gifted** (IQ in top 10% of age peers). It describes the barriers encountered by such students and by their parents, with particular emphasis on how little is known by teachers and schools about their obligations under disability discrimination **legislation** (in particular the *Disability Standards for Education 2005*), and consequently how impossibly difficult it is for gifted students with disability to obtain approval for **disability adjustments**, both for classroom activities and assessments and for high-stakes State tests and exams. It includes **recommendations** for possible solutions to the problems described in the submission. **Examples** in support of the assertions in the submission are listed in Appendices.

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1. Background

This submission is made in response to the call for submissions by the Senate Education and Employment References Committee Inquiry into current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/students_with_disability

I am national coordinator of **GLD Australia**, a national online learning community and support group responding to the needs of gifted children and gifted adults with specific learning disability and other learning challenges (**'GLD'**), and the needs of those who care for, teach and advocate for them, through the sharing of information, research and personal experiences.

GLD Australia is a not-for-profit independent learning community with a member-owned and member-operated Yahoo Group list. It is affiliated with the Australian Association for the Education of the Gifted and Talented (**'AAEGT'**): <http://www.aaegt.net.au>, which is the Australian national umbrella association for State and Territory gifted associations.

GLD Australia has approximately 200 members across Australia. It has no political or commercial affiliations. It is not an incorporated association, and thus has no income, no membership fees, no property, no officers, no employees and no premises. It is run entirely by non-paid volunteers.

Since GLD Australia is not a legal entity, I make this submission in my personal capacity, as a volunteer parent advocate who has been working with parents of gifted children with disability for approximately 10 years.

In the course of my volunteer work for GLD Australia and for a variety of other gifted and learning disabilities associations and groups, I have over the last decade spoken to, and communicated via email with, literally hundreds of parents whose gifted children with disability are not having their needs met at school.

I include the biographical information above to explain the genesis of my familiarity with this population – not as an assertion that my views reflect those of all members of GLD Australia or of any of the other voluntary associations with whom I work, or that I in any way have authority to speak on their behalf.

I am grateful for the opportunity to submit this information.

2. Context of this submission

The gifted children of the parents who contact GLD Australia are generally extremely behaviourally compliant. As non-squeaky wheels, they attract little attention – **until they begin to fail at school.**

Often this occurs in late primary or early secondary school when academic work demands more hours of sustained effort, and when students are presented with ever increasing organisational and time management challenges.

It is generally at this point that a gifted child's invisible disability is first identified, and parents begin to take action to ensure that the disability is being appropriately supported and addressed at school.

And it is usually then that parents begin to run into difficulties.

Because the federal and state legislation governing disability discrimination in education is so generally misunderstood and unenforced, I am spending far too much of my time interceding with schools on behalf of parents of gifted children with disability, and ghost-writing emails and letters for parents to send to schools and to State testing administration authorities in response to the rejections which parents regularly receive when they apply for their children to receive disability adjustments for classroom activities and for tests and exams.

I find myself day after day making the same points and providing the same explanations – different school, different child, but same arguments.

With a very few isolated examples, I have noticed no improvement in this situation since the *More Support for Students with Disabilities* program was implemented, or since the *Nationally Consistent Collection of Data on School Students with Disability* initiative has been in the process of being trialled over the past few years.

The vast majority of parents who contact me present with fact situations which in my view could justify filing a complaint under the federal disability discrimination legislation – indeed I have seen many less worthy cases proceed to conciliation and eventually succeed.

Yet I am usually reluctant to advise that parents take that last-resort action as it is stressful for the parents, and time-consuming and thus costly for the staff of the Human Rights Commission ('**HRC**'), for the staff of schools and of testing administration authorities, and for the solicitors and barristers who end up acting for both sides.

When I do decide to support (in my capacity as parent advocate not as lawyer) a parent who sees no alternative but to file a complaint with the HRC, that parent's complaint is almost always eventually resolved in favour of the parent – no matter how many rejections their applications may have previously received.

I have prepared this submission hoping that a solution may be found which will result in parent advocates spending far less of our time interceding on behalf of parents in this way – a solution where all students with disability can, without filing a HRC complaint, have access to disability adjustments when appropriate, and where all parents will have the knowledge they need to apply for the adjustments, not just those parents who happen to belong to a support group such as GLD Australia.

3. Concerns of parents of children with disability

3.1 Schools and teachers rarely know enough (or anything at all...) about disability discrimination legislation

With very few exceptions, both primary and secondary schools in all three sectors (public, Catholic and independent) initially allege to parents, and to me as the parent's advocate, that they have never heard of any kind of disability discrimination legislation.

When the federal *Disability Discrimination Act 1992* (or its various State counterparts) or the *Disability Standards for Education 2005* ('**Standards**') is brought to the school's attention (eg, parent takes in something printed off the internet), the school's response is invariably, "Oh no, we don't bother with that here. We are too small or big or busy or crowded or rural or inner-city or poor or understaffed or low-SES or high SES, or academically selective, etc. etc....."

Very few schools seem to understand their obligations under the legislation and the Standards to make reasonable adjustments for students with disability so that they can access and participate in their education on the same basis as students without disability.

Similarly, few schools seem to understand that the provisions of the Standards are enforceable and, depending on the circumstances, provide certain **entitlements** to the child – that they are **law**, not mere policy, and thus cannot be summarily ignored or explained away.

Similarly, some public schools claim that, even as a State school, they are not governed by Department of Education disability policies which have been posted on the Department's website – policies which they describe as merely 'aspirational'.

Accordingly there is little uniformity or consistency in the way that such policies are being implemented and obeyed. Departmental policies and rhetoric generally do not filter down to individual schools, such that policies are implemented in a haphazard and non-standardised fashion, often seemingly capriciously and based on the personal beliefs of school personnel. Again these sometimes vary from class to class and from Year to Year.

Most educators neglect to inform parents of their children's rights with respect to disability adjustments for State tests and exams and accordingly leave it up to parents both to instigate applications and then, if successful, to ensure that approved adjustments are properly implemented (despite the fact that clearly not all parents are in a position to do this, or even to know that they need to do it).

In the face of a request to schools to assist in applying for disability adjustments to testing administration authorities, the vast majority of teachers and other school personnel:

- Claim that they don't know how to apply for adjustments, how to draft a coherent application, or whether or how a negative decision can be appealed, or
- summarily dispute professionals' documented diagnoses of disability, without reference to legislative definitions of 'disability', or
- don't understand the difference between 'disability' as defined for purposes of public **funding**, and 'disability' as defined for purposes of disability discrimination legislation and disability **adjustments**, or
- cannot imagine what a disability adjustment would even look like, or
- profess to be tired of applying for disability adjustments to testing administration authorities because they claim that they can see no pattern as to whose applications are approved and whose are not. (For example, school counsellors and guidance officers report that they will submit applications for two students with the same or similar disability and levels of impairment, and the same or similar medical and other professionals' reports, and yet one child's application will be approved and the other's not, without explanation or justification), or

- claim to be reluctant to spend time applying for disability adjustments for gifted students who are already doing well and not failing, and assert that they instead wish to concentrate on applications for **struggling** students who are failing or likely to fail (contrary to the opposite assertion on page 15 of the NSW Ombudsman's May 2013 report to Parliament on HSC Disability Provisions: https://www.ombo.nsw.gov.au/data/assets/pdf_file/0006/9789/HSC-Disability-provisions.pdf), or

Further, many schools seem to regard disability adjustments as conferring some kind of 'advantage' on the child with disability. Schools generally do not understand that equity does not mean always treating all children exactly the same, but rather treating each child according to what that child needs.

Similarly, schools usually do not understand that disability adjustments do not and cannot 'level the playing field' in any meaningful way.

Disability adjustments **help a bit, but they do not equalise.**

For example, extra time to accommodate a disability which results in a slow processing speed or a slow reading speed or a slow handwriting speed or a poor working memory or an uncorrectable vision impairment does not bring the child with the disability up to the level of a child without the disability – it just helps.

By way of analogy, a child who uses a wheelchair cannot play basketball except in the wheelchair. Accordingly, allowing that child to use the wheelchair (which here constitutes the disability adjustment) helps the child to play and to participate in the game. However the wheelchair does not, by itself and without more, bring that child up to the level of the children running around on two legs – the wheelchair helps, but it does not equalise. It does not remove the disability or make all players the same. The child in the wheelchair is still slower. And the playing field is not 'levelled' – it is just tilted a bit so that it's not quite as 'non-level' as it was.

Giving children with disability extra time for tests and exams does not make them as fast as children without disability who don't need extra time. Disability adjustments make things fairer – but still not completely fair.

3.2 Schools and teachers rarely know enough (or anything at all...) about the possibility that a child can BOTH be gifted AND have a learning disability

The vast majority of school personnel do not generally understand that all gifted children can, and some do, suffer from any one or more of the disabilities, disorders, dysfunctions, deficits, deficiencies, difficulties, disadvantages, detriments, impairments, impediments and ailments which may befall non-gifted children – except of course intellectual impairment.

A high IQ is protective against nothing but a low one.

Similarly, approximately 10% of students diagnosed with learning disabilities or other special needs may be assumed to be gifted (albeit as yet unidentified as gifted). Overseas researchers assert that somewhere between 9 and 16 per cent of gifted children are struggling with a (sometimes undetected) disability.

Giftedness does not preclude disability – and vice-versa.

The fact that a child may BOTH be gifted AND have a learning disability is expressly recognized by:

- the Australian Curriculum Assessment and Reporting Authority:
<http://www.australiancurriculum.edu.au/StudentDiversity/Who-are-students-with-disability> and
<http://www.australiancurriculum.edu.au/StudentDiversity/Gifted-and-talented-students> and
<http://www.australiancurriculum.edu.au/StudentDiversity/Who-are-gifted-and-talented-students>
- the Education Council, on its Nationally Consistent Collection of Data website:
http://www.schooldisabilitydatapl.edu.au/#step1isthereanadjustment_2
- the NSW education department - para 3.1 here:
<https://www.det.nsw.edu.au/policies/curriculum/schools/gats/PD20040051.shtml?level=Schools&categories=Schools%7Caccess+%26+equity%7Cgifted+%26+talented> and page 5 here:
<http://www.curriculumsupport.education.nsw.gov.au/policies/gats/assets/pdf/polimp.pdf> and here:
<http://www.curriculumsupport.education.nsw.gov.au/policies/gats/index.htm> and page 13 here:
<http://www.curriculumsupport.education.nsw.gov.au/policies/gats/assets/pdf/polsuppid.pdf>

- the Queensland education department: [Curriculum provision to gifted and talented students](#) pages 2 and 4

The fact that a child may have been identified as gifted, or may be enrolled in a select-entry school, class or program, or may have previously been accelerated, in no way implies that the child could not also have a disability or will not need disability adjustments.

And the fact that such children apply for them should not be seen as an indication that the child is thereby trying to deceitfully secure some form of undeserved 'advantage' vis-à-vis average-IQ children.

Often disability adjustments will be initially approved on the grounds of a student's disabilities but then almost immediately be withdrawn or curtailed or decreased on the grounds of their giftedness.

Such attitudes and decisions are counter-factual and unjustifiable.

The Standards contain no exemption, express or implied, for students with a high IQ. A student with an IQ of 150 is just as disadvantaged by, for example, visual impairment or severe motor dyspraxia as a child with an IQ of 100 (perhaps more so, in terms of the frustration engendered by the simultaneous presence of both characteristics).

Once gifted students with disability finally enrol in university, where the disability officers are well trained and the Standards much better understood and enforced, these students' difficulties in obtaining adjustments usually disappear. The problem is however that many never actually get to go to university – either because their disabilities prompt them to want to drop out of high school early, or because their giftedness has prevented them from obtaining the professionally recommended and documented disability adjustments for their Year 12 final exams which they need in order to show what they have learned and what they can do on the same basis as a student without disability – and hence obtain the ATAR needed to apply for university.

3.3 When parents request disability adjustments for gifted children with disability

When a parent submits to a school a report from a medical specialist or other professional (eg, paediatrician, occupational therapist, speech and language pathologist, optometrist, Irlen screener, audiologist, psychologist, medical practitioner, etc) containing a diagnosis of a child's disability, medical condition or other disorder, together with a list of recommendations for disability adjustments and interventions to support the child in the classroom and/or during tests and exams, teachers and/or principals invariably attempt to unilaterally overrule the professionals'

recommendations on a variety of far-fetched and patently specious and irrelevant grounds.

Examples of such excuses are listed in **Appendix A**.

These excuses reflect the fact not only that school personnel generally are unfamiliar with the Standards but also that their decisions are based capriciously on personal beliefs and porous prejudices.

Some parents accept such excuses and do nothing.

Some don't, and instead decide to pursue the matter at length with the school principal or other senior educational administrators or education department's regional office, etc. If still unsuccessful in having their child's needs met, some parents go on to lodge an appeal with a testing administration authority or to file a complaint with the HRC.

In all the cases in which I've helped parents in the last few years with such an appeal or complaint (in my capacity as support person, not lawyer), the school or testing administration authority has almost always eventually had to reverse its decision as to whether a professionally recommended adjustment is 'reasonable' – either immediately after the parent appeals or complains, and especially at or after a HRC conciliation conference.

Even when a case is not resolved at the HRC conciliation conference, negotiations between the parents and the school or education department or testing administration authority continue, and the school almost invariably finally agrees to implement the previously denied disability adjustments.

So ultimately the parents do 'win' - but at what cost and stress?

The schools in these cases were not 'forced' by the HRC to implement the disability adjustments (as it is not the role of the HRC to **tell** the parties what to do) but in each case, it became increasingly evident to everyone that what had been professionally recommended for the child was actually eminently reasonable, would not constitute unjustifiable hardship for that school, would not advantage the child with disability, would not disadvantage anyone else, would not interfere with the integrity of the test or exam for which the adjustment had been recommended, and simply should have been implemented in the first place with no arguing and no fuss.

In the vast majority of cases with which I am familiar, the disability adjustments being applied for were pathetically simple (something as time-consuming as enlarging a photocopy of a test so that a child with a visual issue could **see** it), and in each case the school ended up looking a tad

foolish. No building of expensive ramps or lifts or extra anything, just enlarging a photocopy....

Some schools are told by some education departments that the decision as to what is 'reasonable' always rests with the school, but schools are not told that the school must still be absolutely scrupulous in its determination of what is 'reasonable' and, most importantly, that its decision is always open to challenge.

Similarly, when applying for disability adjustments for State tests and exams, some schools claim that they are governed by whatever a testing administration authority posts on its website with respect to what will and will not be 'allowed' in the way of adjustments and which kinds of disabilities will and won't qualify for them.

This is not the case.

What appears on such websites is simply bureaucrats' self-authored, self-serving, capricious **policy, not law.**

The website 'rules' or 'guidelines' or 'protocols' are attempts by some testing administration authorities to unilaterally circumscribe/narrow/limit what is deemed to be a 'reasonable' adjustment under the legislation – but such website pronouncements, being mere policy and not law, are always challengeable and are regularly not upheld or obeyed on appeal.

For example, some such website pronouncements include 'rules' such as:

- a child must be able to prove that they are regularly using a given adjustment in the classroom before it will be approved for a State test
- adjustments are designed to help only children who would otherwise be completely prevented from accessing the test or reading the questions or communicating their responses
- the student must prove that they are unable to use one kind of disability adjustment before they will be allowed to have a different kind (usually in the context of being required to fail when dictating to a scribe before being given permission to type answers on a computer)
- a diagnosis of disability X will justify the provision of 5 minutes' extra time per half hour but never any more, regardless of level of impairment occasioned by the disability

In fact the legislation and Standards say nothing about any of the above 4 'rules' – they are mere policy and not law. Few schools and teachers (and even medical professionals) understand this.

Unjustifiable hardship is virtually never raised as a defence in the context of gifted children with disability, because what their professionals are recommending (eg, rest breaks, coloured paper, homework being written up on the board as well as being assigned orally etc) is usually simple and costs little or nothing.

Parents who are determined to take the kind of action described above in the face of an initial rejection tend to be feisty, well-educated, well-informed, well-connected, articulate, and thoroughly skilled at making a nuisance of themselves until the professionally recommended disability adjustments are finally granted.

On the other hand, not all parents take such action. Some decide to remove the child from the stress-causing situation altogether and begin to homeschool.

Most parents simply don't know what to do.

Not all belong to support groups such as GLD Australia. Some parents simply do not have time or are for whatever other reason not inclined to undertake any kind of sustained and stress-producing action. Accordingly, in the face of school rejections, these parents elect to do nothing.

Their children then receive exactly that – nothing.

There is no mechanism to ensure that such inequities do not occur. The squeakiest and most annoying wheels tend to succeed at getting the disability adjustments.

Inequities seem to be particularly pronounced in the case of parents whose first language is not English, who are low SES or poorly educated, or who may have migrated to Australia from jurisdictions where it is considered generally unwise to ever question or appeal government decisions or to otherwise draw attention to oneself.

Because joining GLD Australia is free, the parents for whom I advocate represent a very **broad spectrum**.

On the one hand, some are quite wealthy and can afford the very best barristers and the very best medical and other professionals. They can and do consult multiple highly-credentialed specialists and collect numerous well-written and well-considered reports strongly recommending disability

adjustments. Some of these parents have children in private schools but some also have children in State schools.

On the other hand are those parents who rely on Centrelink payments and who must queue for services from medical professionals who bulk bill or from other allied health professionals who work in the public sector and charge little or nothing. These parents tend to have children in State schools.

I have noticed over the years that those in the former (wealthy) category seem to succeed faster and more easily when it comes to applying for disability adjustments, and especially when lodging appeals in the face of rejections of initial applications. I notice that the more professionals' reports a parent is able to accumulate, the better are the chances of initial success, especially when six or seven different kinds of professional are recommending the same or very similar adjustments.

Yet in my view it is not always the case that the children of the wealthy parents are more greatly impaired by their disabilities than the children of the Centrelink-dependent parents.

Private psychometric and disability assessments by skilled professionals can be very expensive. Some university psychology departments can administer less expensive ones but these tend to be performed by students or interns under supervision. Most public child and adolescent health services cannot or do not offer them.

This patent inequity based on wealth is of great concern.

A way needs to be found so that all children with disability can have their degree of impairment independently assessed by competent professionals on a wealth-blind and sector-blind basis. **It should not be a contest to see who can pay for, collect and thus submit the greatest number of costly reports.** Neither should the result depend on an assessment of the parents' ability to hire legal counsel who will be able to competently argue against a testing administration authority's barristers if and when a case proceeds to conciliation at the HRC – or perhaps finally to a hearing.

3.4 When disability adjustments are notionally granted

Sometimes, after a parent has appealed a negative decision or has made it clear that they are aware of their child's entitlements under the Standards, after a few days the requested disability adjustment just seemingly miraculously appears on the child's desk or is otherwise furnished by a school without comment.

However, even when disability adjustments are notionally granted, **often the adjustment is short-lived**, and it is eventually forgotten or quietly withdrawn after a brief time, usually without consultation with the parents. Parents are disappointed to discover that, despite all their stressful advocacy, the approved disability adjustments are not being implemented in any sustained or continuing fashion.

In some cases, the adjustments are implemented properly for one year, but then the parent finds that every January they must begin the whole tedious and stressful process all over again.

If the former year's teacher has left the school, parents are sometimes told, "Oh no, Mrs XYZ would have never allowed him to use a laptop or have extra time – that would never happen here - you must be mistaken!"

Sometimes when the requested disability adjustments are notionally approved, a formal ILP/IEP/ISP/PLP/ICP etc is drafted and negotiated and signed off on.

However parents often report that, after a short time, the plan is put into a drawer, never implemented in any meaningful way and ultimately forgotten. The disability adjustments are not implemented. When teachers are asked about this, they invariably say that they were finding the plan 'too complicated and too hard to implement'. Rarely is the ILP, etc passed from Year to Year and from teacher to teacher as the child progress through school.

Still in other cases the disability adjustments are initially granted without argument but then their implementation is made conditional upon the child improving their 'behaviour' before being entitled to use them. This reflects a view that disability adjustments constitute some kind of reward or favour, when in fact it may well be the case that the child's challenging 'behaviour' is being caused in the first place by the disability and may disappear or markedly improve once the disability is being properly supported and addressed.

Appendix B lists some of the excuses given by schools as to why previously approved disability adjustments are not being implemented.

4. Lived experiences – children with disability

I am regularly contacted by parents who claim that their children with disability have experienced one or more of the events described in **Appendix C**.

Daily interactions such as those described in Appendix C suggest that serious attention needs to be paid to the possible cause of the allegedly rising statistics with respect to mental health disorders in schools.

Psychologists regularly point to the particularly poor outcomes which may be expected for gifted children with disability who are forced to cope for years with the fact that neither their gifted needs nor their disability needs are being met in the classroom.

5. Lived experiences – parents of children with disability

I am regularly contacted by parents who claim that they have experienced one or more of the events listed in **Appendix D**.

It is arguable, I submit, that at least some of the examples in Appendix D constitute victimisation, contrary to section 42 of the *Disability Discrimination Act* and section 8.3 of the Standards.

Yet such interactions between school officials and parents tend to be generally oral rather than written, and hence create evidentiary barriers for parents wishing to rely on the legislative victimisation provisions.

One parent drew a school's attention to the relevant victimisation provisions and was told simply, "So try proving that I really said it."

Section 8.3 of the Standards imposes onerous obligations on education providers with respect to victimisation of parents who suggest or hint that they are thinking of taking action under the Standards for the purpose of obtaining disability adjustments for their children with disability.

This highlights the urgent need for training of all teachers and other school officials who are called on to meet with advocating parents.

The day will come when a parent WILL indeed be able to 'prove that it was really said'.

6. Lived experiences – applications from gifted children with disability for select-entry schools, programs or classes

Appendix E lists some of the excuses proffered by school officials and education departments to justify a refusal to implement professionally recommended disability adjustments for entrance tests for select-entry schools, programs or classes.

Some education departments' websites concerning such entrance tests sometimes purport to impose a blanket prohibition on the possibility of certain kinds of disability adjustments for all applicants, regardless of the severity of disability or level of impairment, and in seeming breach of the consultation requirements in the Standards.

Failure to grant disability adjustments to gifted children in this context results in the exclusion of many gifted children with disability from select-entry schools, programs and classes, despite the fact that the research literature overwhelmingly notes the need for such children to be treated as 'gifted first' and to be kept in a large cluster of their IQ peers and be provided with appropriately challenging academic work, despite not yet achieving good grades.

In some cases, the resulting emotional damage from such refusals can be immeasurable. The gifted child with disability is forced to witness the acceptance of classmates who have regularly scored lower on in-class assessments or who have invariably taken longer to understand new class work.

This can be soul-destroying. The gifted child is humiliated when constantly asked by classmates why they are not going into the select-entry class or why they are not proceeding on to the select-entry high school, and when having to admit over and over that, despite their heretofore high grades on untimed assessments, they 'failed' the limited-time entrance test.

7. Lived experiences – parents of gifted children with disability who are already enrolled in select-entry schools, programs or classes

Appendix F lists excuses proffered by teachers and school officials to parents of gifted children with disability who are already enrolled in select-entry schools, programs or classes to justify a refusal to implement previously approved disability adjustments.

Again, these excuses reveal a very limited understanding of disability and of educators' obligations under the Standards.

8. Disability adjustments for Year 12 State exams

The situation in some States has become simply intolerable with respect to the possibility of gifted students with disability being granted professionally-recommended disability adjustments for Year 12 State exams.

In my experience, except in the case of a visible, physical disability, the gifted student has very, very little chance of having the recommended adjustments approved unless the parent is particularly feisty, and appeals and appeals and appeals, and finally lodges a complaint with the HRC pursuant to the federal disability discrimination legislation.

The latter avenue invariably leads to success, but quare how many other students with disability can benefit from a positive HRC conciliation outcome, because after a conciliation hearing, the parent is almost always, as far as I know, required to enter into a confidentiality agreement, and from that moment on, is precluded from telling anyone, including me, the details of the resolution.

I have advised a variety of parents who have provided to the relevant testing administration authority a file containing professionals' reports on a Year 12 child's disabilities dating back to age 6 or 7, and still the child's initial application for Year 12 disability adjustments has been refused.

This happens even when the child has previously received disability adjustments for tests such as NAPLAN or ICAS or former State exams, and even when the application is strongly supported by the child's school - and especially in the case of a child who is patently clever and is already achieving well at school.

In one jurisdiction an application for Year 12 was initially refused on the grounds that the child had had disability adjustments for a State exam in Year 10 and had done quite well on that exam, and accordingly his permanent disability must have 'cleared up' and so he could not have the adjustments again for Year 12.

Some testing administration authority officials have reportedly told parents that the recommendations of certain named professionals are 'never accepted' because "Everyone who goes to that doctor/psychologist etc always gets diagnosed with XYZ disability."

Such assertions are unsubstantiated.

I have indeed sent parents to the named doctors and other specialists, practically on their knees begging for their child to be diagnosed with XYZ disability, and the professional, after thoroughly assessing the child, has refused on the grounds that the child does not meet DSM criteria for that disability.

Even schools regularly express great dissatisfaction with the inequitable way in which some testing administration authorities are implementing their programs for disability adjustments for Year 12 final exams.

Teachers and school counsellors or guidance officers allege that they are expected to gather the necessary evidence and submit cogent applications to the testing administration authority without having ever been trained in how to do that and without being allowed enough time to do it properly. Some report that they end up doing it at home on weekends.

They marvel at what they regard as inexplicable discrepancies between the divergent ways in which students at the same school are treated by testing administration authorities.

When they ask some testing administration authorities for reasons to justify the acceptance of one application but not another almost identical one, they are told simply that the second applicant 'did not meet the guidelines'.

Then when teachers ask to see the so-called guidelines, they are told that the guidelines are secret and must remain so because allegedly, if students had access to the guidelines and hence the threshold levels of impairment needed to qualify for adjustments, then some students would undoubtedly fraudulently and deliberately lower their performance to make sure that they fell below the arbitrary cut-off points in the guidelines.

Additionally, some school personnel do not even know whether appeals are possible, let alone how or when to lodge them.

One teacher who attended a learning disabilities association seminar on how to interpret IQ tests announced to the audience that she had enrolled in the seminar chiefly in order to learn 'how to better fight with [a named testing administration authority]'.

Psychologists regularly report that they are astonished by the lack of training amongst the testing administration authority staff responsible for answering phone enquiries – ie, testing administration authority officials who clearly have no understanding of the meaning of IQ tests or disability assessment reports.

With respect to a **gifted** child, the testing administration authority's (and sometimes the school's) response is that the child is so bright they surely

will still **pass** their exams without the disability adjustments. The point is made repeatedly that disability adjustments are designed just to allow students with disability to 'access' their Year 12 exams, not to attempt them 'on the same basis as' a student without disability, and certainly not to perform on them in accordance with their academic potential.

Some testing administration authority officials actually allege that disability adjustments are only for **low-IQ** or otherwise struggling students but, as noted elsewhere, there is no exemption in the Standards for high-IQ students.

Parents, teachers and psychologists report to me that in the same school, two students with virtually identical disabilities and equal degrees of impairment will apply at the same time, and the application of the gifted student who is already achieving good grades in Year 12 (but is realistically aiming for higher ones....) will be refused, while the application of the struggling, almost-failing student will be approved.

Disability adjustments can make an **enormous difference** to the future of a very clever child with disability: the difference between an ATAR 99 and 93 has huge implications for tertiary study – the difference between 69 and 63 less so.

Further, parents report that there is little consistency among the various State testing administration authorities with respect to their policies on disability adjustments for Year 12.

Some States offer very generous adjustments with decisions being made on a case-by-case basis by individual principals who personally know the applicant child. Such principals have complete discretion as to which disability adjustments they will and will not approve, and anecdotally, if a highly-credentialed professional has recommended a particular adjustment and provided cogent medical or other evidence in support of that recommendation, such principals will tend to simply approve that adjustment without entering into a bitter conflict with the parents.

Other States offer very stingy adjustments with decisions being made by untrained testing administration authority staff according to the confidential unpublished guidelines and with very limited publicity about how such decisions can be appealed.

Parents report that some States' guidelines for disability adjustments for State exams are being applied in an increasingly stringent and ungenerous manner.

Other States seem to have comparatively generous and flexible guidelines.

For example, the guidelines set down by both the Queensland Curriculum and Assessment Authority (<http://www.qsa.qld.edu.au/2132.html>; <http://www.qsa.qld.edu.au/1102.html>) and the International Baccalaureate ('IB') (<http://www.ibo.org/programmes/pd/special/documents/dpspecialassessment.pdf>) are seemingly much more generous, especially in the case of the IB.

I am told, but do not know, that the IB disability adjustments guidelines are the result of American parents over the years lobbying for fairer provisions under the USA IDEA legislation. Every year Australian IB students benefit from these IB guidelines, because all IB students write the same world-wide Year 12 exams and are granted adjustments pursuant to the same policy.

At the same time, children with disability in some Australian jurisdictions which have not been the target of years of such parental lobbying are disadvantaged vis-a-vis their peers who are enrolled in the IB system.

For example, students with disability who complete Year 12 with generous disability adjustments under the IB system in Australia or in a State with a generous disability adjustments policy **take their resulting ATARs into the market and compete for university places** with students with disability who have completed Year 12 under the far stricter and harsher rules imposed by some of the other State testing administration authorities.

Obviously, such students with disability in the latter category are thereby disadvantaged vis-a-vis students in the former.

How many students actually miss out on their first choice of university course because the places have already been filled by students with disability from a State or IB system which had far more generous disability adjustments?

9. Some proposed solutions

Clearly both teachers and parents need to be better informed about their obligations and entitlements under the Standards. This part suggests some possible solutions to address the problems described above.

9.1 Teacher training on disabilities and on disability adjustments – in-service

In my experience, **the vast majority of teachers do the very best they can for most children most of the time.**

Teachers are generally well-intentioned and have chosen teaching largely because they like children, and they seek to have a positive influence on students' lives.

Especially in the case of patent visible physical disability, malformation or disfigurement, the vast majority of teachers will usually do all they possibly can to assist the child.

Problems normally arise when:

- the disability is invisible, or
- the child is patently either very clever or of above average ability, or
- the child does not appear to be failing or otherwise underachieving.

Despite teachers' generally good intentions and willingness to respond to the needs of children with visible disability, GLD Australia anecdotal data suggest that the vast majority of primary and secondary teachers have not been formally trained in learning disabilities – how to identify them in the classroom and how to address them.

They are not familiar with disability literature or with federal or State legislation addressing disability, and are generally unable to read and interpret professionals' reports.

When I lecture on gifted children with disability at the university level to teacher trainees who are about to graduate and become teachers, virtually none of them has ever had any training whatsoever in disability.

Many claim to believe that 'learning disability' is a euphemism for low IQ or intellectual impairment.

Others believe that children with disability fall exclusively within the province of teacher aides, and are not the responsibility of fully qualified teachers (ie, that the students with the greatest needs are to be taught by the adults with the least training).

In the case of **gifted** children with disability, if the giftedness is identified but the disability not, the child's underachievement or wildly erratic, inconsistent academic performance is invariably put down to laziness and lack of motivation. Accordingly, the child's report card is simply a litany of all his miserable shortcomings, without any practical suggestions as to how the child can improve.

If a teacher believes that a child with disability is indeed just lazy, it is easy to understand why any mention of the child's rights under the Standards is greeted with surprise and derision. A Queensland study found that of 20 so-called 'lazy' children, 17 (85%) were struggling with an invisible and unidentified disability:

<http://eprints.qut.edu.au/29708/1/c29708.pdf>

When teachers seem to, or profess to, know nothing about the Standards and their obligations under them, parents tend to resort to printing policies and other documents off the websites of departments of education and presenting them to teachers and schools to support the parent's argument that disability adjustments are an entitlement, not a privilege or a favour.

Examples include:

Queensland: *Reasonable Adjustment in teaching, learning and assessment for learners with a disability: A guide for VET practitioners – pp*

<http://training.qld.gov.au/resources/information/pdf/reasonable-adjustment-for-web.pdf>

WA: *Reasonable Adjustment: a guide to working with students with disability -*

http://vetinonet.dtwd.wa.gov.au/Resourcesandlinks/Documents/Publications/7_Reasonable_Adjustment_2nd_ED.pdf

Such documents tend to pay lip service to the Standards, but fall down in the implementation.

Despite these documents' accurate and aspirational statements, experience reveals that the rhetoric of the various education departments and testing administration authorities is not filtering down and is not being implemented in any meaningful, consistent or standardised way.

Pie in the sky aspirations – with the devil in the detail.

Some specious reason is invariably pointed to in an attempt to justify inaction – often a claim that acting in compliance with the Standards would be just too hard (see for example Appendix A).

Some jurisdictions are admittedly now preparing to, or even starting to, offer online training courses for teachers on disability and on disability adjustments, and this is of course a laudable initiative.

Such training however tends to be merely optional and accordingly is completed by relatively few teachers. As long as such training is voluntary rather than mandatory, the vast majority of teachers and school leaders will continue with the “Oh no, we don’t bother with that here...” stance.

No one raises such nebulous objections when the subject matter of teacher training is fire drills, child protection, peanut allergies, CPR, asthma, asbestos, etc. Everyone takes these topics seriously because the training addressing them is not optional but obligatory – a sign that education departments themselves take these topics seriously.

This is the result which we need for training on disability.

And of course from a wider perspective, systemic training is needed for all teachers and school leaders, not only on the Standards, but also on the importance of identifying gifted children with disability early in their primary schooling.

Teachers need to be introduced to current evidence-based material which is easily obtainable and which can be revisited on an ongoing basis – perhaps by means of regularly up-dated and well-publicised websites. Such websites might link to short films or clips showcasing the challenges faced by such students in a way which engenders teachers’ empathy and prompts motivation to learn more.

Early identification of these learners would prevent the inception of the self-fulfilling cycle of poor academic self-concept, low self-esteem, learned helplessness, and ingrained underachievement or failure in the early years, all of which contribute to sometimes insurmountable and irremediable problems in later years.

Perhaps information about disability and about the Standards could also be included in some sort of in-service journal designed for early-career teachers – for example http://download.cnet.com/Pigeonhole-Magazine-for-new-graduate-and-early-career-secondary-and-high-school-teachers/3000-20415_4-76058487.html

Finally, teachers and principals need information on how many students actually have a disability. NSW education department statistics estimate this population to be 12% of all students – yet when it comes to disability adjustments how many schools actually provide them to anywhere near

12% of their students? One primary school with an enrolment of 450 had a total of 3 students using disability adjustments for NAPLAN (one of whom had a broken arm) – where were all the others?

9.2 Teacher training on disabilities and on disability adjustments – pre-service

Consideration should be given also to finding a way that teacher training on disability adjustments could be made compulsory in teachers' pre-service education while still at university.

If a State Minister of Education can 'order' all universities in a given State to teach phonics (cf: <http://www.dailytelegraph.com.au/news/nsw/education-minister-orders-universities-to-teach-phonics-or-face-losing-accreditation/story-fni0cx12-1227019125456>), could such a decree not also be made in the case of training on disability and on disability adjustments? This would relieve State departments of education of the responsibility of having to train all new teachers from scratch once they are hired and are already working in a school.

In this connection, departments of education could explore the possibility of telling their teacher accreditation bodies that, as from X date, the department will no longer be hiring teachers who have not completed university training on disability and on the Standards.

This was reportedly done once before by the department of education in NSW in the 80s or 90s, and suddenly all the universities purportedly started introducing compulsory courses in disability.

Universities will agree to teach courses in whatever they're told to (witness compulsory Aboriginal sensitisation courses) because they want to be able to say to their applicants, "When you finish this degree, you'll be qualified to teach in [name of State]" - so why not courses on disability and the Standards?

9.3 A pro forma disability adjustments form

Even after receiving training on the requirements of the Standards, many teachers may not immediately feel confident that they will remember, in the case of each child with disability, which kinds of disability adjustments are usually indicated for which kind of disability, or which ones have been specifically recommended for each child.

In this respect, teachers' work might be made easier if they had access to some kind of pro forma one-page disability adjustments form which could

be quickly filled out for each child with disability in consultation with parents and perhaps also in consultation with the professionals who have provided disability reports.

9.4 Phone advisory service

Another way of providing teachers and principals with practical advice on the Standards is for State education departments to offer some kind of anonymous information/advice/help line for school officials to ring when they are reluctant to admit in front of their peers or in front of parents that they don't know what a disability adjustment looks like or that they don't know what their obligations are under:

- the Standards, or
- their departments' codes of conduct, or
- the AITSL Australian Teachers Standards - see 1.6 of: <http://www.aitsl.edu.au/australian-professional-standards-for-teachers/standards/list> (ie, to know about, and to abide by, legislation and departmental policies)

As new fact situations arise, departmental lawyers could immediately explain to school decision makers in advance why what they may be proposing to do or say would in fact be unlawful under the Standards, thereby allowing educators to 'save face' by not inadvertently proffering misleading or incorrect advice to parents and students, and then being obliged to retract it afterwards.

9.5 Notices to parents about disability adjustments

Perhaps State education departments could organise for each State school to regularly include in its parent newsletter some kind of notice about the Standards and the availability of disability adjustments and who to contact to enquire about them.

This could be supported by a separate paper notice or flyer or brochure to be taken home by each child and/or distributed at parent/teacher interviews.

One member of GLD Australia lobbied to have the following notice inserted in her child's NSW State high school newsletter:

DISABILITY PROVISIONS FOR THE HIGHER SCHOOL CERTIFICATE EXAMINATIONS: Disability provisions in the HSC are practical arrangements designed to help students who could not otherwise make a fair attempt to show what they know in an exam room. The provisions granted are solely determined by how the student's exam

performance is affected and may include braille papers, large-print papers, use of a reader and/or writer, extra time or rest breaks. Further information on Disability Provisions may be found on the Board of Studies NSW website <http://www.boardofstudies.nsw.edu.au/disability-provisions/>. If you wish to apply for Disability provisions for your son or daughter, please contact ...

Of course this notice could be re-drafted for disability adjustments for tests and assessments other than the NSW HSC, using appropriate wording which would allow parents to immediately decide if this is something which they might need to investigate for their child.

Departments of education could also take steps to ensure that each individual State school website contains consistent and useful information about disability and the Standards in a way which is easy for parents to access (for example a clearly visible tab on the home page, rather than a page embedded under several sub-topics in drop-down menus).

Some departments of education already have online newsletters for parents, and these could also include such information.

Examples include:

Queensland:

<http://www.vision6.com.au/em/mail/view.php?id=1785502378&a=684&k=aae3435>

Western Australia:

<http://us2.campaignarchive1.com/?u=1d8db457de5b7543f97efc6d5&id=871f4ec894&e=ccf9556fab>

9.6 Parent information sessions

Perhaps State education departments might also wish to consider holding local parent information sessions on the Standards, including material on what constitutes a disability, which children may be entitled to disability adjustments, how to apply for them, what evidence to gather beforehand, and how to appeal negative decisions.

10. Finally.....

The implications of systemic failure to implement disability adjustments under the Standards are serious for **all** children with disability.

For **gifted** children with disability, such failure highlights the huge difference between, on the one hand, **high achieving** gifted children with disability who will grow up to make remarkable contributions to Australian society and, on the other hand, **underachieving** gifted children with disability who may go through school feeling angry, misunderstood and frustrated, and who accordingly may later elect to turn their high intelligence to somewhat less worthy pursuits.

We know that the outcomes for students with disability are generally worse than for students without. Fewer students with disability complete Year 12 or undertake university study, fewer gain full-time employment, and as adults more end up having a lower income than employees without disability.

Allowing students with disability to obtain approval for professionally recommended disability adjustments while at school is but one way to address this situation.

In their 2010 testimony before the NSW Parliamentary Inquiry into Students with a Disability or Special Needs, a solicitor representing the NSW Disability Discrimination Legal Centre made reference to school meetings which end with parents, teachers and principals throwing chairs at each other:

[http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/23adca4f37200a06ca257721001bed2c/\\$FILE/100510%20Corrected%20transcript.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/23adca4f37200a06ca257721001bed2c/$FILE/100510%20Corrected%20transcript.pdf) (page 86).

To date I have not attended a school meeting with parents or teachers who have thrown chairs, and no chairs have been thrown at me.

Sadly, however, I do understand profoundly how a parent-school relationship might break down to the point that this option may actually seem attractive.

There has to be a better way.

And I congratulate the framers of the present Inquiry on your efforts to find one.

GLD Australia is of course very happy to provide further information with respect to this sub-population of students with disability, or to otherwise collaborate with you to pursue this goal.

Appendix A

Examples of excuses proffered by teachers and school officials to justify a refusal to implement professionally recommended disability adjustments for gifted students with disability

- *The school cannot understand your professionals' reports recommending the disability adjustment and no one here knows the meaning of some of the words in the reports, so we won't implement the report's recommendations*
- *Our school has a policy of not 'labelling' children so we can't accept the diagnoses made by this professional in this report*
- *Your child may have an IQ in 99th percentile and a processing speed in 35th percentile, but 35th percentile still qualifies as 'average' and so it does not qualify as a 'disability' and accordingly we don't have to do anything about it*
- *The issue diagnosed by the professional was called a mere learning '**difficulty**' and not a 'real' disability, and accordingly your child is not entitled to the protection of the Standards*
- *We can't 'see' the disability - so it's not there*
- *The school will not accept this professional's report because the author is a paediatrician or a language pathologist or a psychologist or an occupational therapist, and the author has no teaching qualifications and only teachers understand what children need in the classroom*
- *The school will not accept this medical professional's report because it is full of spelling and grammar mistakes [possibly why the author had chosen to study medicine instead of journalism?]*
- *The specialist or doctor authoring this disability report is not 'registered' with the Department of Health/Department of Education*
- *Our school has a policy of not accepting reports from language pathologists because they don't know anything, so if you want these disability adjustments you'll need to get all the tests re-done by a psychologist*
- *We don't have to implement the recommendations in this professional's report because we don't agree with them – after all, who is paying the writer's fees? Some professionals will write anything in reports just to get paid and keep their clients happy*

- *I am the Principal here and I can pick and choose who in my school gets disability adjustments and who doesn't and which kinds of adjustments I'll grant and there is no appeal from my decision*
- *We're not covered by the Standards because we're a private school*
- *....the Disabilities **Act** (sic) **asks** (sic) us to... [ie, the principal who wrote this was purporting to use the federal disability discrimination legislation to justify why the child would **not** be receiving disability adjustments, but did not know the correct name of the legislation and did not understand that legislation in general does not 'ask' schools to do anything – it **tells**]*
- *Well I did some online training on the disability legislation and it doesn't apply to your child*
- *Schools are designed for mainstream needs and cannot cater for children who are either gifted or have learning disabilities (let alone both together)*
- *Your child could not have ADHD – he just needs to learn to concentrate more.....*
- *Well I actually don't think your child has dysgraphia and I think this occupational therapist is just making up this diagnosis to please you. I asked your child to write out a sentence for me and I could read it just fine so it couldn't really be dysgraphia [the OT had not alleged that the child could not handwrite at all – ever - but rather that the child could not handwrite in an exam situation, hour after tiring hour, and when the child is stressed and anxious]*
- *Disability adjustments are allowed only for certain disabilities – ADHD is not one of them [NB: obvious confusion between 'funded' disabilities and 'unfunded' ones]*
- *The disability described in this report is not a 'registered' disability*
- *Disability adjustments are never available for assessments which don't 'count' towards a child's final grades*
- *All learning disabilities are identified in early childhood. Your child is 12 and accordingly, despite your specialists' reports, your child could not have a disability – or if he did have one, then it must be gone by now*
- *Oh no, there is no appeal for NAPLAN disability adjustments – it's either yes or no - and that's that*

- *Your child needs to learn to copy off the board now because they'll need to do that in lectures when they get to uni*
- *Well there are no disability adjustments for the HSC or at uni so you'd better learn to manage without them now*
- *Your child must simply learn to handwrite as there will be no possibility of a laptop or scribe or extra time for the Year 12 State exams later on. [This response ignores the importance of setting a longstanding precedent for disability adjustments and overlooks the fact that individual schools have their own obligations to children with disability under the Standards, independently of the State testing administration authorities. Each school principal is the ultimate decision maker for in-class adjustments and for test adjustments for all non-State assessments up to and including the Year 12 State exam trials. Disability adjustments will allow the child to proceed through school better able to show what they have learned and what they can do, and accordingly with a higher sense of academic self-concept and self-efficacy. Withholding adjustments for 12 whole years for fear that that they may not be granted at the end of the 12th year is unjustifiable.]*
- *Disability adjustments are only for low IQ children or for children who are failing or have visible physical disabilities – your child is already clever and not failing – in fact, he is doing better than most, and the fact that he is striving to do better, in spite of his disability, is irrelevant – he will still manage to 'pass' the tests without the adjustments*
- *Your child is too smart to have a disability but not smart enough to do better in school – as parents you must lower your expectations for him as he will never be able to live up to them. Face it, your child is just average and there is nothing wrong with average*
- *Your child is so clever that if he is allowed to have extra time for exams, he will probably 'beat' the student who is currently standing first in the class and who is probably going to be this year's dux – and then that child's parents may complain*
- *IQ tests don't mean anything – believe me, I can tell a bright child just by looking, and your child isn't one*
- *Yes it's true that your Year 6 child has a measured reading ability at the Year 1 level – but he's such a good looking boy, I wouldn't worry too much about it*
- *Your child cannot have the recommended disability adjustments because the department of education rang the school and spoke to*

the school counsellor/guidance officer who said they had never met or heard of the child, and therefore the child could not have a disability because all children with disability have bad behaviour and are thus always well known to the school counsellor/guidance officer

- *Your son was accelerated from Year 5 to Year 7 and so is in the unusual position of writing NAPLAN two years in a row. We accept that he had disability adjustments for NAPLAN last year in Year 5, but if he is smart enough to be accelerated, then he couldn't have a disability and your professionals' disability reports must be wrong, and so your son cannot have disability adjustments again this year in Year 7. By applying for them, you are attempting to obtain an unfair advantage for him*
- *Your child can't have this disability adjustment because I have plenty of other students who are doing worse and they haven't applied for it (ie, I expect you to feel better about not getting your child's needs met at school if you think that I am not meeting other students' needs either)*
- *As a teacher I need to be concerned about **all** my students, not just your child – providing your child with what they need to succeed at school might take my attention away from some of my other students [cf, imagine a doctor saying this to a patient with respect to their other patients...]*
- *Your child with dysgraphia cannot have access to the recommended laptop in class because another child might trip on the cord, or because 'then everyone would want one', or because the parents of other children might complain since your child is not failing, and the adjustment might be seen as an advantage over other children and hence unfair*
- *No your child cannot have an alternative means of assessment, whether the subject being assessed is English composition or whether it is something else such as science. All assignments for every subject must be done in handwriting, and there is no possibility of other avenues such as PowerPoint or oral assessment/speeches. Anyway, offering alternative means of assessment would make it too hard for me to compare the marks from student to student, and I have to be able to rank them. Presenting a PowerPoint instead of a handwritten essay might advantage your child*
- *I'm sure you wouldn't want us to do anything special for your gifted child when there are so many who are doing worse. How can you justify asking our teacher aide to take time away from a Down Syndrome child to offer your gifted child these disability adjustments?*

- *Your child had disability adjustments last year but now her grades are starting to improve so we're not going to let her have them anymore [ie, the adjustments are obviously working, so let's withdraw them]*
- *We don't give slow runners and slow swimmers a head start in the Olympics, so why should we give slow thinkers and slow writers extra time and a word processor in school exams*
- *Disability adjustments simply amount to 'cheating' and it is not in the interests of a child's moral development if they witness their parents encouraging cheating*
- *Allowing the recommended disability adjustments would send the message to your child that they are entitled to 'special treatment' but when they grow up, they won't be getting any 'special treatment' from the telephone company or the tax office*
- *Your child doesn't need these disability adjustments – he'd soon start to get better marks if you punished him for bringing home bad ones*
- *Allowing the recommended disability adjustments would damage your child's self-esteem by sending the message that there is something 'wrong' with the child. Just as a child who has poor eye sight must come to terms with the need to wear glasses, so a child with a learning disorder must come to terms with the fact that they are just not very bright*
- *If we allow your child to have these disability adjustments he'll be the only student in the school having them and that may cause him stress, as children don't like to be seen to be 'different'*
- *Your child is lazy and you are just making silly excuses for them. Your child is clearly very bright, and should be able to get by without the disability adjustment which you are requesting and which this professional is recommending. I'm sure he could write faster if he really 'wanted to'*
- *You are an over-protective, pushy, unduly ambitious parent, and by bringing in this so-called evidence of a disability, you are attempting to gain an advantage for your child. Face it – despite all your IQ tests and disability reports, there is nothing wrong with your child – they do not have a disability - they are simply not very bright*
- *Our school has a policy of offering only 5 minutes' extra time per hour and this professional has recommended 15 – so we'll give 5 but*

not 15 [cf will 5 minutes actually address a child's disability in any meaningful way?]

- *Yes your child qualifies for separate supervision but we have only one suitable room for that, and an intellectually impaired child needs it more*
- *Your child is only little and doesn't need disability adjustments until they are in high school [However in fact, disability adjustments are available for NAPLAN, ICAS, selective schools entrance tests and scholarship tests, all of whose results may be and regularly are used to make critical decisions regarding the child's whole future. In addition, it is wise to have unambiguous precedents extending as far back as possible, because any disability first documented in late high school for purposes of Year 12 disability adjustments may be regarded with suspicion as the attempt of an overly ambitious parent to fabricate a disability and thus to secure an 'advantage' for an underachieving child.]*
- *Before your child can continue to have disability adjustments, we will require updated professionals' reports so that we can be sure that your child's ADHD, dyslexia, etc has not 'gone away' or 'cleared up'*
- *You can't have this disability adjustment for your son because I have a daughter with special needs and she is more impaired than your son, but she doesn't have this adjustment and I have not asked for it. I don't ask her teachers to do for her what you are asking me to do for your son (ie, I expect you to stop being an effective advocate for your child with disability because I myself have been an ineffective advocate for mine)*
- *There is another child in my class who has the same problems as your son but his parents aren't as rich as you and they can't afford to go get some fancy-dancy professional to write a report on their child – I can't give disability adjustments to that other child and so it wouldn't be fair to give them to your son either*
- *Yes we accept that your child experiences great hand pain from being required to handwrite but we won't grant extra time as that would just allow the pain to go on for longer [tantamount to saying, "We know that it hurts you to run fast so we're not going to give you more time to allow you to run slower, in case that hurts you more..."]*
- *Yes we acknowledge that your child has Tourette's Syndrome and has hand tremours outside the child's control – but they're not really all that noticeable so they couldn't be important, and so this professional, in recommending that your child have access to a*

computer for exams instead of having to handwrite, is just trying to obtain an unfair advantage for the child

- *Yes we acknowledge that your child experiences hand pain when being required to copy lots of material off the board, but no he is not allowed to use his phone to photograph the board instead and neither is he permitted to type – because then everyone would want to do that*

Appendix B

Examples of excuses proffered by teachers and school officials to justify a failure to properly implement previously approved disability adjustments for gifted students with disability

- *My child was told he could have his extra time for tests, but not if it would interfere with the teachers' lunch hour or breaks – in that case, he'd have to finish at the same time as everyone else*
- *My child was told that he could have the adjustments only if there happened to be enough spare rooms that day or only if someone could easily find a 'clean' computer with spellcheck, etc. already removed, or only if the volunteer scribe 'showed up' in time for the exam - otherwise my child would have to write the exam in the normal way. We were advised, "Anyway, exams don't really count till Year 12 so let's leave it till then." [by which time the child is invariably so discouraged from years of underachieving and failure that they may have already given up, decided they are 'stupid', quit school, or developed behavioural challenges]*
- *My child was told that his teacher could 'tell' that his 'disability was not affecting him today' so he didn't need his usual disability adjustments – the teacher said that disabilities come and go, and that his was not there today*
- *When I finally enquired about the non-honouring of the school's undertaking with respect to disability adjustments, I was told, "Well we tried that for a while and it didn't 'work'- so your child will have to just get along without it." or "Your child did not seem particularly receptive to the adjustment, so we gave it away. Sorry I should have told you, but I guess I forgot"*
- *I was told, "Well we offered your [adolescent] daughter the professionally recommended extra time for exams but she said that, unless she could also have a separate room, she didn't want extra time as it might make her stand out from the other students and they might wonder why she needed extra time, and then she might not get asked to the formal – and we can't find a separate room for her so she can't have extra time"*
- *My child's teacher cannot identify the symptoms of a disability and instead tends to invariably attribute such symptoms to 'bad' behaviour and then demand that behaviour improve before the disability adjustments can be implemented - instead of other way round*

- *My child's teacher suggested that instead of implementing my child's professionally recommended disability adjustments, the whole 'problem' could be solved by shipping my child off to some kind of 'behaviour-disordered' school*
- *The principal told me that her school would not provide the professionally recommended disability adjustments for my son with disability, but that she would be happy to have someone drive me round to visit all the other local schools so I could choose a new one and transfer my son there*
- *I was told that the school is under no obligation to notify me or any parent of the dates on which there will be in-school tests and exams [which meant that the parent could never remind the child in advance of what disability adjustments to expect, and had no way of checking whether the adjustments are indeed being implemented, or regularly implemented in any meaningful way. Some parents are reduced to asking their child every single afternoon whether there was an assessment that day and whether the adjustments were offered]*
- *My child was told that he has to ask for the adjustments for every single test – he has to remind the teachers what the adjustments are and why he needs them – sometimes within the hearing of other students. The teacher can't remember from one day to the next – why should a little child have to self-advocate and negotiate with teachers every day? And sometimes the teacher interrogates my child in the presence of others: eg "Surely you don't need your extra time today, do you? No one else is getting any...."*
- *My child was finally allowed extra time for NAPLAN (after I appealed and appealed) but the principal said that my child didn't really need it. During the test under separate supervision in a private room, a teacher tried to hurry my child along by telling him the answers. My child formed the view that this was done to make sure that he finished the test in the originally allotted time – to 'prove' that he really didn't need extra time after all*
- *My son was finally allowed separate supervision and rest breaks for NAPLAN but it turned out to be in the corner of the Deputy Principal's office and my son had to write his NAPLAN while she was constantly whispering into a phone. Plus the timing of the rest breaks was decided solely by the Deputy Principal not by my child – how could she have known when he needed to go to the toilet?*
- *My child's teacher told me she had agreed to implement the disability adjustments solely because she had been instructed to by her principal, but she wanted me to know that she didn't agree*

with them and viewed them as 'cheating' and accordingly when she marked my child's assignments and tests which had been completed with the disability adjustments, she would never give my child a grade higher than a D, no matter what my child's work truly merited

- *I was told that, although my child's professionals' reports had confirmed that my child's disability was permanent and would not 'clear up', still I had to pay for new and updated reports every year from each professional and, since I was trying to rely on last year's reports, the disability adjustments had been withdrawn, since perhaps by now the disability had 'gone away'*
- *My son was told by his math teacher that he could not continue to have the disability adjustments unless they were approved by the Head of Department (HOD) of Math. My son was told that he must take a copy of his ADHD report from his developmental paediatrician to the HOD and this he did. On arrival he was asked to wait until she was free to see him and this he also did – for approximately 25 minutes. He sat quietly in the waiting room and did absolutely nothing while he waited. At the end of 25 minutes, the HOD told him, without even glancing at the paediatrician's report, that he could not have disability adjustments on the grounds of ADHD because she had been watching him for 25 minutes and he had been sitting still and not even jiggling his legs, and in her view no child with true ADHD would ever be able to do that – accordingly he didn't have ADHD and did not need the disability adjustments.*

[this example highlights the fact that even educators believe the media hype to the effect that ADHD is a behaviour or hyperactivity disorder, and that educators are generally not aware of the Predominantly Inattentive Presentation (PIP) type of ADHD in which the child is just inattentive but exhibits little or no hyperactivity, impulsivity, defiance or 'bad' behaviour. Interestingly, some educators still regularly equate ADHD and LD with 'bad' behaviour and according believe that quiet, polite, behaviourally compliant children could not possibly have LD or ADHD]

Appendix C

Examples of how gifted students with disability have been treated at school

I have been contacted by parents whose child with disability has reportedly:

- *been 'voted out' of the class at the teacher's instigation by the other children because of issues stemming from the child's disability (eg, excessive impulsive blurting out of the [usually correct....] answers without putting up hand)*
- *been kept in at recess for weeks and weeks, and been told he will not be allowed out to play until he begins to write more neatly, when in the teacher's cupboard there are inches of occupational therapy reports recommending that he needs a keyboard because he can't handwrite and he can't learn to*
- *had his mouth taped shut for talking too much and interrupting the class with too many questions (after the child has allegedly received repeated 'warnings')*
- *been forced to sit on a bench in PE while the other children have been instructed to throw tennis balls at the child until the (14 year old) child cried*
- *been strapped to a chair with a belt as punishment for getting out of his seat and walking around (allegedly after being "warned")*
- *had pages ripped out of his workbook, and had homework and artwork ripped up in front of the class because his work was not 'neat' enough*
- *been punished in a particularly humiliating way in front of peers for doing the wrong homework (eg, child had done Exercise 8.7 instead of Exercise 7.8 because the child had an auditory processing disorder and had incorrectly recorded the orally-delivered homework in the diary)*
- *been mimicked and humiliated in front of the class as a result of the child's inability to read aloud, and then when the child has begun to cry, the child has been told not to be a 'cry-baby' and later been taunted and bullied in the playground by classmate witnesses*

- *been called 'rude' and/or 'lazy' in front of peers as a result of a symptom of the child's documented disability, when in fact the child is neither*
- *received school reports at the end of each semester just listing the symptoms of the child's disability and including a litany of all the child's shortcomings and recommending that the child must 'learn to' unilaterally correct what are in fact the symptoms of disability (eg, 'learn to' pay attention, sound out words, memorise timetables so they can be repeated quickly, write more neatly, etc)*
- *asked a teacher to read aloud a math question off the board as the child had dyslexia and felt that they could do the math if only they could **hear** the question, instead of being required to read it. The child reminded the teacher that they had dyslexia, but the teacher felt that the child was just being difficult, told the child that there was no such thing as dyslexia, and even if there were, it would not affect math. The child was then told to stand in the naughty corner for having been rude and difficult*
- *been told in front of the child's peers, "It's my job to teach and your job to learn. I've done my job and you haven't."*
- *been instructed to move some desks in a certain way and, when the child (who suffers from auditory processing disorder) asked for further clarification, the teacher said within the hearing of other pupils, "With your IQ surely you should be able to rearrange a bit of furniture."*
- *been repeatedly bullied by teachers because of his inability to learn to read, eg, "You can't even sound out this simple word and yet your mother comes in here saying that you're 'gifted' - ha!"*
- *been told by his teacher that he was "poor at maths and needed to be placed in the lowest maths group" because he could not complete maths sheets in the allotted time and he could not remember his timestables when put under a time limit.*

*The child, who suffered from dyslexia and was simply unable to **read** the maths questions in the time allowed, was subsequently tested by the school counsellor and scored in the 99.5 percentile in a maths diagnostic test. That was the year that the child started referring to himself as 'stupid and dumb'.*

Appendix D

Examples of how parents of gifted students with disability have been treated by schools

I have been contacted by parents who:

- *have been told that only parents are allowed at school meetings and a parent may not bring along anyone else as a support person, advocate or note taker*
- *have been allowed to sit and cry throughout a 45-minute meeting with school officials, the parent on one side of a board table and 4 school representatives on the other, during which meeting the parent has been repeatedly harshly scolded for 'causing' her gifted child's disabilities, and been told that no one at the school is obliged to read the professional and medical reports or scholarly journal articles which she has brought in*
- *have been invited to go in to the school to meet with one named person and on arrival have been confronted with 7 people sitting across the table, all arguing against the existence of the professionally diagnosed disability and the implementation of disability adjustments*
- *have been made to feel exceedingly unwelcome at school meetings and have been called a 'nuisance' and been told that never before has the school had to spend so much time on one child, and that no other parents ever advocate for a child with disability, and it's just a waste of everyone's precious time, and therefore there will be no further meetings and in future the parent's emails and phone calls will not be answered.*
- *have attended school meetings which are held in public areas of the school within the hearing of people not involved in the meeting*
- *have had school officials 'laugh out loud' when a parent has requested professionally recommended and documented disability adjustments for a child who was not failing*
- *have been told that they must 'choose' whether they wanted their gifted child with disability 'registered' as gifted or as having a disability – one or the other, but not both – because the computer could not cope with the same child ticking both boxes simultaneously*

- *have been told by teachers, "I have an education degree and you don't. Leave your child's education to us – we know what we're doing here and you have no clue." Or "I had a lecture once on learning disabilities when I was at uni, and I'm here to tell you that your child doesn't have one. This specialist's report is rubbish."*
- *have had a school meeting electronically recorded without the knowledge of either the parents or the parents' advocate (not me in this instance). When this came to light later on, the parent was told simply, "Prove that you didn't approve of this recording in advance." Neither the parents nor the advocate had any memory of the subject of recording having ever been mentioned in the meeting*
- *have been told by a learning support teacher, "Well 10% of students have a disability and we have 900 students at this school so that's 90 students with disability, and I am the only learning support person here so realistically what do you expect me to do for your child – there are plenty here who are worse...."*
- *have been told that a teacher's aide has been assigned to support a child with disability in the classroom but, upon investigating, the parent has discovered that the aide has no training in disability (or in anything...) and is 'really just some kid's grandmother who comes in just to help out sometimes' and accordingly is often late or absent (with no replacement)*
- *have been told that if the parent alleges that the child has a disability and lodges professionals' reports in support of that allegation, then the child will have to leave the school [admittedly somewhat surprising in a State school when the child resides within the catchment area]*
- *have been loudly scolded in front of other adults at parent/teacher night and told, "Your daughter does not have a disability. She is just no good at Math. Most girls can't do Math, and your daughter is no exception. She should learn to be satisfied with a low mark". (The girl in question has a Quantitative Reasoning score on the Stanford-Binet 4 IQ test in the 99.57th percentile.)*
- *have been told by school administrators (in a case where the remedy sought was simply systemic change for students with disability, not damages) that the school would go through the motions of attending the HRC conciliation hearing just to save face, but that no matter what happened there, the school would never agree to any kind of conciliation, settlement or resolution, with the result that the parent's only option would then be to*

commence court action, and "We are very wealthy and we have unlimited money to throw at this. We will employ [insert name of famous barrister...] and we will win and then you will be responsible for all our costs and that will probably send you bankrupt."

- *have been threatened in a rural community that if the parent proceeded to take action against the school for breach of the Standards, there would be financial consequences with respect to the parent's business, or social consequences with respect to the local townspeople, or emotional or grades-related consequences at school for the child with the disability*

Appendix E

Examples of excuses proffered by school officials and education departments to justify a refusal to implement professionally recommended disability adjustments for entrance tests for select-entry schools, programs or classes

- *Gifted children never require disability adjustments and if they do, then that means that they are not 'really gifted' and shouldn't be attempting the scholarship test or the selective school/class test in the first place*
- *We have a blanket policy of no extra time for anyone, ever – except for blind applicants - regardless of your child's professionals' recommendations*
- *Despite your professionals' recommendations with respect to extra time, there will be none for your child. Students who are truly gifted never need extra time for tests – they just 'know' the answers. This is who we want for our selective schools and classes. All students would improve if given extra time – if they had more time to come up with the right answer*
- *We don't need any research to tell us that all gifted students are able to work quickly – we just **watch** them*
- *Parents who apply for disability adjustments for gifted children are trying to obtain an advantage for their child*
- *Students who have slow processing speeds could not be gifted, and even if we were to let them into a selective school or class, they wouldn't be able to compete there as we won't do anything to support them because selective schools and classes are designed for smart children who don't need this kind of support, and doing anything extra for your child might take the teachers' attention away from other students*
- *If your child gets extra time on the entrance test and for in-school assessments, that fact will have to be reported on their results and they will be seen by the selection panel to have had an advantage over others [cf. this was found to be untrue when verified by phone with the relevant education department which confirmed that the fact that the child had received disability adjustments would **not** show on the results put before the selection panel]*

- *Yes your child may have qualified for an exemption from the writing component of the selective schools entrance test but we won't be exempting him from the writing components of his in-school assessments (ie, the other 50%) [this parent finally got this ruling changed for her child, but the relevant department of education said that they would not change this requirement for others in the future with writing exemptions]*
- *Just have your child write the selective schools test without adjustments, and then afterwards file an illness/misadventure claim form [which the parent did, but was then told that even with the disability adjustments, the child would not have scored well enough to be considered anyway and this was not worth pursuing – this case eventually went to conciliation at a State anti-discrimination board under State disability discrimination legislation and took up the time of many professionals (and my time....) over the course a whole morning]*

Appendix F

Examples of excuses proffered by teachers and school officials to parents of gifted students with disability who are already enrolled in select-entry schools, programs or classes to justify a refusal to implement previously approved disability adjustments

- *This is a selective school/class and your child could not have passed our entrance test if he had had a disability. We would have picked it up. So he doesn't have one*
- *There are no children with a learning disability in this school – so the Standards do not apply to us here. Accordingly we will not even read these medical and psych reports recommending adjustments on the grounds of disability because disability could not exist*
- *We don't know how your child managed to get into this selective class or school but we can do nothing to support him here so take him out and return him to a mixed-ability setting and they will look after him there. If you leave him here unsupported, it might cause him stress and that would be your fault, not ours*
- *We understand that your daughter is unable to handwrite and that she needs all her worksheets delivered electronically rather than on paper, but none of our teachers knows how to convert worksheets into PDF documents so accordingly we can't do that here, and she will have to work in handwriting on paper photocopies the same way as everyone else [the girl thus had a small fraction as many notes as other students by the time of the exams – thus far less to review in preparation for them]*
- *I chose to teach here because I wanted to teach clever students. If I'd wanted to teach children with disability, I would have trained in special education, not Chemistry*