



# GLENOAKS SPEARHEADS CHANGES TO DISABILITY TAX LAWS

Glenoaks Remedial and Special Needs School has shown once again that our passion to meet the needs of our children is as strong as ever. Glenoaks School made a stand by challenging the changes to the disability tax laws put in place by SARS. In so doing, we sought to protect the rights of learners with special needs (LSEN) in our community.

LSEN, and their parents, experience daily societal stigma that exists towards them. As a school, we could not stand back and allow our community to endure more pressure and have a law impede on their abilities as individuals. This would be the likely impact of the amendment to the list of qualifying medical expenses, as it read before our successful challenge thereof.

Section 6B of the Act allows a taxpayer to claim a tax rebate on qualifying medical expenses (expenses incurred in consequence of a disability). The amendment, among other aspects, limited parents in terms of how much they were able to claim back from SARS. The list, as it read in 2012 and until 2020, allowed parents to claim a percentage of school fees on the difference between a private special educational needs (LSEN) school and the closest public school to their home.

The 2020 amendment stated, however, that this comparison would now be a percentage of school fees between an LSEN school and the closest fee-paying private school (not specializing in

supporting learners with special educational needs).

The difference between these two comparisons was, in many instances, profound.

What defines an LSEN school? In short, our schools identify each child as an individual, with individual strengths, potentials and areas where they require accommodations and adaptations. This may mean differentiated lessons, adapted work levels, adapted pace, adapted content preparation and presentation, revision, and repetition of tasks in various methods, observing, assessing and reporting – constantly meeting a child at their developmental, emotional, vocational and academic level. This within a small class setting, so that this level of support is possible. Our learners' developmental ages differ from their chronological ages in certain or all respects.

The Learning and Developmental theory of Vygotsky states that as human beings, we learn within a zone of proximal development. Therefore, we need to identify what a learner is currently capable of, and then identify where they need to be. Our role is to find professional strategies to enable a child to reach their potential in a variety of academic and vocational areas. Ultimately, our learners require far more than a basic education. They need to work so much harder than many others do.



As many parents reading this article will know, quality schooling opportunities for learners with remedial and special needs are currently limited within the public schooling system. In the majority of cases, the only option for parents is to place their children in a private school environment that can meet their needs.

With the 2020 list in place, many parents would not have been able to afford private LSEN schools, and the amendment would have put extra pressure on an already struggling public educational system. The result would have been learners who were not placed or are incorrectly placed at schools. Private special needs and remedial schools, like Glenoaks, exist and have existed for years, largely because parents can receive financial assistance from a fair tax rebate.

When we became aware of the 2020 list, Glenoaks hosted a parent meeting where an expert in the field discussed the amendment and the implications to follow. With the support of our parent body and school board, our next step was to seek the legal opinion of constitutional law practitioners. This expert opinion confirmed for us that we had to fight for the rights of the LSEN community.

Glenoaks initially collaborated and was involved in many consultative processes; all, over the course of 2 years, proving to be ineffective. We were forced to take our case to the level of litigation. We were so grateful to receive the support of a group of advocates and legal professionals who gave up their valuable time to help Glenoaks stand up for this cause. The Equal Education Law Centre, represented by the Centre for Child Law joined us, and together we forged forward challenging systems that were meant to uphold our children's rights. Our small group put it all on the line to stand up for the rights of the special needs community.

On 29 October 2021, SARS reverted to the previous list. Glenoaks is sincerely grateful for this decision.

Interestingly, this journey has taken Glenoaks back to our roots. Glenoaks School was started by Dr Lorna Swartz, a qualified Psychiatrist. In the 1960's her daughter started to display extreme impulsivity and distractibility. Nobody at this time could provide her with support or advice. She travelled to America where she sought the assistance of a variety of professionals. Dr Swartz then returned home and started her own school, determined to make a difference in the lives of children with special needs. Dr Swartz is reported, in an interview (<https://myinclusivecourse.wordpress.com/2016/07/06/dr-lorna-swartz/>) to have chained herself to a government building, demanding that the government make changes to their education system. Eventually, she was able to establish a formalized and registered school. This, being the time of Apartheid, also included Glenoaks opening their doors to a variety of children, from different racial groups, with special needs.

Glenoaks' hope for the future is to provide further financial support to learners through the help of individuals or businesses who may be able to offer bursaries or donations. In addition, we would like to share our knowledge to empower university students and educators to be able to provide more support to their own learners in all educational streams.

Ultimately, Glenoaks wants to enable the potential of as many children as we possibly can. Glenoaks has proven that we are a school with enough heart, courage and commitment to protect and vindicate the rights of both our children and their parents.

GO Glenoaks, GO Potential.