

Submission to the Education and Workforce Committee: Education and Training Amendment Bill

Introducing Mana Mokopuna – Children and Young People's Commission

Mana Mokopuna – Children and Young People's Commission is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and wellbeing of all children and young people (mokopuna) under 18 years old in Aotearoa New Zealand, including young persons aged over 18 but under 25 years old years if they are, or have been, in care or custody.

We independently advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities, based on evidence, data and research, including direct mokopuna experiences and views.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children's Convention), Te Tiriti o Waitangi and other international human rights instruments. We are also a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability spaces.

We have a statutory mandate to promote the Children's Convention and monitor the Government's implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate the diversity of mokopuna in all its forms.

Executive Summary

Early childhood education

There is a wealth of evidence and research highlighting the importance of the first 2000 days for children's lifelong development. Mana Mokopuna considers the quality of early childhood care and education (ECE) settings is integral to young children developing in safe and healthy ways. We do not support repeal of ECE network approval provisions because we consider the purpose of those provisions – to safeguard quality and avoid oversupply – is consistent with a children's rights approach. However, we make recommendations on potential improvements, if the Committee supports this part of the Bill.

Charter schools

Mana Mokopuna has considered the evidence around charter schools and the policy goals. Rather than implementing a new charter school model, we advocate for the strengthening of the wider state education system – which includes kura kaupapa Māori, state schools, and state integrated schools (with special character) – so it is inclusive, equitable and works for all mokopuna to uphold their right to education. However, we provide recommendations to safeguard children's rights, should the Committee support this part of the Bill.

Attendance data

Mana Mokopuna supports the third part of the Bill about attendance data. We provide recommendations to make the data collection more useful.



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Summary of Recommendations

1. The Education and Workforce Committee must ensure that the rights, interests and wellbeing of mokopuna are the primary consideration when determining any amendments to the Education and Training Act 2020.
2. Mana Mokopuna recommends that the Government **does not** repeal the ECE network approval provisions.
3. Mana Mokopuna recommends that the Government **focuses on strengthening the state education system so it is inclusive and works for all mokopuna, and does not** reinstate a New Zealand model of charter schools.
4. Mana Mokopuna **endorses** the amendment that allows the Secretary for Education to make rules about the provision of attendance data. We recommend ways to make the data more useful (see appendix, paragraphs 11-13).
5. If the Committee does support the repeal of network approvals, we recommend:
 - a. Ensuring that the licensing requirements for ECE service providers uphold the rights, interests and wellbeing of children, such as safety and quality in ECE.
 - b. Make sure the resulting ECE provision remains high quality by ensuring the future regulatory review upholds respect for, and protects and fulfils, all children's rights.
 - c. Require a Children's Rights Impact Assessment process to be included in the ECE regulations review. (This is not related to this Bill, but to a forthcoming omnibus regulation bill likely to be considered later this year.)
6. If charter schools/kura hourua are implemented, we recommend:
 - a. The new agency proposed to negotiate and oversee contracts is sufficiently resourced to ensure transparency, contractual compliance, effective monitoring and adherence to law, particularly the Education and Training Act. It must also have children's rights knowledge and capability to ensure it makes decisions and works in ways that safeguard the rights and best interests of mokopuna.
 - b. There is strong oversight by the Education Review Office (ERO) particularly upon establishment and throughout the contract, to ensure the curriculum is appropriate and does not include misinformation.
 - c. Child and whānau-friendly, accessible and effective dispute resolution processes and a complaints mechanism are made available for ākonga (learners) and their whānau to support resolution of issues.
 - d. There be a minimum ratio of qualified teachers to the roll of students. This is necessary to mitigate the likelihood of charter schools employing unqualified teachers.
 - e. The Minister is not permitted to direct a state school to become a charter school. The Minister may instead set criteria in the Bill for the Secretary of Education to investigate whether a state school may be better run as a charter school.
 - f. Legislating mokopuna voice and participation as a requirement in the governance of all charter schools, to uphold the right to participate under Article 12 of the Children's Convention.
 - g. Embedding Te Tiriti o Waitangi and inserting a clause in the Bill to ensure charter schools have the same commitment to Te Tiriti as state schools.

Protecting the rights of mokopuna in the first 2000 days is essential for their lifelong health, learning and wellbeing

1. Our first recommendation is to *not* repeal the early childhood education (ECE) network approval provision (network approvals). If network approvals are repealed, this will trigger the need for more protections and robust regulation elsewhere in the ECE system, to safeguard the rights, wellbeing and interests of mokopuna.
2. Protecting the rights of mokopuna in the first 2000 days is essential for their lifelong development, health, learning and wellbeing. Consistent with Article 3 of the UN Convention on the Rights of the Child (the Children’s Convention),¹ the Committee must ensure that children’s best interests are a primary consideration when determining the repeal of network approvals. If the Committee supports the repeal of this network approval, it should legislate for strong regulation to protect safety and wellbeing of mokopuna.
3. We are concerned that the Bill will result in greater commercialisation of ECE through removing a layer of protection that the Ministry of Education provides for the ECE system. The quality of ECE provision is important for the safety of mokopuna in their earliest years. We know mokopuna have a strong start in life when early childhood education is high-quality, culturally responsive, accessible and equitable.²
4. The existing ECE network approval provision does not just look at the supply and demand of services – it also determines whether early learning providers are “suitable (fit and proper), capable to provide and establish a service, and are financially viable.”³ This repeal permanently removes any ability for the Ministry to decline a request to register an ECE provider for the above reasons and existing network adequacy.
5. If network approvals are absent, an alternative requirement is needed to ensure robust regulation of early childhood care and education centres, to safeguard the best interests, rights and wellbeing of mokopuna.
6. The repeal of the network approvals provision and the forthcoming review of ECE regulation raise risks that deregulation will remove many safeguards, and result in overall net harm to mokopuna, through poor quality ECE. These risks include:
 - a. children having their lives disrupted if their early learning centres close suddenly due to insolvency;
 - b. children suffering trauma and harmful environments if quality of provision is reduced in response to excessive competition and consequent cost reduction (e.g., lower teacher ratios and less supervision, unsafe learning environments);
 - c. services not recognising the importance of children’s rights and their best interests, due to an increasingly commercial model of ECE provision.
7. The ECE system should always put mokopuna and their rights at the centre as they are the primary ‘service user’. A previous New Zealand Children’s Commissioner’s enquiry into early learning centre regulation found minimum standards were set too low for the best interests of mokopuna.⁴ There is evidence that the commercial model of ECE, absent strong

¹ "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." See Article 3, [Convention on the Rights of the Child | OHCHR](#)

² [Mana Mokopuna - Children and Young People's Commission Position Statement on a Strong Start in Life](#)

³ [Regulatory Impact Statement: Repeal of network approval legislation - 19 March 2024 - Ministry of Education \(treasury.govt.nz\)](#)

⁴ Office of the Children’s Commissioner, 2011 [Through their lens: An inquiry into non-parental education and care of infants and toddlers](#) and the response the Office of Early Childhood Education recommended to the Minister of Education to “note the conclusion of this report, that several regulated minimum standards are set too low in aspects of service quality that are important for infants and toddlers.”

safeguards in terms of regulation, can have lower quality standards.⁵ Given we know ECE quality impacts children’s learning and development, lower standards therefore risk harm to children’s health, development, and wellbeing.⁶ Protections are required in terms of teaching qualifications and ratios, noise, location, other environmental factors, and sustainability.⁷

8. We strongly advocate that, if the Committee supports repealing the network approval legislation, it must implement strong regulatory standards for the ECE sector, to protect the best interests of mokopuna.
9. The Committee must consider the following rights under the Children’s Convention:
 - Article 3 – The best interests of the child should be a primary consideration in matters that affect them
 - Article 24 – Highest attainable standard of health
 - Article 28 and 29 – Education that develops children to their full potential
 - Article 31 – The right to play and recreation.
10. The UN Committee on the Rights of the Child (CRC Committee) has provided specific advice under General Comment No.16 in relation to State obligations regarding the impact of the business sector on children’s rights. This definitive guidance on upholding children’s rights in the context of business makes clear that States must have adequate legal and institutional frameworks to respect, protect and fulfil children’s rights, and to provide remedies in case of violations in the context of business activities and operations.⁸ This is particularly relevant in the ECE context given the potential for even more commercialisation of ECE in Aotearoa New Zealand.
11. In this regard, the Government – and the Committee – should consider that:
 - a. Childhood is a unique period of physical, mental, emotional and spiritual development. Violations of children’s rights, such as exposure to unsafe situations and products or to environmental hazards may have detrimental lifelong consequences.
 - b. Children are often politically voiceless and lack access to relevant information. Mokopuna are, therefore, reliant on governance and decision-making systems over which they have little influence, to have their rights realised. Acknowledging the role of parents and caregivers as their primary advocates, it can be difficult for them to be effective and informed advocates for their mokopuna for a range of reasons, including that they may not be fully not aware of their child’s specific experiences in the ECE environment.⁹
 - c. It is generally challenging for mokopuna and their whānau to obtain resolutions – whether in the courts or through other mechanisms – when their rights are infringed upon, even more so by business enterprises. Complaints should be able to be resolved at the level closest to the child and whānau, and in ways that are accessible and equitable. The CRC Committee specifically notes that there are difficulties for children in obtaining resolutions for abuses that occur in the context of businesses.¹⁰

⁵ Eva Lloyd (2014). [Can Government Intervention in Childcare be Justified? Comment: We need to change the childcare subsidy system](#) Economic Affairs Volume 34, number 3. referring to a measurable reduction in quality of market-provided services due to cost cutting.

⁶ Trætteberg, H.S., et al. (2023). [Reigning in Provider Diversity? Regulation, Steering, and Supervision](#). In: Privatization of Early Childhood Education and Care in Nordic Countries. Palgrave Studies in Third Sector Research. Palgrave Macmillan, Cham. “The growing presence of for-profit providers is one reason for the enhanced public sector governance, ...[and a] a driver for increased public control of the service”.

⁷ For more information, see: [Briefing paper from ECE Reform to Children’s Commissioner on the critical state of New Zealand’s early childhood education](#)

⁸ [United Nations \(ohchr.org\)](#) General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights

⁹ David Baker, (2013) [Trouble with childcare - The Australia Institute](#)

¹⁰ UNCRC General comment No. 16 *ibid*.

Focus on making the wider education system inclusive, accessible and equitable for all ākonga, rather than creating charter schools

12. Mana Mokopuna advocates for the state education system – which includes kura kaupapa Māori, state schools, and state integrated schools (with special character) – to be strengthened so it is inclusive, equitable and works for all mokopuna.
13. We are concerned that charter schools/kura hourua will mean that the State will not fulfil its duties under the Children’s Convention relating to the rights of all children to education.¹¹ We are concerned, for example, that charter schools/kura hourua would negotiate significant flexibility in their contracts and avoid some aspects of the curriculum, or they may not fulfil Article 29 of the Children’s Convention – to develop the child’s personality, talents and mental and physical abilities to their fullest potential, and develop respect for human rights, culture, tolerance of other peoples, and respect for the natural environment.¹²
14. We are also concerned, that the commercial model of charter schools does not have a provision to ensure children’s rights and voices are elevated, such as through ākonga representation on charter school/kura hourua governance boards, which is inconsistent with the right of all mokopuna under Article 12 of the Children’s Convention.¹³

Mokopuna have told us that their education matters to them

“ I’d make sure every student had a say.”
(Secondary school student, undisclosed ethnicity, Education matters to me key insights)¹⁴

15. We recently heard from mokopuna that education is often what matters most to them. Our recent survey “I tou ao, he aha ngā mea nui? In your world, what matters most?” identified education as the second highest response from mokopuna, after their families and whānau. In our ‘Education Matters to Me’ series of reports presenting the direct views and voices of mokopuna, a key insight was - *It’s my life – let me have a say.*¹⁵
16. The CRC Committee’s General Comment No.1 on the State’s responsibilities in education provides definitive guidance for States Parties to the Children’s Convention on implementation of the right to education.¹⁶ It says that education must be “provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with Article 12(1) (Right to participate in decisions that affect them) and to participate in school life”.
17. We note that state secondary schools are required to have a student representative on their school governance board, providing an opportunity for mokopuna to have their voices heard in governance, consistent with Article 12.
18. Mokopuna have the right to participate, be listened to, and to have their voices taken into consideration in matters that affect them. However, in a charter school/kura hourua model there is no such provision for mokopuna involvement in governance, with the sponsor of the charter school having sole responsibility to deliver on a contract.
19. Therefore, if charter schools/kura hourua are to proceed, we recommend they must be required to provide an effective mechanism for their ākonga to have a say in the running and governance of the school.

¹¹ Children’s Convention, [Articles 28](#)

¹² Children’s Convention [Article 29](#)

¹³ Children’s Convention [Article 12](#)

¹⁴ [Education matters to me: Key Insights | Mana Mokopuna](#)

¹⁵ [Ibid.](#)

¹⁶ [UNCRC General Comment No. 1 Aims of Education](#)

All schools must give effect to Te Tiriti o Waitangi

“ Learn about Te Tiriti o Waitangi.”

(Mokopuna Māori, aged 14-18, Te Moana a Toi)¹⁷

20. We have heard from mokopuna – including mokopuna Māori and mokopuna Tiriti – that they want to learn about Te Tiriti o Waitangi and Aotearoa New Zealand’s indigenous history in school, and that they see this as crucial to ending racism and building a more inclusive country.¹⁷ Yet the Bill’s Regulatory Impact Statement (RIS) says there is limited consideration of Article 1 of Te Tiriti. Section 4(d) of Education and Training Act 2020 states clearly that the education system “honours Te Tiriti o Waitangi and supports Māori-Crown relationships.”¹⁸
21. Building on this, section 9 of the Education and Training Act gives specific provisions to help state schools give effect to Te Tiriti. It is inconsistent with the rights of mokopuna Māori under Te Tiriti, and inconsistent with the partnership role the state education system must have with Māori, for these provisions to be absent for sponsors of charter schools.
22. We emphasise the Government’s obligation regarding kāwanatanga - good governance under Article 1 of Te Tiriti, which requires the Crown to fulfil its fiduciary duty in a manner that equitably benefits whānau, hapū and iwi Māori and promotes their active participation in governance structures and policy development.

There is a lack of evidence and analysis to determine the rationale and effectiveness of charter schools/kura hourua

23. The RIS demonstrates there is a significant lack of evidence relating to the effectiveness of charter schools, some evidence is mixed, and much of the evidence certainty on the model is ‘low’ certainty (i.e., speculative benefits analysis).
24. An evaluation by Martin Jenkins from the previous experience of charter schools in Aotearoa New Zealand found no more innovation in pedagogy or curriculum design beyond what the state system has.¹⁹ The report found that while 75% of students enrolled were categorised as priority learners – being ākonga Māori and Pacific students – the charter schools did not report on outcomes for ākonga with learning needs. There was no follow up research done on outcomes for ākonga of low socioeconomic status.
25. The Martin Jenkins analysis also reported benefits from smaller class sizes and successful recruitment. However, smaller state schools already achieve this, and funding could be diverted to support these approaches in more state schools, so that the current state education system is more accessible, inclusive, equitable and effective for all ākonga, including priority learners.²⁰ From a children’s rights perspective, we remain concerned that there is very little evidence to support the rationale or policy drivers for charter schools.
26. We further observe that Aotearoa New Zealand’s school system already enables significant flexibility through the parent-elected board model of governance, and flexibility in curriculum delivery. There is, arguably, no need for a new model to provide flexibility in New Zealand.

¹⁷ [“Without racism Aotearoa would be better”: Mokopuna share their experiences of racism and solutions to end it | Mana Mokopuna](#)

¹⁸ [Education and Training Act 2020 No 38 \(as at 30 June 2024\), Public Act 4 Purpose of Act - New Zealand Legislation](#)

¹⁹ [Multi-year Evaluation of Partnership Schools | Kura Hourua Policy. Summary of Findings Across Years | Education Counts](#)

²⁰ Ibid.

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27. With the wider state education system already providing for a range of schools, including state schools, state integrated schools (special character schools), specialist schools and kura kaupapa Māori, this means there is already considerable choice available. While we advocate for the wider state education system to be strengthened so that it is accessible, inclusive, equitable and works for all ākonga, we do not think that the introduction of a new model of charter schools/kura hourua is necessary on the basis of choice.
 28. The Bill states charter schools/kura hourua will not charge student fees (like private schools do), but provides for compulsory property fees. There is no public accountability for how much these fees could be. If a sponsor requires a 'return on capital investment' for provision of school buildings, there is likely to be a substantial cost to attend.
 29. In our recent engagement asking mokopuna to consider what *matters most to me, and what gets in the way* (2024), mokopuna anecdotally reported that school fees are a barrier to their education. If charter schools/kura hourua charge property fees to parents and caregivers, this could create a significant barrier for mokopuna to participate.
 30. A goal of charter schools is to raise achievement for those who are disadvantaged, or priority learners, and not succeeding in the existing system by creating a new type of school with more flexibility. Priority learners are often those who are least succeeding in our current system, and they are the most disadvantaged – living in poverty or with disabilities and learning support needs, or other family circumstances. These families are unlikely to be able to afford the property fees charter schools can charge. Therefore, the charter school model is unlikely to achieve the policy goal of raising achievement for those who are disadvantaged and 'not succeeding in the existing system'.

Investment in education is needed elsewhere

31. Charter schools are generally secondary schools. However, evidence shows that it is primary schools where our investment lags behind the OECD²¹, and where many mokopuna get off to a poor start. There is also "substantial evidence that tamariki who do not learn to read, write and communicate well at primary school level have a range of disadvantages that continue far into their adult lives".²² The expenditure in charter schools could be better expended elsewhere, such as state primary schools, to achieve better outcomes for ākonga.
32. The majority of priority learners attend mainstream schools and many of the existing alternatives to mainstream are still in dire need of additional investment to make them safe, inclusive, equitable and effective in meeting the learning needs of all ākonga so they can thrive.²³ This includes, for example, the need for urgent investment and strengthening of alternative education and activity centres, specialist schools and learning supports provided in mainstream schools.
33. We note there is strong evidence that ākonga Māori achieve better results in kura kaupapa Māori and immersion schools.²⁴ This suggests that investing in more kura kaupapa Māori schools and immersion schools would significantly support the learning outcomes and rights of ākonga Māori, and provides a proven model that is effective, rather than going down a charter schools/kura hourua path. A concerted focus on reducing the systemic

²¹ <https://www.statista.com/statistics/238733/expenditure-on-education-by-country/> New Zealand invests less than 80% of the OECD average, while US, UK, and Australia expend much more in primary level education.

²² Sam Geen and Hilmar Schulze, [Education awa \(knowledgeauckland.org.nz\)](https://www.knowledgeauckland.org.nz) (2019), p.5.

²³ [An Alternative Education? Support for our most disengaged young people | Education Review Office \(ero.govt.nz\)](https://www.education.govt.nz/education-reviews/alternative-education/)

²⁴ https://www.educationcounts.govt.nz/data/assets/pdf_file/0004/208750/Indicator-18-year-olds-with-Level-2-2012-2022.pdf Figure 6. The attainment rates of NCEA Level 2 or above for Māori 18-year-olds learning predominantly in te reo Māori is similar to the attainment rates for all 18-year-olds, whereas rates for those learning in English is lower.

barriers that continue to be in the way of far too many mokopuna Māori is required within the wider state education system.²⁵

Mokopuna have told us their teachers are important

34. The importance of good teachers cannot be understated for the education of mokopuna. A key insight from our *Education Matters to Me* series of reports was - *Relationships mean everything to me*.²⁶ Many mokopuna told us that they cannot begin learning unless they have a trusted relationship with their teacher. We also know that qualified teachers and upholding professional standards are important to quality teaching. The Teaching Council has highlighted a risk that “unqualified and unregistered people can be permanently employed into teaching roles at charter schools and will not have competency oversight.”²⁷
35. While there is a policy goal to give the sponsor flexibility through bulk funding, we note that there is a risk that unqualified teachers may be used simply to lower the costs of staffing, making the charter school more profitable through lower input costs.
36. We recommend that if charter schools/kura hourua are allowed to employ Limited Authority to Teach (LAT) staff for teaching roles (without the usual criteria other schools must comply with), then a clear rationale must be made up front, and ratios of qualified teachers should be required as part of the contract negotiations. There should be a higher ratio of qualified teachers to LAT teachers, so that the teaching quality can be maintained for students at charter schools/kura hourua, and to support supervision of LAT teachers.

The Bill has provisions that are undemocratic and need to change

37. We are concerned that clause 212F of the Bill provides a process to enable state schools to convert to charter schools. This can be triggered by an individual with the support of a sponsor, and could have significant implications for democratically-elected parent boards and teacher employment rights.
38. Furthermore, clause 212G of the Bill enables the Minister in their absolute discretion, to direct the board of a state school to apply to convert to a charter school. It is not the role of a Minister to direct schools. It would be better to have criteria in the legislation that has a transparent policy rationale for the Secretary for Education to decide whether to direct a school board to consider applying to convert to a charter school. These criteria must include that the school community supports it, that there is an accepted and appropriate sponsor, and that property ownership and access is considered. The Minister, who is in a governance role, would be overstepping to take such operational decisions over schools, and this is undemocratic.
39. Mana Mokopuna is particularly concerned that this mechanism of the Minister directing state schools to become charter schools could be used simply to undermine employment rights and enforce bulk funding in schools. In particular, if the policy of charter schools were to scale up over time, and the Minister were to retain this power, then it could be used to undermine the collective agreement process with teacher unions, which could ultimately result in further inequity in teaching and learning quality across the school network.

²⁵ We note, for example, the recommendations set out in the following rangatahi perspectives-based research by Tokona te Raki: [He-Awa-Ara-Rau-A-Journey-of-Many-Paths-Nov-2019-1.pdf](https://www.tokona.org.nz/wp-content/uploads/2019/11/He-Awa-Ara-Rau-A-Journey-of-Many-Paths-Nov-2019-1.pdf) (tokona-wp.s3.amazonaws.com) and [Ngā-Tapu-ae-Full-Report.pdf](https://www.tokona.org.nz/wp-content/uploads/2019/11/Nga-Tapu-ae-Full-Report.pdf) (tokona-wp.s3.amazonaws.com).

²⁶ Education matters to me <https://www.manamokopuna.org.nz/publications/reports/education-matters-to-me-key-insights/>

²⁷ [Charter schools legislation submission guide](https://www.nzteitiroa.org.nz/publications/charter-schools-legislation-submission-guide) (nzeiteriuroa.org.nz)

Oversight is needed to uphold the rights and best interests of mokopuna

40. It may be necessary for ERO or another independent agency to have oversight over the ballot process for charter schools, to make sure they manage their enrolments fairly.
41. If charter schools proceed, these will be places where mokopuna are spending a significant proportion of their time, and there must be effective oversight to ensure that mokopuna are safe at all times, and their rights are being upheld. In that case, we also recommend strong oversight during establishment and annually during the length of the contract (rather than just three-yearly ERO visits). This oversight could be to both support them and monitor them. The State must make sure charter schools know how to protect mokopuna safety and rights, and the State should also monitor their curriculum, disciplinary processes and adherence to law.
42. This is also needed to enable adequate information for the Crown to trigger interventions if charter schools are failing to perform. It is essential for mokopuna that their rights and best interests are at the centre of any system design given the direct ways it will impact on them.
43. An effective, equitable and accessible complaints mechanism for ākonga and their whānau would add to the systems-design that puts mokopuna rights at the centre, to enable dispute resolution in a timely manner. This should be co-designed with mokopuna and their whānau. This would contribute to fulfilling the State's legal obligations under the Children's Convention optional protocol on a communications procedure.²⁸
44. We advocate for children's rights impact assessments to be compulsory for all layers of governance for charter school. This analysis is crucial to ensure proposals, policies, processes, systems, decisions and curriculum design are upholding children's rights and supporting equitable outcomes.²⁹

The provision of attendance data is important

45. We support the ability for rules to be established regarding daily attendance data provision to the Ministry of Education, as long as the rules are practically workable for schools. Additional administrative support and/or funding for IT systems may be required by some schools if they have manual systems, or if they lack administrators to do this action. This may be needed more in smaller schools, or non-mainstream schools.
46. We also recommend collecting and reporting data about 'justified' and 'unjustified' absences separately, because they indicate different issues. One can measure illness among other justified reasons, while the other can indicate disengagement.
47. Earlier in the COVID-19 pandemic, systems were set up to enable daily reporting of attendance. Daily data capture is often automated, and systems for reporting are embedded in most school IT systems, e.g., KAMAR. The Ministry has a reporting dashboard available publicly: [Daily attendance | Education Counts](#) but it does not separate the categories of justified and unjustified absences.
48. However, data captured on any day can be inaccurate, simply because of the delay that is often involved in parents and caregivers advising why mokopuna are not attending (e.g., late sick notes). Giving schools a few days to report will ensure justified and unjustified absences are correctly recorded, and enable better data as envisaged by this policy.

²⁸ www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications. New Zealand acceded to the third Optional Protocol to the CRC (OP3) in 2022. See: [Optional protocols to the UN Convention on the Rights of the Child \(the Children's Convention\) - Ministry of Social Development \(msd.govt.nz\)](#)

²⁹ The tool for Children's Rights Impact Assessment is available at the [Ministry of Social Development website](#)

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49. Therefore, we generally support this provision of the Bill, and recommend that:
- a. Data should be disaggregated between justified and unjustified absences.
 - b. Schools should have a few days' lag before the requirement to report absence, so that accurate numbers are available for the categories of justified and unjustified absences.
 - c. Additional administrative support and/or funding for IT systems should be provided to schools that need it to complete the additional tasks of providing attendance data.

Conclusion

50. Children's rights and best interests are often alluded to in education sector reform. However, rarely do we see a children's rights impact assessment done to adequately investigate whether proposed reforms are upholding the rights and best interests of mokopuna.
51. In regard to this Bill, we have identified a lack of evidence and rationale for the introduction of charter schools/kura hourua, and we are concerned that the removal of network approval provisions for ECE could risk the wellbeing of mokopuna. It is vital the Committee takes a children's rights approach when reaching its decisions on this Bill, and we call for a children's rights impact assessment to be undertaken to inform all legislation and policy development, so that decisions are able to be made consistent with and to advance children's rights.

Attachment

Appendix: Detailed recommendations if the Bill proceeds in its current form

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If the Committee does support the repeal of network approvals, we recommend:

- 1 Ensuring that the licensing requirements for Early Childhood Education (ECE) service providers uphold the rights, interests and wellbeing of children, such as safety and quality in ECE.
- 2 The resulting ECE provision remains high quality by ensuring the future regulatory review upholds respect for, and protects and fulfils, all children's rights.
- 3 A Children's Rights Impact Assessment Process be included in the ECE regulations review. (This is not related to this Bill, but to a forthcoming omnibus regulation bill likely to be considered later this year.)

If the charter schools are implemented, we recommend:

- 4 The new agency proposed to negotiate and oversee contracts is sufficiently resourced to ensure:
 - a) all standards and performance measures are included up front for negotiating contracts: e.g., qualified teacher ratios, building quality, support for disabled ākonga, and the specified results sought from the contract;
 - b) strong monitoring of charter schools' adherence to their contracts and law and enable transparency, to ensure contractual compliance;
 - c) it has the knowledge of children's rights and the capacity to undertake children's rights impact assessments in the negotiation of contracts, to ensure it makes decisions and works in ways that safeguard the rights and best interests of mokopuna.
- 5 There is strong oversight by ERO particularly upon establishment, and throughout the contract term, to
 - a) oversee a fair ballot process for enrolments (check compliance with the Education and Training Act);
 - b) ensure the curriculum is appropriate and does not include misinformation or indoctrination;
 - c) monitor adherence to the Education and Training Act in respect of suspensions, exclusions and expulsions, and punishment or inhuman and degrading treatment.
- 6 There are dispute resolution processes and a complaints mechanism made available for ākonga (learners) and their whānau, that are child and whānau-friendly, accessible and effective to support resolution of issues.
- 7 There be a minimum ratio of qualified teachers to the roll of students. This is necessary to mitigate the likelihood of charter schools employing unqualified teachers.
- 8 The Minister is not permitted to direct a state school to become a charter school. There may, instead, be criteria set out in the Bill for the Secretary of Education to investigate whether a state school may be better run as a charter school and be invited to apply to convert to a charter school, and there should not be coercion to do so.
- 9 Legislating mokopuna voice and participation as a requirement in the governance of all charter schools, to uphold the right to participate under Article 12 of the Children's Convention.
- 10 Embedding Te Tiriti o Waitangi and inserting a clause in the Bill to ensure charter schools have the same commitment to Te Tiriti as state schools.

When making rules about attendance data we recommend:

- 11 Data be disaggregated between justified and unjustified absence categories.
- 12 Schools be given a few days' lag before the requirement to report categories of absence.
- 13 Additional administrative support and/or funding for IT systems be provided to schools that require it, to complete the additional tasks of providing attendance data.