

A Journey Along the Frontier: My Attempts to Bring Accountability to Shadow Education in Australia and Beyond

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Highlights

- This article provides insights into stakeholders' challenges while bringing educational accountability to private tutoring providers through a self-regulation model. There is no participant involved in this narrative inquiry study.
- Policymakers may be ambivalent about bringing accountability as their families may benefit from private tutoring.
- This account is written from the perspective of a teacher-trained tutor who has worked with policymakers to address some of the challenges.
- This first-person narrative describes the experience of establishing a national peak body to bring greater accountability to private tutoring providers. This peak body is unique because it positions the educational interests of students as at least equal to providers' commercial interests.
- The author believes that greater accountability for tutoring businesses is required in all markets and that issues will not resolve through self-regulation alone.

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In 1996, I was in the fourth year of my teaching journey at a disadvantaged Western Sydney High School. A student, who was the daughter of Russian immigrants, asked if I could help her with physics. At the end of the two-hour session, the girl's eyes welled up, and tears dropped down her face. I asked her whether everything was fine. She replied, "*I learned more in the last two hours than I learned in 18 months of tutoring.*"¹ I asked, "Why does that make you cry?" She said,

My father is an academic but works in a factory, and my mother sews clothes in our apartment. I have spent a lot of their money on tutoring ... so much of it is wasted. We don't have much money, and I feel ashamed that I have wasted it. More tears rolled out.

The words of this Russian girl, trying her best to make her way in a new and strange country, filled me with anger. I felt protective of her and her vulnerable family and angry that people could take this family's money with little accountability or regard.

I decided to investigate what tutors and their businesses offered. I spent the next two weeks, after teaching, finding all the tutor advertisements in the classified sections of local newspapers and reached out to as many as possible. In this investigation I posed in three different guises. My first set of inquiries was from a parent's viewpoint seeking information on what was on offer. My second set—made a few days later—was from a tutor's perspective seeking work from each business. About a week later, I called them a third time, posing as a Year 12 (final year) student.

The results of this investigation left me shocked. In my role as a parent, most businesses promised me that the tutors were "qualified and experienced" and would ensure that my child was taught well. However, none of them were prepared to divulge what academic program they followed or whether their tutors had teaching degrees or university qualifications.

In my second role—seeking work as a tutor—I found that, I could commence immediately if I were available and had a driving license. They did not assess my fitness to tutor the children. As an incentive, I was assured that I would be paid in cash to avoid taxation. The amount was AU\$ 15–20 per hour.

In my third role—posing as a final-year school student—I found that the businesses were extremely keen to tell me how successful they were and how all I needed to do was "come to class" and "then I would know." Most said that within a term, I would see significant changes in

my performance. A couple said I would need at least six months to a year of tutoring to get the full benefit. Regardless of my role, the common theme emphasized *benefits without accountability*. This experience left a deep impression on me.

My private research in the field over the next four years revealed numerous issues within what can be called *the shadow education sector* (Bray, 1999; Zhang & Bray, 2020), including, but not limited to:

- No disclosure to parents and their children about what was on offer.
- No disclosure of the qualifications and experience of the staff.
- No disclosure about whether tutors had been screened for child protection purposes.
- Punitive refund policies. Some businesses would require a family seeking to end an unfair contract to pay a fee more than the total value of the tutoring for a year (generally thousands of dollars).
- Unverifiable statistics regarding the success of previous students in obtaining particular exam marks or entering certain universities or highly desired schools.
- No reports provided to parents about the progress of their children.
- Undeclared cash income and tax avoidance.

I later realized that further problems existed, such as the breach of migration rules. At least one franchisor sells franchises to offshore franchisees, allowing them to enter Australia under an AU\$ 3 million business investment scheme. However, the purchased franchises were rented office spaces without students.

Gaining impetus

In 1997, I moved to an elite all-girls private school. The school was in the middle of Sydney, close to the wealthy suburbs. Furthermore, the suburbs on either side still have many tutoring enterprises from east to west. I noticed many students received training after school and visited different tutoring businesses.

In 2001, I was promoted as a director of an afterschool program on Saturdays catering to gifted children. Applicants had to appear for a Slosson IQ test and score within the gifted range to secure admission. Alternatively, they could score in the gifted range on either the Stanford Binet IQ test or the Weschler Intelligence Scale for Children test.

Having attained a new role and keen to impress, I wrote a business plan indicating what an expanded after-hours center could offer to the school. The program included an after-hours through-the-week on-site tutoring center, utilizing personnel not employed by the school and allowing students from all schools to enroll. The principal supported this plan. He had noticed students' using private tutoring businesses and was concerned about the quality of the tutoring they might

have been receiving. In a protective sense, he liked the idea of a school-based after-hours service to guarantee minimum student standards.

In March 2002, the principal and I held discussions, and I suggested that the tutoring sector in Australia could benefit from a national standard. Standards Australia (SA), as it was then known, was a leading global proponent of standards applied to enterprises where there was an identified need to protect consumers.

What happened next surprised me. Approximately four months later, I received a reply from the SA. It had conducted a national survey of stakeholders and convened a working group to create a national standard.

Insight into obfuscation—Standard business practice?

In late 2002, SA moved to convene the working group. I was appointed chair of the working group, and my role was to work with the SA and the Group to guide us through the processes that SA envisaged. Together with colleagues from SA, I drafted a list of key providers of national tutoring along with education officials and other stakeholders. We invited the largest Australian tutoring businesses, some smaller enterprises, Education Department officials, and officials from the Department of Commerce to each meeting.

One of the first tasks of the working group was to identify and define issues within the industry. I proposed a framework for child protection, qualifications, honesty in advertising, disclosure of refund policies, and ethical conduct.

Most business owners obfuscated the process almost immediately. I sought to start the process with small victories before moving on to more complex issues. Accordingly, the initial discussion concerned tutors' qualifications. One business owner—who ran a multi-million-dollar business across two locations tutoring mathematics—maintained that he was “better than any mathematics teacher” and “amply qualified.” He saw no need for any parents to know his, or his tutors' qualifications. He called me a *freedom fighter* because he felt I was attempting to constrain his business model. Perhaps a better term would have been a *freedom restrictor*.

By mid-2004 (after 18 months), the Working Party had failed to achieve consensus on what it meant for businesses to claim the use of the word “qualified” regarding tutors. Typical arguments were: “Experience cannot be quantified” and “Degrees do not make the best educators.” Further, they maintained that disclosing university qualifications was beyond the legal requirements of consumer law and, therefore, unnecessary. These themes were endemic to business owners—except those who had teaching degrees. The group with teaching degrees can best be described as guarded and were looked down upon disparagingly by the non-teacher business owners.

As for the need to screen tutors for child protection, their behavior was considerably worse. The female owner of a large in-home tutoring agency constantly resisted the idea that tutors should be

interviewed face-to-face or screened to ensure they had no prior or pending convictions. At one point, I asked her, *“If you got a call from a parent for their child to be tutored tomorrow, would you put an unscreened tutor in the parent’s home and before that child?”* The room fell silent for a moment, and she replied, *“Absolutely. As long as the tutor can be there—and since the law does not compel me to have my tutors screened—it is optional. If there is money to be made, I will make it.”*

Business owners resisted industry-wide issues, including paying refunds, providing reports to parents, and using statistics and testimonials. Therefore, the SA decided that a national standard could not be achieved with this working group. Instead, a handbook of best practices should be written. The handbook was completed quickly with a smaller group. However, it was not widely used. It felt like a failure, and I thought I had failed the sector.

Compromised school assessment task—A parallel concern

While the working group convened, I taught Year 12 students at a private girls’ school. As I was trained at the undergraduate level in Sciences and Commerce, I taught across two departments in the school: science and humanities. One of the assessment items for the humanities subject I taught—Business Studies—required students to undertake research outside of class.

One assignment handed in was exemplary, and scored full marks. However, when the student numbers were converted to names, I withheld returning it because I suspected it was impossible for the student—consistently among the three lowest academic achievers in her cohort—to have done the work without significant assistance. I raised this issue with my Head of the Department and Director of Studies. They agreed that I should award the assignment zero, which I did.

When the student received her work back, she accused me of racism and shouted, *“You are only doing this because I am Indian.”* I considered this an odd accusation, given that I am half-Indian. She then left the class and called her father. Her father and I had a face-to-face meeting during which he assured me that it was his daughter’s work. I told him that this could not have been the case. He escalated the matter, and in a subsequent three-way meeting with the Director of Studies, he agreed that his daughter might have received help from a university student he employed.

What he did next was astonishing. He said, *“Let’s negotiate.”* He then placed his hand in his pocket and revealed a large wad of AU\$ 100 notes. He flicked through them slowly. When he reached the middle of the bundle, he slowly withdrew a business card and handed it to me, saying, *“If you change your mind, let me know.”*

A day later, another student in the business class came to me and said, *“You do not know this came from me: It was done by a business in Homebush. They all go there. You hand your assignment to university students who do the work for you.”* I asked about the name of the tutoring business, but she did not tell me. I asked if she went there, and she replied that she would rather not say.

Self-regulation commences

Constitutionally, Australia is a federation. This system of governance is characterized by two levels of government: one overarching and national, and the other provincial. The national government has the constitutional authority to pass laws affecting the nation in areas such as immigration, trade, commerce (between provinces), corporations, currency, defense, and customs. Provincial governments in Australia are either states or territories that pass laws regarding provincial governance. Some areas of law over which state and territorial governments have authority are child protection, consumer protection, crime, housing, health, and education.

In February 2005, New South Wales (NSW) Education Minister Andrew Refshauge wrote to the NSW tutoring providers requesting they consider forming a self-regulation body. Some of his departmental staff members were in the SA working group and were disappointed with the outcome.²

Recognizing the significance of this invitation, I convened meetings with interested tutoring business owners. In April 2005, a group of seven formed the Australian Tutoring Association (ATA) Inc. under the NSW Incorporated Associations law. Notable in the Constitution of this Association was a clause stating that at least four of the seven committee members must have teaching qualifications. This was to ensure that there would be a balance between education and commerce in the body's decisions.

The parallel streams collide—Corruption allegations

In June 2005, I received a phone call from a woman expressing concerns about a tutoring business. She said that her mother was a teacher in a public high school who also ran a tutoring business in Homebush called Acclaim Education. She added that her mother and tutors undertook research work for students throughout the region—including the school where I was teaching. Evidently, this was the center my students had been attending for assistance with their research tasks. Additionally, she stated that another behavior had perhaps emerged; wherein, students enrolled in the highest level of English in the state were required to complete two assessment items: a research piece and an exam. Acclaim Education would allegedly help draft the English research pieces and advise the students to report “sick” on the day of the external exam. This implied that only the research would be used for the final mark, effectively bypassing the moderation. Most students in this scheme scored at or near full marks.

The daughter made an even more serious allegation about her mother's tutoring: She said that it released access to the Trial Higher School Certificate (HSC, the school-leaving certificate) exams

prior to those exams being conducted by schools. Effectively she suggested that students coming to Acclaim Education would receive these exams before they were available to students in their schools.

The daughter asked if I could help her. She wanted to go to newspapers to expose her mother's conduct but was unsure about the process. I knew an educational journalist and introduced them. The journalist decided that the matter warranted scrutiny and passed it on to the newspaper editor. In meetings with the editor, the daughter (informant) disclosed that she was a heroin addict. Further, she stated that having overcome her addiction, she wanted her daughter back from her mother who, as the daughter's guardian, refused to release the daughter. Exposure of her mother's alleged conduct was an attempt to force the issue.³

The story broke on Monday morning and led the national papers for a week. It shed light on practices that could occur in the shadows. It also boosted the profile of the ATA because I was called upon to comment on the standards in the sector. I was also given the opportunity to editorialize. Moreover, it built a link with journalists which has been sustained until the present.

A significant effect of this story was an inquiry led by the NSW Independent Commission against Corruption (ICAC). The inquiry was tasked with establishing whether a public official or officials had engaged in corrupt conduct and whether the tutoring industry should be subject to some form of regulation.

The ICAC report was released on March 1, 2007. The corruption charge was not sustained—not because there was no corruption—but because the rules applied to student assessment by the regulator (then called the NSW Board of Studies) were inconsistent and vague. Therefore, there was no basis to make a corrupt conduct assessment. This conclusion was reached despite the following evidence from the Commission (Alexander, 2007):

The Commission found the college's manager [a public high school English teacher] had made changes to a student's essay the day before it was due. At the end of the document, she wrote: "This took me nearly five hours. I fixed before I cut."

The student received 48 out of 50 for her English Extension 2 major work, the Commission said.

[The manager] had also advised students not to tell their teachers that they were employing external tutors because it could prejudice them. She recommended that if they were confronted, to burst into tears and contact their parents, the Commission's investigators were told.

Further content from the ICAC's report on tutoring regulations is presented in Box 1.

Box 1. ICAC recommendation about tutoring.

The Commission is not in a position to determine whether all or parts of the tutoring industry should be regulated or not. The issues regarding regulation of this particular industry extend well beyond the specific focus of this particular report. The tutoring industry services all levels and types of education, and that landscape is a complex one. However, it should be recognized that the industry has a large and direct impact on the NSW education sector and the work of NSW public officials. This is particularly so in relation to the operation of state-wide public assessments processes such as the State Selective Schools Test and the HSC.

Commission recommendation

The NSW Government should consider the possibility that some form of tutoring industry regulation could be of assistance in effectively managing the risks around the delivery of government education. However, this consideration can only be made in response to a full risk analysis of the environment within which the tutoring industry operates in NSW and how it impacts on the NSW education and training sector.

RECOMMENDATION 20

That the NSW Minister for Education and Training, using a risk management approach, determines whether a form of tutoring industry regulation may be effective in minimizing opportunities for malpractice and/or corrupt conduct within the NSW education and training sector.

Source. ICAC (2007), p. 66.

Academic integrity in tutoring and impacts on mainstream schooling—All My Own Work (AMOW)

In response to the ICAC report, the NSW Board of Studies produced a mandatory training package for all senior students entitled “All My Own Work.” The aspects relevant to the shadow education sector are shown in Box 2.

Despite the serious issues implicit in the ICAC report regarding tutors “gaming the system,” the response from the NSW Board of Studies appeared to take the perspective that tutors in coaching colleges were generally ethical and that the onus was on the student to ensure that this remained the case. I did not (and do not) take this view. In my experience, the commercial reality of tutoring means that businesses prioritize earnings and profits over ethics.

Box 2. Response of the NSW Board of Studies to the ICAC report: Tutors and ghostwriters.**External tutors**

External tutors want the best for you and have your interest at heart but that should not extend to them actually doing your work for you. They might discuss your work with you, even model some problems, for example, but then it should be up to you.

Coaching colleges

Again, the staff at coaching colleges are there to help you, to unpack issues which you are finding difficult in much the same way that your teachers do at school. Listen to their advice but do not allow them to write your answers for you otherwise you will be found to be acting inappropriately and you could put your whole HSC at risk.

Ghost writers

This is where you get someone else to write an assignment or assessment task for you—usually paying them to do so. This would be seen by the Board of Studies as a serious breach of trust and is highly unethical practice.

Assignments online

There are many websites now where you can go to buy assignments—you can even commission people to write your assignments for you. Don't do it. The risks for you are too great and don't think that your teachers are not aware of these sites—they are. In fact, there are many additional sites now against which your teachers can check your assignments for plagiarism.

Make sure that the work you hand in for your HSC is all your own work!

Source. NSW Board of Studies (2007).

Legal changes: From an association to a public company limited (not-for-profit)

In 2007, the ATA underwent a significant structural change. I realized that operating an entity under association law was highly constraining. There were several reasons for this finding:

- First, Associations law in Australia is state- or territory-based. Some businesses seeking to join the ATA were from states other than NSW, and some franchised organizations had branches in states other than the NSW. We could not allow applicants from other states to join our association unless they signed a statutory declaration stating that they would abide by the Code of Conduct. However, this was time-consuming and unenforceable. An alternative approach could have been to establish eight different associations, one in each of the Australian states and territories. However, this approach was not feasible.
- The second reason relates to the differences in the laws between the states. Each state has its own law with respect to consumer protection, child protection, and aspects of workplace. It was not possible for a state-based association to effectively advocate for consistency in these areas of law.

- The third constraint arose with respect to the voluntary nature of the roles within an association. The ATA, in its second year, was already a significant political force in NSW. Consequently, a substantial number of tutors joined and offered their services to the ATA governing committee,⁴ that needed to be filled by annual votes. However, it was clear to me that most committee members were more interested in linking their ATA positions to possible commercial opportunities than into contributing time and effort for lasting change within the sector.
- The fourth reason related to workload. Associations generally cannot employ staff, which means that work depends on volunteers' goodwill. Inevitably, the burden fell on one or two people, despite the committee having seven members.

Australian corporate law allows for entity structures that are not-for-profit in nature. One such structure is a company limited by guarantees. Australian corporate law is national, so the ATA Code of Conduct applies to all. Moreover, corporations can employ people such as directors. A change from an association to a company requires a vote in favor of a resolution by 75% of the members.

After several months of campaigning in favor of a change from an association to a public company limited by guarantees, a vote was taken. Nearly 80% of the members voted in favor. This change resulted in my appointment as the CEO in a part-time paid position. In addition, the ATA had (and has) administrative support from casual and part-time employees.

Self-regulation and government alliances—Consumer protection

I have always thought that, in markets where there is an imbalance of power between those who provide goods and services and those who buy them, a peak body should play an active role in protecting consumers. The ATA is unusual in Australia. As CEO, I have advocated in favor of consumers. Peak bodies for employers almost always lobby for and protect what is seen as legitimate business interest. I cannot, separate the welfare of consumers and what is "legitimate" business.

Resulting from this focus on consumer protection, the NSW Minister of Fair Trading approached the ATA in 2007 with a view to making joint statements to parents as consumers. The Minister's Office and the ATA released joint press statements aimed at parents early in each academic year. These press releases articulated parents' rights as consumers using the providers in the sector. However, after eight years, a change in ministerial staff ended the initiative.

Since 2007, complaints about tutors or tutoring businesses made to the Fair Trading Office have been initially referred to the ATA, as the peak body, for resolution. This means that complaints within the sector—by members or non-members—can be directly addressed for possible resolution before proceeding. In a typical year, several members have their conduct assessed against the Code. Non-members are subject to accountability, which would otherwise not exist. I have a master's

degree in law and a passion for consumer protection, which is advantageous when dealing with unethical and sometimes illegal conduct. Members are subject to accountability with respect to the Code of Conduct. Over 18 years since the ATA was established, only one member subject to a complaint—where the ATA acted as a mediator—appropriately followed the Code and maintained its membership. Approximately 12 were dismissed as members. Complaints against non-members were also addressed by the ATA. Additionally, consumer rights were supported and advocated. The ATA may be involved as a mediator. It can also draft documents to support consumer claims against unscrupulous non-members. This occurs when the mediation is unsuccessful. Drafted documents can then be used to support the aggrieved party in official consumer tribunals.

Other government alliances

The ATA also has an alliance with the NSW Department of Education (DET). The department recommends that parents seeking tutoring engage only with ATA-qualified tutors. In addition, the department refers inquiries or issues concerning tutors to the ATA. The way the DET refers clients to the ATA supports self-regulation. More recently, the NSW Ombudsman referred tutoring clients seeking a remedy for a commercial problem to the ATA for resolution. This way, resolving inquiries, commercial issues, and other concerns is “given over” to the ATA as the peak body. This is evidence of the functional aspect of self-regulation regarding what the government expects from the ATA.

Tutoring and school vouchers

In 2005, the Commonwealth (national) government allocated money under a pilot program called the Tutoring Voucher Initiative. Under this program, parents of students identified as *at risk* by national literacy and numeracy tests were granted AU\$ 700 to spend on remedial tutoring. Several brokers assisted in the rollout and management of this program. All the successful tender winners were a mix of government agencies and private providers, one of which was a private for-profit company (Doherty & Dooley, 2018, p. 559).

The appointed brokers included a mix of Education Departments for NSW and South Australia, a private company based in Sydney in Queensland and Victoria, a private provider headed by an academic in the Australian Capital Territory, and a group-training enterprise in Western Australia.

The parent company—which owned the tender-winning private company—subverted the SA process. The parent company—a large franchised coaching college business—established a new company for tender purposes. It obtained tenders for the rollout of funds in Victoria and Queensland. However, after two years, an assessment of the program revealed that AU\$ 250 of the AU\$ 700 allocated to each student was part of an administrative fee (see Doherty & Dooley,

2018, p. 560). The company was given AU\$ 4 million for one state alone to assist 5,717 *at-risk students*. The business spent only AU\$ 459,200, of which AU\$ 164,000 was used as an administrative fee. Only 656 students were supported. This did not surprise me. This business has never joined the ATA and never will.

In 2022, the ATA was the only not-for-profit provider selected by the department to support a new government initiative around in-school small-group tuition. This money was allocated to schools to spend on tutors as part of an effort to overcome literacy and numeracy learning losses during the pandemic. This initiative was extended to 2023.

International efforts for self-regulation

Successful growth in Australia indicated that efforts could be made to boost standards in other countries. Part of this initiative came from two prominent ATA members. In my travels to Singapore, Malaysia, China, and India in 2007, as part of a teaching scholarship grant, I had seen and subsequently reported to the ATA Board what we collectively referred to as the “Wild West.” At the time, one of the Board members franchised businesses in Singapore and sought to extend his business interests into Malaysia and China. He also conducted business in New Zealand and the UK.

Later, at my own expense, I traveled to Singapore and China between 2008 and 2012 to meet tutoring providers with a view to helping set up national peak bodies. However, these efforts were futile. In my observation, the lack of success was due to commercial greed among tutoring providers.

The New Zealand Tutoring Association (NZTA) was established in 2008. I traveled to New Zealand to meet several large franchises. They agreed to copy the ATA Code of Conduct and ATA model and have had a successful peak body since then.

In 2009, I became aware of the peak bodies in the USA, notably the NTA (National Tutoring Association). Its strength as an association lies in its tutor training program. Further, during 2010–2012, I attempted to establish how many other peak national tutoring bodies existed. Through Bray’s (2011) study of the European Commission, I encountered George Hagitegas, President of the Hellenic Federation of Teachers (OEFTE), the peak tuition body in Greece. I reached out by email and was grateful when he responded. This commenced a line of communication that led to an invitation from George to attend a conference in Vienna, Austria, for peak national tutoring bodies.

In October 2011, I traveled to Vienna for an international conference involving peak bodies from Germany, Cyprus, Greece, and Turkey. At this conference, I sought to build an alliance to create impetus for an international global tutoring peak body. I also wanted to gain insight into the various qualification and accreditation models used in different nations.

In late May 2013, Alex Blackburn, the Communications Office at the Center for the Market Reform of Education (CMRE), emailed me asking for insight into the establishment of the ATA.

The CMRE, an educational think-tank, was “spearheading the consultation phase of The Tutors Association (TTA).” Furthermore, TTA was launched on May 22 and had already met with reluctance from private tutors. As I was already going to Thessaloniki in Greece via the UK, I was invited by James Croft to join a roundtable discussion in London on July 2, 2013. The meeting was held at the Institute of Economic Affairs, where the CMRE is based. Over two hours, we discussed different aspects relevant to developing a representative body for private tutors and tutoring businesses. I focused on consumer protection and business accountability. The roundtable group was more pragmatic, focusing on the different levels of membership, membership benefits, and essential components of the Code of Conduct. I recalled that inexpensive insurance drove the ATA membership growth.

Additionally, TTA has been active since its inception but does not appear to play an active role in consumer protection. In 2022, tutoring businesses in the UK were subject to a legal directive restricting the agency model.⁵ The collection of fees and payments of contractors is now outlawed, as contractors have effectively been re-classified as employees. This mirrors the current situation in Australia. The Australian Taxation Office (ATO), in its audit of tutoring agencies, has always held that regardless of how the parties characterize their legal relationship, the ATO will deem it an employer–employee relationship. This affects businesses that seek to avoid paying for leave and other entitlements by characterizing workers as contractors rather than employees. Despite this, the agency model thrives in Australia as business owners appear happy to “take their chances” with respect to possible ATO audits.

The agency business model has always been problematic in Australia and evidently also in the UK. It is an area of membership in which the ATA does not attract subscribers because the ATA Code of Conduct specifies face-to-face interviews of the tutors, as well as a method of ensuring that a responsible adult is at home to supervise each tuition session and that reports are provided regularly. These basic requirements detract from the commercially-driven agency model.

In 2013, at an international meeting of tutoring providers in Thessaloniki, Greece, several national associations, including the nascent TTA, agreed to the formation of a peak global body, the Global Professional Tutors Association. Founding members included peak bodies from Greece, Cyprus, Germany, Turkey, the UK, and Australia. I was asked to lead this global body.

The emergence of national peak bodies

Along with Australia, New Zealand, and the UK, other nations also had peak bodies. The Malaysia Tutor Association is one such body. Like the NZTA, it has a website (<http://mta.org.my>) that draws on the ethical concerns expressed on the ATA website.

The ATA, working with an Indian tutoring company called Edulyte, helped set up the QPTA (Qualified Professional Tutoring Association) in November 2021, but it is yet to be launched. Peak bodies for tutors also exist in Japan, China, Korea, and elsewhere in India (Bray & Kwo,

2014, p. 56). Over time, I hope to contact these associations to exchange ideas and work toward regional collaboration. I am unaware of the nature of the Codes that bind members of these peak bodies. The ATA Code of Conduct is available in 13 languages,⁶ including those in which the associations have their headquarters. The ATA Code of Conduct is presented in full in the *Appendix of Regulating Private Tutoring for Public Good* (Bray & Kwo, 2014, pp. 71–77).

The need for a global body

It seemed clear that accountability was necessary at the national and supranational levels. This realization arose because of a similarity between the national differences in law across nations in Europe, being akin to the sub-national differences between Australian states and territories.

However, several factors hampered the development of a global body. The most important of these is time, which is an issue in my case because ATA work is demanding. The second factor is financial, and the third is related to the level of interest of founding members. There was a general expectation that Australia would drive the process. Further complications have arisen in Turkey. In 2014–2015, the Turkish government banned private tutoring institutions known as *dershanes*. This meant that one of the founding members was no longer available.

Presently, there is no global representative body that can offer a balance between consumer and legitimate business interests within the *shadow education space*. In my opinion a need exists for such a body and it is overdue. As a temporary measure—given the lack of a global body and in response to international requests—the ATA launched an international members' page in February 2023 (<https://ata.edu.au/membership/international-members/>).

Prior to the global pandemic, the annual value of the global tutoring sector was estimated to range between US\$ 30 billion⁷ and US\$ 100 billion.⁸ Current estimates suggest a global value of US\$ 201.6 billion by 2026.⁹ With restrictions on tutoring in China and markets undergoing recovery from the pandemic, it is impossible to gauge the current value of the global market (Zhang, 2023). However, all the issues faced at the microcosmic level within countries have been replicated globally. In other words, in the tug-of-war between generating profits and providing ethical services, the pull of profit is stronger for businesses providing services in this sector.

Self-regulation shaping equity and access

I am pleased to report on developments in equity and access in Australia. Several Australian states conduct entry tests for students entering selected high schools. In NSW, the most populated state, academically selective public schools are considered preeminent among all schools, whether public or private. They have distinguished alumni and annually top the list of highest achievers in Year 12

final exams. These examinations are used as the basis for entry into university. The number of places available for students to enter these selective schools is approximately 4,300 and the annual number of applicants is approximately 17,000. The mix of ambitious parents and limited places has made this an opportunity for coaching colleges to offer courses to prepare students for selective tests. Tens of millions of dollars are spent by parents on courses that attract enrolment fees, commonly between AU\$ 2,000 and AU\$ 5,000 per year. Some parents reported spending AU \$ 20,000 per year preparing their children for these tests.

In 2019, the NSW DET changed the test to minimize the effects of coaching and preparation. As part of the review, I was asked by the Department to assist with discussing the type of test that would be less “gameable” and how the issue of equity for those who could not afford coaching could be managed. My contribution was as follows. First, the test should have more psychometric elements, including those similar to IQ tests. I hoped this would ensure that gifted children would likely do well, even without coaching. Regarding access and equity, I suggested that every paper be made publicly available for easy download. This would ensure that people who could not afford coaching could access past papers at no cost. A further benefit would be the pressure on test designers to continually find novel assessment items, thereby properly assessing those who relied on previous questions to predict future question types. The latter is the practice of coaching colleges. Some colleges strongly encourage students to attempt actual tests, memorize the questions and answers and then replicate it back in the coaching college for future students to use as practice material.

The public release of these selective-transfer tests, which commenced in 2021, has become a feature of this new test. Additional psychometric items have also become a feature of this new test. The Department went further and allocated approximately 26% of the places to students from disadvantaged backgrounds who had been identified as unable to afford the type of coaching to which others had access. Unfortunately, this has deleterious effects on coaching practice in colleges. The new test includes a critical thinking component and novel questions. These questions caused students to experience great stress during the tests. Most of this stress arose because students were coached and encouraged to believe that they could predict test items even though they could not. In my opinion, the lack of item predictability in the tests is an effective action.

Coaching colleges have utilized the fact that the number of places has fallen, and the number of applicants has increased. This engendered greater competition and encouraged more intensive coaching. The inevitable side effect is that more children are under stress, and more families have unrealistic expectations—encouraged by coaching colleges. In 2022, a group of parents sought a class action against the DET—asserting that the equity stream had robbed their children of an opportunity and was, therefore, discriminatory (Harris, 2022). They suggested that they had effectively been duped into believing their children had better chances of entering selective schools than was possible.

New developments—Tutors in mainstream schools

A significant development concerning tutors has arisen in response to what has been characterized as a “learning loss” arising from the pandemic and the global shutdown of schools for varying periods. School closures have disproportionate effects on the most vulnerable students. Such students have little to no access to technology and typically face additional academic exclusion based on shortcomings in literacy and numeracy.

In Australia, the UK, and the USA, governments have responded by providing funds for small-group tutoring in schools (Reilly, 2022; Sonnemann & Hunter, 2023). Early evidence suggests that targeted funding for in-school small-group tutoring may benefit *at-risk* children (Sonnemann & Hunter, 2023, p. 6). However, in my experience in Australia, the tutors utilized were not specifically trained in literacy or numeracy, so the improvements noted may be less than optimal.

The ATA foreshadowed the benefits of tutors within schools seven years before their actual use. Box 3 reproduces a 2015 press release, “*A bold new direction—tutors in schools.*” NAPLAN—the National Assessment Program Literacy and Numeracy—refers to the mandatory national literacy and numeracy tests conducted on all students in Years Three, Five, Seven, and Nine. These tests assessed the extent to which students achieved literacy and numeracy benchmarks.

Box 3. Tutors needed in schools.

“Flat-lining NAPLAN results indicate that something new is required. Perhaps mainstream educational bodies need to harness the capacity of accredited tutors”, said Mohan Dhall, ATA CEO speaking after the revelation today that NAPLAN results have not improved in 7 years.

He said, “Levels of illiteracy and innumeracy have not changed despite the excellent work of schools generally and educators specifically. The best aspects of education encourage critical and creative thinking. So, it seems to me that this approach needs to be brought to our education sector with a radical rethink of how best to support the children most in need.”

ATA charity

In recognition of the fact that students continually miss out, the ATA has set up a world first charity precisely to assist students who are most at risk. The criteria for eligibility are being finalised, however it is expected that NAPLAN results will be an element included in assessment of which students are most in need.

Dhall said that “accountability through a charity could help designate specially trained tutors to work in schools with teachers for the benefit of students. Tutors directed by teachers would be a fairly basic starting point.”

Source. Dhall (2015).

Issues for self-regulation—Private conversations and public denials

Of interest throughout my journey along the frontier has been the stance taken by public education officials. Ministers, politicians without portfolios, senior bureaucrats, and other public officials were happy to tell me privately that they used private tutoring services. However, the public commentary from most officials could be in stark contrast. For example, a few days after he enrolled his daughter in a large tutoring center that I ran, a senior NSW politician publicly disparaged the use of private tutors. Furthermore, one of the most senior educational bureaucrats in the country specifically requested that I tutor his children in an attempt for them to enter selective schools via a public test. The oldest child entered an elite selective school following my tutoring. However, in a media release, the bureaucrat publicly stated that tutoring for tests was unnecessary. Teachers and principals whose children have benefitted from tutoring have also been found to advise parents in school newsletters and classrooms not to take private tutors. Some of these teachers are hypocritical beneficiaries of the income from tutoring. Schools that publicly boast about the academic success of students (most of whom have had tutoring) are hypocritical.

In my opinion, there is a problem when private conversations and behaviors concerning tutoring contrast with public statements. The notion has become entrenched that investment in education in the supplementary sector should not be disclosed. This has led to a growth in private tutoring without a commensurate understanding of the motivators relevant to parents. Further, public denial leads to generalized silence. This means private tutors and schools are unlikely to collaborate to assist children.

Acceptable and non-acceptable behaviors are polarized on the frontier between “formal education” and “commercial practice.” I prefer more open and genuine discussions about what the rise in tutoring means for mainstream education, how it can be held accountable, and what behaviors in the shadow sector should not be allowed.

Issues for self-regulation—Bifurcated training

I assessed different approaches to tutor accreditation and qualification to guide best practices, accountability, and ethical behavior in the supplementary education space. Various models exist in the United States. One requires tutors to do a 10-question multiple-choice test to become “certified” tutors. Several questions had only one obvious correct response and three distractors, rendering this certification process valueless. Another approach requires tutors to complete reasonably substantive training with face-to-face components and hands-on assessment tasks marked by a person authorized by the training provider. However, the training provider is a for-profit entity.

Germany has adopted a different approach. Here, the peak body suggests that they audit businesses in an expensive and invasive manner that few entities can afford. To me, the idea of this type of audit was unnecessary and too expensive to be effectively scalable across a sizeable industry.

In 2013, the ATA was unable to afford its own training platform. However, it recognized that a form of training or certification was necessary to boost standards across the industry. In 2014, the ATA partnered with a private commercial organization to offer accreditation, in which the modules, content, and assessment were created by the ATA. The model was online, each module was assessable, and the system could denote individuals who passed the modules as certified. Our authority came from external endorsements of the course by leading educators. This accreditation model was supported by the consumer protection authorities.

This partnership lasted until late 2020. Some years earlier, I realized that the behavior of the commercial partner was at odds with the standards of service that characterized the ATA. The issue came to a head when, during the pandemic, I decided to give members free extended membership in recognition of their financial hardships. Managers of other entities complained about the impact of this decision. While this was probably a legitimate complaint, I knew it was time to end the relationship.

In early 2021, the ATA established a subsidiary called ATA College—a not-for-profit public company—to provide accessible, contemporary, and meaningful tutoring courses. New content was drafted and linked to the national teaching standards. Investment in this entity has enabled the ATA to extend its training to new markets, most notably, Vietnam.

Where to next?

Governments will always struggle with businesses prioritizing commercial returns while devaluing those from whom they earn their income. In the commercial tutoring sector, businesses tend to react to issues and are not proactive with respect to children, their well-being, families, or mainstream education.

In my opinion, self-regulation can solve some of these problems. I am convinced that some form of licensing is preferred. This conviction is premised on the following understanding:

- Businesses will generally not prioritize the social or educational welfare of the children in classes because they do not need to, as this would require investment.
- Businesses will mostly follow the letter of the law but will not go beyond it even if vulnerable people could have better educational and social outcomes.
- Businesses will ensure that their employees or contractors have child protection clearance, but will not generally invest in training or auditing to ensure that classroom practice is safe for children and in line with best-practice child safety standards.
- Many businesses routinely avoid declaring income and thus avoid paying taxes.
- Many businesses have found ways to deceive and mislead the public. A contemporary example is the increasing use of “teachers” to describe tutors. This is justified because their tutors “teach” classes, but the nomenclature suggests a professional qualification, which may not be the case.

In my view, a licensing scheme would take the form of an annual payment made to a peak body authorized to audit businesses. The audit would take the form of unannounced visits to premises during and outside teaching periods to assess compliance with a mandated industry code of practice.

I have tried to bring accountability to the shadow education sector during my professional life as an educator. In all that time, commercial behavior has been largely unchanged. The commercial tutoring sector is powerfully shaped by an impulse to maximize profits. I ran a center that employed around 35 tutors and had 450 students. I learned it was possible to generate high returns, pay high wages, write reports for each term for each student, train staff annually, and include parents in the educational journey. I confirmed that ethics and profitability are not mutually exclusive.


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Notes

1. All quotations are from my best recollection. Some of the wording may not be identical to the spoken words at the time, but all reflect the sentiment authentically.
2. NSW is one of the six Australian states. The states in Australia are: New South Wales (NSW), Victoria (Vic), Queensland (Qld), Tasmania (Tas), South Australia (SA), and Western Australia (WA). There are also two territories: the Australian Capital Territory (ACT) and the Northern Territory (NT). There are eight provinces in total.
3. *The Sydney Morning Herald* article can be viewed here: <https://www.smh.com.au/national/hsc-scandal-teacher-betrayed-by-daughter-20050622-gdlk1a.html>
4. There was one sub-committee: the Code Administration Committee, CAC. However, none of those expressing a desire to join the governing committee ever expressed interest in this sub-committee.
5. An agency is a business form that solely matches tutors and students and takes a fee for so doing. Agencies do not provide curricula or premises, and do not employ tutors. They characterize tutors as “contractors,” therefore avoiding the need to employ. This effectively means that they seek to avoid the legal protections and costs associated with hiring employees.
6. See: <https://ata.edu.au/about-us/member-code-of-conduct/>
7. <https://finance.yahoo.com/news/9-1-cagr-global-private-170200051.html>
8. <https://www.fortunebusinessinsights.com/private-tutoring-market-104753>

9. <https://www.globenewswire.com/news-release/2021/07/15/2263310/0/en/Global-Private-Tutoring-Market-to-Reach-201-8-Billion-by-206.html>

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