



NSW AECG Inc. Submission:
Convention on the Rights of the Child



**New South Wales
Aboriginal Education
Consultative Group Inc.**

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NSW Aboriginal Education Consultative Group Inc. Submission: **Convention on the Rights of the Child**

The NSW Aboriginal Education Consultative Group Inc.

The NSW Aboriginal Educational Consultative Group Inc. (AECG) welcomes the opportunity to provide our views on Australia's implementation of the Convention of the Rights of the Child.

The NSW AECG is the peak body for Aboriginal Education in NSW. We are a not-for-profit Aboriginal organisation, established in 1977 and incorporated under NSW legislation in 1992. We provide advice on all matters relevant to education and training and deliver a range of services to support:

- the attendance, engagement and educational outcomes of young Aboriginal people in early childhood education, in schools and in tertiary education and employment
- capacity building, resilience and the well-being of Aboriginal communities.

The NSW AECG Inc. has a grassroots, community-based structure which enables effective state-wide communication, consultation and service delivery, allowing for Aboriginal Community viewpoint to be echoed throughout the organisation and beyond. The NSW AECG is made up of 20 regional and 147 Local AECGs that operate around the State. We also support Junior AECG committees as subcommittees of their Local AECG committees. Junior AECG members are made up of Aboriginal and non-Aboriginal Youth between the ages of 10-18.

Because of our structure, we have an unparalleled ability to provide agreed responses to government policy, deliver services that meet the needs of communities and tailor training that ensures an Aboriginal voice is heard and is localised. This ensures that government policy and strategies are able to be implemented effectively, because communities have been involved in their development, design and training.

Our grassroots structure also enables:

- the adoption and implementation of new initiatives, customised to local communities
- strong community ownership of innovative education and training approaches
- consensus-building on policy and operational issues.

The NSW AECG's governance structure and vast coordinated Network means we do not simply represent an individual's or a small group of selected individuals' views on education.

Submission Overview

This submission has been drafted with specific consideration to:



- Australia's progress regarding the *Committee on the Rights of the Child 2012 Concluding observations* detailed under **B. General Principles - Non-discrimination** and **F. Education, leisure and cultural activities**
- NSW Junior AECG member's views regarding **Article 28 and 29** within the **Education, leisure and cultural activities** cluster of rights

We have closely considered our response with reference to *Australia's joint fifth and sixth report under the Convention on the Rights of the Child*.

Our submission provides our point of view on Australia's progress on the Committee on the Rights of the Child's (hereafter 'the Committee') 2012 concerns and recommendations which specifically refer to matters regarding the protection of the Rights of Aboriginal and Torres Strait Islander children.

The NSW AECG is very disheartened to reflect on our State's apparent disregard of and failure to progress many of the Committee's 2012 observations and recommendations over the past five years. Before making specific comment, the NSW AECG would like to recognise that education is fundamental to the rights of children. We believe that if our education institutions effectively

- recognised the vital importance of Aboriginal identity and cultures
- increased understanding about the racial discrimination embedded within Australian institutions
- increased understanding about Australia's history of violence and dispossession, and the benefits of working towards social justice outcomes

then many of the Committee's concerning 2012 concluding observations and recommendations regarding Aboriginal and Torres Strait Islander children would be unnecessary or appropriately responded to by the State.

Committee on the Rights of the Child's 2012 Concluding observations: Australia

III. Main Areas of Concern and recommendations

B. General principles (arts. 2,3,6,12 of the Convention)

Non-discrimination

The Committee's Concluding Observation 29 (a) refers to ***the serious and widespread discrimination faced by Aboriginal and Torres Strait Islander children...and significant overrepresentation in the criminal justice system.*** The NSW AECG is very concerned that there is no distinct response to this observation within *Australia's joint fifth and sixth report under the Convention on the Rights of the Child latest* (hereafter 'Australia's progress report').



Through our broad Network of 147 Local AECG Committees, we are intimately aware of ongoing systemic discrimination as well as a high frequency of individual accounts of discrimination and racism occurring across the NSW education sector.

The NSW AECG understands there are strong links between discrimination, student disengagement at school, suspensions and subsequent contact with the Juvenile Justice system. It is with serious concern that we state the disproportionately high rate of Aboriginal student suspensions in NSW does not appear to be reducing (NSW Department of Education, 2015).

In terms of participation and engagement in education we are extremely concerned that Australian Governments and Departments of education continue to discriminate against Aboriginal students and communities. Across the education sector in Australia there remains widespread disregard and neglect towards Aboriginal cultures and languages, and particularly towards the vital importance of language and culture for the positive identity formation of Aboriginal children. We know that universally education is best achieved through learning tasks that build on prior knowledge. We also know that *“education must help those growing up in a culture find an identity within that culture”* and that without this they will inevitably struggle to identify meaningfully with their education. Before starting their schooling and outside of their school hours Aboriginal children are learning their Aboriginal languages, they are learning Aboriginal Kriols, Aboriginal English and they are being immersed in and engaging with the oldest continuous culture in humanity. But, when they step onto Australian school grounds they are subjected to a significant cultural shift where all too often there is little or no value placed on speaking Aboriginal Languages, speaking Aboriginal Kriol, Aboriginal English and practising and learning through Aboriginal culture.

In 2013 a comprehensive research which included more than 200 schools and 825 teachers across Australia found that out of a possible 1200 minutes of teaching time, Australian teachers were on average spending 5 minutes per week teaching through or about Indigenous cultures, languages, histories, literature, identities, perspectives etc. The research also found a significant number of teachers weren't spending any time at all teaching Indigenous content and that there is inadequate teacher training offered to prepare them (Luke et al, 2013: pp130-131).

Whilst we have advocated for reducing discrimination and including Aboriginal culture and language within education for more than forty years, we continue to see little and/or ineffective change taking place. The shameful lack of institutional action, change and accountability for providing an education that reflects Aboriginal students' cultural needs continues. To us this lack of action and change is discrimination in practice. Our kids are inherently proud of being Aboriginal. They dearly need to be able to continue being proud of being Aboriginal while they are learning in schools.

Furthermore, we take issue with the response to **The Committee's Concluding Observation 84** at the bottom of page 19 of Australia's progress report. In regards to Australia's shameful over-representation of Aboriginal and Torres Strait Islander children in youth justice supervision, we are disturbed to read that *“Australia's focus is on addressing the drivers that lead to Indigenous people having higher rates of contact with the criminal justice system and poor community safety, including alcohol and drug misuse, child abuse and neglect, the impact of intergenerational and direct experience of trauma, unemployment and poor educational attainment.”* The NSW



AECG strongly argues that the State's response is not actually referring to the 'drivers' but rather the 'outcomes' of the drivers that lead to Indigenous people to having higher rates of contact with the justice system. We point to the drivers as including:

- The colonisation and violent usurping of our Countries
- a history of and continuing governmental neglect and control
- systemic neglect of Indigenous peoples' human rights
- systemic institutional bias and discrimination
- the continuation of overt and covert racism

The bigoted reasoning our State has provided as to why Aboriginal people are overrepresented in the criminal justice system is indicative of successive Australian government disregard towards the discrimination that Aboriginal and Torres Strait Islander peoples face on their Countries on a daily basis.

The Committee's Concluding observation 29d cites the *inadequate consultation and participation of Aboriginal and Torres Strait Islander persons in the policy formulation, decision-making and implementation processes of programmes affecting them*. The NSW AECG understands this is something that remains a significant concern across Australia. In March this year the NSW AECG, after numerous attempts at engaging, was forced to rally and protest outside the NSW Department of Education.

A key point voiced during the protest was our organisation's disappointment that the NSW Government and Department of Education had introduced key policy reforms without consulting NSW AECG, the peak advisory body and voice of the Aboriginal community, on policies and practices that impact on our children.



The NSW AECG is a member of the Indigenous Educational Consultative Bodies (IECBs). The IECBs refers to the collective grouping of the six state and two territory Indigenous Education Consultative Bodies (IECBs). The IECBs hold a specialist view in Indigenous education and training, having spent over 30 years representing grassroots views on what works and opportunities for improvement in the education and training of Aboriginal and Torres Strait Islander people around Australia. IECBs have always worked to make sure that our local Aboriginal and Torres Strait Islander communities are informed of relevant developments in the education sector and – more importantly – that they have a say in such developments. However in 2013 the Federal Government brought in the Indigenous Advancement Strategy (IAS) which resulted in defunding of the IECBs. This forced several of the smaller IECBs to disband due to lack of funding. Under the IAS, these key representative consultative bodies were not



recognised as “a service” to our respective State and Territory education sectors. The Australian National Audit Office’s 2017 evaluation of the IAS comprehensively criticised the establishment and implementation of the strategy and identified numerous consultation issues (Australian National Audit Office, 2017). Despite ongoing funding requests and applications the IECBs are yet to be supported as a collective.

In regards to lack of progress on consultation and participation of Aboriginal and Torres Strait Islander persons it is worth noting our disappointment with the Australian Government’s recent rejection of the *Uluru Statement from the Heart*. The Uluru Statement called for a ‘First Nations Voice’ in the *Australian Constitution* and a ‘Makarata Commission’ to oversee a process of ‘agreement making’ and ‘truth telling’ between Australian Governments and Aboriginal and Torres Strait Islander peoples. But the Uluru Statement was summarily rejected by our current Prime Minister as “too ambitious” (The Guardian, 2017).

The Committee’s Concluding observation 30 highlights the need to take *necessary steps to prevent and combat discriminatory disparities*” and recommends that *“the State party strengthen its awareness-raising and other preventative activities against discrimination, including through integrating such activities through school curricula, and if necessary taking affirmative action for the benefit of children in vulnerable situations, including Aboriginal and Torres Strait Islander children*. As identified above we believe, and there is ample evidence available, that Australia has not progressed well or at all on these matters during the past five years.

The Committee’s Concluding observation 30d calls for Australia to *Ensure the effective and meaningful participation of Aboriginal and Torres Strait Islander persons in the policy formulation, decision-making and implementation processes of programmes affecting them*. We consider the State’s response to this observation as vague and minimal. The only specific reference made is to the National Indigenous Youth Parliament (NIYP). The NIYP is a week-long leadership program for Indigenous youth which only occurs once every 2-3 years (Australian Electoral Commission, 2018). In our view it does not at all provide an opportunity for effective *consultation and participation of Aboriginal and Torres Strait Islander persons in the policy formulation, decision-making and implementation processes of programmes affecting them*.

The NSW AECG is disappointed at the State’s apparent lack of consideration of the Committee’s 2012 concerns and recommendations in regards to the serious problem of racial discrimination in Australia. Finally, it is worth noting that the Scanlon Foundation’s comprehensive Mapping Social Cohesion Report indicates that in Australia *reported experience of discrimination ‘because of your skin colour, ethnic origin or religion’ has more than doubled, from 9% in 2007 to 20% in 2017* (Markus, 2017). Over the past five years, and in line with the lack of evidence in Australia’s progress report, we see no real measurable progress in regards to the Committee’s serious concerns regarding racial discrimination in Australia.

F. Education, leisure and cultural activities (arts. 28, 29, 30, 31)

Education, including vocational training and guidance

The NSW AECG recognises the *United Nations Declaration on the Rights of Indigenous Peoples* which states:



Article 14

1. *Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.*
2. *Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.*
3. *States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.*

Article 15

1. *Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information (UN OHCHR, 2014).*

The Committee's Concluding observation 75 recommends that *within the "Closing the Gap" policy framework, the State party provide effective coordination and oversight of its state and territory governments to ensure that individual Aboriginal education strategies are based on previous policy success and undertaken with a long-term approach of collaboration with Aboriginal communities, the education sector, community organisations and professional groups...*

Broadly, the NSW AECG does not consider the Australian Government has made, or adequately reported on, progress on the above recommendation. The NSW AECG has several points to make regarding the response to this recommendation within Australia's progress report.

1. Australia's progress report identifies that *"the Australian Government has set Closing the Gap targets on school attendance, year 12 attendance, literacy and numeracy"* and that the *"Australian Government is working alongside Indigenous communities to meet these targets."*

Firstly, the NSW AECG acknowledges the positive intent behind the Closing the Gap campaign. We recognise the importance behind setting measures to improve our students' literacy, numeracy and school attendance outcomes. However, for too long Australian Governments have evaluated Aboriginal people's performance solely in relation to non-Aboriginal people's standards of practice. This has not worked well for Aboriginal people. Overall, the NSW AECG believes the Closing the Gap campaign fails to recognise the vital primacy of Aboriginal identity and cultural practises and, in doing so, effectively prioritises Western educational values and practises. This approach simply perpetuates the 230+ year neglect and systematic devaluing of Aboriginal educational values, practises, knowledges, pedagogies etc.

Unless the intention is as it was during the assimilation era, a more culturally responsive, inclusive and professional approach would be to also focus on and measure performances of schools, educational leaders and teachers. For example, how well have schools performed in implementing the Government's *National Aboriginal and Torres Strait Islander Education Strategy*? How well have they achieved in implementing the Government's



National Framework for Aboriginal languages and Torres Strait Islander Languages? How have state and territory education institutions performed in effectively implementing the objectives set out in their respective Aboriginal Education Policies? Which states and regions have significantly reduced Aboriginal student suspensions and increased attendance in the last 10 years and how has this been achieved? The Closing the Gap campaign does not measure nor increase accountability of these important initiatives. Developing educational targets that do not solely compare and focus on 'Aboriginal deficit and disadvantage' would better measure what is working and what is not.

In regards to educational outcomes all evidence illustrates that the Closing the Gap campaign has resulted in minimal progress over the last decade (Commonwealth of Australia, 2018).

Secondly, the NSW AECG takes offence at the statement that the "*Australian Government is working alongside Indigenous communities to meet these targets.*" As stated earlier in this submission the Australian Government's Indigenous Advancement Strategy, established in 2013, effectively defunded Aboriginal community organisations, including the NSW AECG and the IECBs, to the tune of \$534 million (ABC News, 2014). Alternatively Australian Governments appear to be primarily working alongside *their* 'hand-picked' Indigenous individuals. In our view the governmental appointment and employment of individual Indigenous community members effectively constrains and conflicts their ability to provide and represent independent views of Indigenous communities.

2. Australia's progress report also responds to Concluding observation 75 by identifying the Australian Government's "*\$138 million Indigenous education package.*" On viewing the announcement of this significant funding package the NSW AECG was very disappointed to see that 92 million Indigenous Education dollars (67% of the total Package funds) had been gifted to organisations that deliver programs which primarily provide: sporting opportunities; recreational opportunities; mentoring; and scholarships to elite urban boarding schools. The majority of the remainder of the allocated funding was to support Science Technology Engineering and Mathematics (STEM) education initiatives and residential accommodation facilities for Aboriginal students. The NSW AECG voiced its dismay to the Australian Prime Minister at how such a significant funding opportunity had failed to support educational initiatives that help connect our Indigenous students with their Country, languages and culture which ultimately impacts on literacy, attendance and engagement. We also voiced our dismay that, as an Aboriginal education organisation that represents and provides a voice for the Aboriginal community in NSW, our knowledge and expertise was not seen as an asset for understanding how best to allocate such a large amount of Indigenous education funds.
3. Australia's progress report also responds to Concluding observation 75 by identifying the Australian Government's \$140+ million funding of the *Remote School Attendance Strategy* (RSAS). The RSAS employs 'attendance officers' to basically corral Aboriginal students to school. It does not aim to improve the quality and relevance of education for Aboriginal students living in remote Australia. Considering the fact that Australian schools generally do not reflect and/or value the culture of the Indigenous communities they serve, the NSW AECG considers it not unreasonable to expect that Aboriginal communities wont, in turn, neglect and devalue the schools that have only relatively recently been erected on their Country. To date there is only patchy evidence that the RSAS has had any real impact. In the Northern Territory, where a majority of RSAS



schools are located, both the Education Minister and the Education Union have criticised the program (ABC News, 2016).

4. Australia's progress report also responds to Concluding observation 75 by identifying that the Australian Curriculum includes a *Framework for Aboriginal and Torres Strait Islander Languages*, and that approximately 14,500 Indigenous children were learning an Aboriginal language at school. The NSW AECG welcomes the Government's promotion of teaching and learning of Aboriginal and Torres Strait Islander languages in Australian schools. However, considering that all Aboriginal and Torres Strait Islander languages have been considered as at risk with many critically endangered (Marmion et al, 2014), as well as evidence that Indigenous languages are a "*low financial priority*" of Australian Governments (Mahboob et al, 2017), we see a dire and urgent need for a significant increase in Government support for any substantial outcomes to be realised.

As evidenced above, the NSW AECG does not consider that the Australian Government has identified, or made progress on, the Committee's recommendation to "*provide effective coordination and oversight of its state and territory governments to ensure that individual Aboriginal education strategies are based on previous policy success and undertaken with a long-term approach of collaboration with Aboriginal communities, the education sector, community organisations and professional groups...*"

Convention on the Rights of the Child - Education, leisure and cultural activities

NSW AECG Junior AECG comment regarding Article 28, 29 of the Convention of the Rights of the Child

The NSW AECG supports many Junior AECG committees as subcommittees of their Local AECG committees. Junior AECG members are made up of Aboriginal and non-Aboriginal Youth between the ages of 10 – 18. The NSW Junior AECG structure provides leadership opportunities for youth to lobby for what they want in regards to their education and how they want it done.

On the 17th of May 2018, 5 Junior AECG Committees in regional and urban NSW held workshops to provide their experience regarding Article 28 and 29 of the UN's Convention of the Rights of the Child. In total 70 Junior AECG members participated in the NSW AECG led workshops. As a general summary NSW AECG workshop presenters highlighted that large numbers of students had clear messages such as:

- Suspension doesn't work and only deprives students from gaining an education
- Curriculum doesn't support 21st Century students to confidently participate and contribute to society
- Students wellbeing including cultural identity should be a priority along with academic



- Teachers need professional development in delivering culturally appropriate content
- Teachers have limited knowledge of appropriate cultural content and quite often what is being said is offensive as an Aboriginal person
- The time available to engage in cultural activities is limited to NAIDOC and demonstrates Aboriginal Culture is not valued
- History and Geography is the only time they feel that content around Aboriginal people is included in lessons.

Article 28 - In regards to Article 28 of the Convention of the Rights of the Child, the NSW AECG asked Junior AECG Members to discuss whether they thought their school and other schools they know of *administers discipline in a manner consistent with the child's human dignity without discrimination*. The following responses of Junior AECG members have been compiled for this submission.

Discipline:

- *It is used as a way to shame you into being good*
- *It is used to make you feel bad about yourself not work to make yourself better*
- *In most cases both sides get heard but you really never feel like the teachers understand why an incident has happened or how you see it*

Student rights:

- *My rights as a student are not valued we don't even get told our rights as a student*
- *We don't get to offer ways that we think will help us to move on even after suspension it is not resolved with each other - We are told to say sorry but the real issue is not addressed and talked about, just a waste of time.*
- *There is no time for us to talk out what is going on for us and why something they have said has made us angry and aggressive*
- *We are not given a choice of who we feel comfortable with to talk about our concerns and have there to support us through problems we are having at the time and this can make us act out even more because we don't want to talk to this teacher*
- *Some teachers have an opinion of you and assume you are the problem*
- *Sometimes you are not sure what exactly it is you have done to be in trouble*

Suspension:

- *Parents aren't provided with the right information as well so instead of us getting back to school they keep us away for as long as possible*
- *In school suspension would be better as you keep up with your education and miss out on the fun social side of school*



- *In school suspension students can see their friends going on excursions they see what they are missing out on*
- *Suspension means you are not being provided with the learning opportunities you should and once you are behind it is hard to catch up and so you just give up and act out to get out of school again*
- *When coming back from suspension nothing else is put in place to help ensure the issue or incident doesn't happen again*

Article 29 - In regards to Article 29 of the Convention of the Rights of the Child, the NSW AECG asked Junior AECG Members to discuss whether they thought their school education supports students to: *develop respect for their parents, their cultural identity, their language and values; prepare for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; and develop respect for the natural environment.* The following responses of Junior AECG members have been compiled for this submission.

- *We respect our parents anyway that's how we are brought up*
- *Not the school's responsibility to teach respect but school does this by having rules*
- *Schools teach respect but not all students listen and respect others*
- *Schools need to be delivering wellbeing workshops one day a week and classes that provide opportunity to practise real world things like opening a bank account, applying for loans, buying a car, things that are what we need when finishing school*
- *Would like to see a wellbeing programs that supports all individual's interests across the school that includes sport, mental health, cultural identity*
- *Why can't we learn language in school? We have to learn other languages why not our own?*
- *Why isn't Aboriginal studies and languages mandatory for all students so everyone can enjoy our culture?*
- *If we want to celebrate our culture in school, we have to ask permission it's not freely accepted and valued*
- *Other students are not understanding and say stuff like we "get heaps of free stuff" but it's not true*
- *We have gardens but no environmental programs that help all students learn about land management and how Aboriginal people cared for the land or even used the plants*
- *Nothing keeps going programs stop and start*
- *We have Aboriginal staff that help us learn about our identity and we trust as it can be hard to trust other teachers that don't know our culture*
- *We want to learn from Aboriginal people as teachers don't know about our culture*

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