

Submission to the Ministry of Education on the changes to school board objectives and NELP provisions

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 well-being 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 of age 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 (Te Tiriti) and other international human rights instruments. We are 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.

Our moemoeā (vision) is *Kia kuru pounamu te rongo* – All mokopuna live their best lives, which we see as a collective vision and challenge for Aotearoa New Zealand.

The proposed changes are a step backwards for mokopuna rights

1. Mana Mokopuna – Children and Young People's Commission welcomes the opportunity to provide a submission on the proposed changes to school board objectives and National Education Learning Priorities (NELP) provisions in the Education and Training Act (the Act).
2. We oppose the proposed changes on the basis that they risk the rights of mokopuna under the United Nations Convention on the Rights of the Child (Children's Convention¹), and would be a backwards step from the Government's duties and obligations under the Convention as the primary duty bearer towards children who are rights holders. We hold this position because the legislative mechanisms such as the NELP and school board objectives are systemic provisions that strengthen the rights of ākonga and ensure greater practical protections of ākonga rights in educational environments.

¹ [Convention on the Rights of the Child | OHCHR](#)



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3. All children have rights under the Children’s Convention, to which New Zealand is a States Party. In regard to the NELP, the Act includes a requirement to consult with children and young people. Mana Mokopuna celebrates this legislated mandate to uphold the rights of mokopuna to education and in relation to Article 12 of the Children’s Convention, which establishes the right for mokopuna to have a say in decisions that impact them.² We advocate for the NELP to remain as it aligns with a rights-based approach to education.³ As the independent advocate working for and with mokopuna, and given our specific mandate in relation to promoting and advancing the rights of mokopuna, it is important that we provide this advice to the Ministry of Education at this time, given the risks from a children’s rights perspective that the changes to the NELP and school board objectives provisions in the Act present.
4. Specific advice provided by the Committee on the Rights of the Child (UN Committee) in relation to the implementation of Article 29 of the Children’s Convention requires States Parties to the Convention, including New Zealand, to develop through education a child’s personality, talents and mental and physical abilities to their fullest potential.⁴ Therefore, to uphold the rights of mokopuna, the governing bodies of schools must be required to focus on more than educational achievement. Education should be encompassed in a holistic approach which prioritises mokopuna achievement, well-being, rights, safety and equity.⁵
5. Mokopuna Māori have particular rights under Te Tiriti o Waitangi. The Crown is required to uphold and give effect to Te Tiriti o Waitangi and to progressively implement the Children’s Convention for all mokopuna under the age of 18. Both these treaties form an important basis to uphold and progress the rights of mokopuna. These rights include not to be exploited, to be safe, to be protected and to have equitable outcomes.
6. For mokopuna Māori, the Children’s Convention can be read through the lens of Te Tiriti to ensure Māori retain tino rangatiratanga over their taonga, including whānau, mokopuna and their mana or inherent rights.
7. The specificity of Te Tiriti o Waitangi in s127(1)(d) of the Act is purposeful and powerful. By legislating school boards to give effect to Te Tiriti, the Crown is upholding the rights of Māori under Article 1 to practice good governance. As boards have particular powers which can have significant impacts on the lives of mokopuna, including implications for them experiencing, among other rights, their right to education, it is incredibly important that giving effect to Te Tiriti remains a key objective for school boards.
8. Arising out of recent assessments of New Zealand’s progress on implementing its international human rights law duties and obligations, including the Universal Periodic Review⁶ and the UN Committee’s sixth periodic review of New Zealand, there have been several recommendations made by the UN to the New Zealand Government regarding education.⁷ With this in mind, Mana Mokopuna amplifies the need for the Government to focus on equitable educational outcomes for all mokopuna.
9. Mana Mokopuna emphasises that the proposed changes to the Act are unnecessary. Resource should instead be focused on developing the new curriculum and focusing on systemic issues in the education sector such as unfair school removals, dispute resolution panels, teacher shortages, bullying, accessibility and racism and discrimination.

² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-12>

³ Please refer to the report our predecessor, the Office of the Children’s Commissioner prepared to inform the NELP in 2018: <https://www.manamokopuna.org.nz/publications/reports/education-matters-to-me-key-insights/>

⁴ [CRC/GC/2001/1 - General comment No. 1: The Aims of Education](#)

⁵ [David.pdf \(portail-eip.org\)](#)

⁶ [Human Rights Monitor - Objectives](#)

⁷ [The UN's Concluding Observations to Aotearoa New Zealand | Mana Mokopuna](#), please see paragraph 37.

Mokopuna have a right to have a say in their education

“I'd make sure every student had a say. I'd be there to help for students who are leading their lives in the wrong direction and help them create a path. I'd make MY school a happy and enjoyable place to be, where everyone wants to be. When everyone gets up in the morning super excited to go to school. That's what I want to change, because I know most children wag and don't want to, they resist to go to school but it is a necessity so they have to show up.”

(Secondary school student, undisclosed ethnicity)⁸

10. A critical aspect of the NELP is its commitment to include mokopuna voices in decision-making processes. The proposed removal of this framework disregards Article 12 of the UN Convention, which expresses that mokopuna have the right to have a say on matters affecting them.⁹ By removing opportunities for mokopuna to have their say, the education system risks becoming disconnected from the learning aspirations and needs of ākongā. As the education system exists to serve and support the learning and development of mokopuna, removing these opportunities for mokopuna to experience their right to participation would be a considerable backwards step from New Zealand's duties and obligations under the Children's Convention.
11. The proposed removal of the NELP threatens the progression of holistic and equitable education for all mokopuna in Aotearoa New Zealand. The proposed changes will move the education system towards a narrower definition of achievement that overlooks the diverse ways in which ākongā learn and achieve.
12. We recently heard from mokopuna that education is often what matters most to them. We surveyed mokopuna asking, “I tou ao, he aha ngā mea nui? In your world, what matters most?” and education was the second highest answer, 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.*¹⁰
13. Mana Mokopuna has heard from mokopuna themselves that there are a multitude of systemic barriers that prevent them from engaging with education. In our recent report, “Without racism Aotearoa would be better” – it was evident that racism was most often experienced in education settings and that teachers were often perpetrators of the racism and discrimination that mokopuna experienced. We emphasise that teachers are often enablers of the solutions mokopuna shared to end racism, supporting education-focused solutions that are grounded in equitable, holistic and and te ao Māori approaches. Mokopuna advocated for more education about Te Tiriti, the diverse cultures of our nation and increasing the use of te reo Māori at all levels of schooling.¹¹

“Being kicked out of school because other people are scared, but no one wants to know your story or help you after that and then you get judged forever.”

(Mokopuna Māori, aged 14-16, Remand Home)¹²

⁸ Office of the Children's Commissioner. Education matters to me: Key insights (2018).

⁹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-12>

¹⁰ Office of the Children's Commissioner. Education matters to me: Key insights (2018).

¹¹ “Without racism Aotearoa would be better”: Mokopuna share their experiences of racism and solutions to end it | Mana Mokopuna

¹² [Ibid](#)

14. We wish to amplify the voices of ākonga and whānau who shared their educational experiences in the report He Whakaaraara, which shares the stories, barriers and challenges of Māori, Pacific, Rainbow, disabled and refugee/migrant communities.¹³ Mana Mokopuna recommends that the Ministry of Education look to the insights in this report to better understand the systemic barriers, long term impacts and solutions outlined by mokopuna, their whānau and community.
15. Equity in education is crucial, particularly for mokopuna who face systemic barriers.¹⁴ The NELP emphasises the importance of diversity, cultural knowledge and identity, ensuring that all ākonga, regardless of their background, receives an education that supports them to thrive. While we await the refreshed curriculum – without the NELP, the education system risks perpetuating inequalities rather than dismantling them.
16. The focus on inclusivity in the NELP aligns with Article 29 of the Children’s Convention, which highlights the importance of education which respects cultural identity and values.¹⁵ Removing the NELP would reverse efforts to build an education system that supports mokopuna to engage with and appreciate diverse perspectives as well as strengthening their own identity and belonging. This is also important for mokopuna identity which is a right under Article 8 of the Children’s Convention, which is extremely relevant in Aotearoa New Zealand as a bicultural nation, and which has a diverse and multicultural society.¹⁶
17. The removal of the NELP threatens the foundational principles of holistic, equitable, and inclusive education that are vital for the development of all ākonga. By disregarding the diverse definitions of achievement, undermining equity, and excluding mokopuna voices, the proposed changes will undermine the potential for a transformative education system that truly serves all mokopuna. Going ahead with these changes will go against progress made towards educational equity and all mokopuna experiencing the full promise of their right to education.

The rights, interests and well-being of mokopuna should be key objectives for school boards

18. Mana Mokopuna disagrees with the proposal to remove reference to the New Zealand Bill of Rights Act and the Human Rights Act, as this is an integral part of implementing and protecting mokopuna rights in Aotearoa New Zealand. We urge the Ministry of Education to retain this requirement for school boards, and advocate for the inclusion of the Children’s Convention in s127(1)(b)(ii).
19. We remind the Ministry of Education that the UN Committee on the Rights of the Child’s General Comment No. 1 advises that education should support the development of mokopuna to their fullest potential, and ‘the development of respect for human rights and fundamental freedoms’.¹⁷ We advocate for the inclusion of the Children’s Convention alongside the other rights instruments in the Act, as it ensures that school boards, leadership and teachers are accountable for upholding the rights of all ākonga, including mokopuna Māori, in Aotearoa New Zealand.

¹³ He Whakaaraara, A CALL TO ACTION, September 2024. Tātai Aho Rau | Core Education, Education Partnership & Innovation Trust and UNICEF Aotearoa.

¹⁴ Teaching and Teacher Education-Problem is Bigger-libre.pdf (d1wqtxts1xzle7.cloudfront.net)

¹⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-29>

¹⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-8>

¹⁷ CRC/GC/2001/1 - General comment No. 1: The Aims of Education

20. The proposed changes to school governance to make student achievement their primary objective. raises concerns for the rights, interests, and well-being of mokopuna. While aiming for academic success is extremely important, exclusively focusing on this overlooks other important aspects of education, such as emotional well-being, safety and inclusivity.
21. For mokopuna to develop to their full potential, they need a supportive environment that fosters not only academic skills but also social connections and a sense of belonging.¹⁸ Ignoring these essential elements could negatively impact the educational experiences of many students, especially those facing systemic barriers, such as ākonga Māori, Pacific mokopuna and mokopuna with disabilities or neurodiversity.
22. Additionally, the proposal to emphasise student attendance may oversimplify the complex reasons why mokopuna miss school. While attendance is a part of academic progress, there are many factors that can prevent mokopuna from attending school. Barriers like child poverty, home life, disabilities and mental distress can all play a role. A narrow focus on attendance might lead to punitive responses instead of the supportive measures that students truly need to be able to thrive equally and inclusively in education.¹⁹
23. To genuinely support the rights and well-being of mokopuna, school boards should take a holistic approach. This means creating an inclusive environment where the rights of mokopuna are upheld and all ākonga feel valued at school. Resource should instead be shifted to addressing systemic issues which prevent mokopuna from receiving an education, so that each and every mokopuna can thrive in all areas of their lives.

Giving effect to Te Tiriti o Waitangi is core to upholding the rights of mokopuna

24. Mana Mokopuna welcomes the intent to give effect to Te Tiriti o Waitangi and achieve equitable outcomes for ākonga Māori. However, we are concerned that the proposed change to merge s127(d) and s127(d)(iii) of the Act will have minimal impact.
25. The current order of the Act has a natural process flow by including tikanga and mātauranga Māori first, followed by instruction in tikanga and te reo Māori, leading to equitable outcomes for Māori.
26. Giving effect to Te Tiriti o Waitangi is a crucial part of ensuring equitable outcomes for ākonga Māori. The articles of Te Tiriti serve as a foundation for creating an education system that respects and upholds the rights of tangata whenua.
27. We endorse s127(d) of the Act and emphasise the importance of Article 2 of Te Tiriti, which ensures Māori protection of their taonga, including language, culture, identity, and mokopuna. By incorporating tikanga Māori and mātauranga Māori into education, we honour this right and support te ao Māori perspectives within the system.
28. Taking steps to provide instruction in tikanga Māori and te reo Māori is essential for fostering a sense of belonging and identity among ākonga Māori. Language is a core component of cultural identity, and access to learning in te reo Māori empowers all ākonga to connect with te ao Māori.²⁰ This aligns with Article 3 of Te Tiriti, which affirms that Māori have the same rights and privileges as all other New Zealand citizens. This commitment

¹⁸ Berryman, M., & Eley, E. (2019). Student belonging: Critical relationships and responsibilities. *International Journal of Inclusive Education*

¹⁹ Schools take issue with new truancy crackdown | RNZ News

²⁰ Taani, P. (2023). Whakaritea te pārekereke: Teacher preparedness to teach te reo Māori speaking children in mainstream education settings. *Teachers' Work*, 20(1), 19-36.

also resonates with Article 30 of the UN Convention, which protects the rights of children belonging to minority or indigenous groups to enjoy their culture and language.²¹

29. There is a strong evidence base to support the effectiveness of local curriculums.²² Of particular importance is the mātauranga of tangata whenua, researchers and teachers who have advised the significance of local curriculums to give effect to Te Tiriti and support Māori educational aspirations.^{23,24} Although the proposed changes do not seek to change the meaning of the section of the Act, we are of the view that retaining the term 'local curriculum' is important as it is widely understood and aligns with the national curriculum and expert advice.
30. Upholding the rights of mokopuna Māori and giving effect to Te Tiriti will contribute to a more just and inclusive education system. This approach not only benefits ākonga Māori but supports all ākonga from diverse backgrounds to foster an understanding and respect for New Zealand's indigenous heritage.

The proposed changes do not align with recommendations from the Committee on the Rights of the Child

31. The proposed changes to school board governance and the focus on "student achievement" do not align with recommendations from the UN Committee related to education. The UN Committee emphasised that the Government must act on:
 - mokopuna input into education, particularly in updating the curriculum and implementation of the Education and Training Act
 - incorporating the right to inclusive education into legislation and policy, also ensuring adequate resourcing of the National Learning Support Network Plan
 - addressing racism, discrimination, stigma and bias experienced by mokopuna Māori and Pacific mokopuna in school including by strengthening efforts to promote and foster the te reo Māori, cultural identity and history in education
 - reducing bullying of students, prioritising students with disabilities and LGBTI students
 - raising awareness so that families from lower socioeconomic backgrounds know about the government subsidies available for childhood care and education for children from 0-5 years old.²⁵
32. By narrowing the focus to achievement alone, the government risks overlooking essential aspects of education that contribute to the overall well-being of ākonga, such as emotional and mental well-being, inclusivity, and respect for cultural identities. Children have a right to have these essential aspects of education respected and upheld under Article 29 of the UN Convention.²⁶
33. The UN Committee has repeatedly highlighted the importance of inclusive education, which actively supports the rights of all mokopuna, particularly those facing systemic barriers such as mokopuna Māori, whaikaha and Pacific mokopuna.²⁷ The proposed

²¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-30>

²² [Microsoft Word - 02 Holdom and Page.docx \(hekupu.ac.nz\)](#)

²³ [The Importance of Community Knowledge in Learning to Teach: Foregrounding Māori Cultural Knowledge to Support Preservice Teachers' Development of Culturally Responsive Practice: Peabody Journal of Education: Vol 93, No 3 \(tandfonline.com\)](#)

²⁴ [Local Maori development and Government policies - PDF Document \(psu.edu\)](#)

²⁵ [CRC/C/NZL/CO/6. Committee on the Rights of the Child Concluding observations on the sixth periodic report of New Zealand 2023.](#)

²⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child#Article-29>

²⁷ Ibid.

changes may disproportionately affect these ākonga, as their needs may not be addressed or considered. The proposed changes fail to incorporate the recommendations from the UN Committee, which could undermine efforts to build an equitable education system.

34. The UN Committee emphasises the necessity of engaging mokopuna in decisions that impact their education. We remind the Ministry of Education of Article 12 of the Children’s Convention, and we urge you to actively engage with mokopuna on the proposed changes as this is a decision which impacts their education.
35. To genuinely uphold the rights of all mokopuna, it is essential to embrace a broader vision of education that incorporates their voices and prioritises their rights, interests and well-being. To understand more about a rights-based approach to education, please refer to guidance from the UN Committee here: [General comment No. 1 \(2001\), Article 29 \(1\), The aims of education | Refworld](#)

Recommendations

36. **We recommend** that the proposed changes to the Education and Training Act 2020 are not actioned as there are risks to the rights of mokopuna, particularly under Article 12, 29 and 30 of the Children’s Convention.
37. **We recommend** that the Ministry of Education and the Government **do not** go ahead with the following proposals to:
 - a. Make educational achievement the primary objective for school boards and the introduction of a new objective to focus on ensuring attendance
 - b. Remove the objective that requires school boards to give effect to relevant student rights set out in the Education and Training Act 2020, the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - c. Move the requirement for schools to achieve equitable outcomes for Māori students to the front of the Tiriti/Treaty clause in section 127
 - d. Remove the Statement of National Education and Learning Priorities from the Act.
38. **We recommend** that the Children’s Convention is incorporated into s127(1)(b)(ii) of the Act to ensure that upholding children’s rights is a key objective for school boards.
39. **We recommend** that the Ministry of Education actively engages with mokopuna on the proposed changes and acts on the voices of mokopuna involved.
40. **We recommend** that resource is focused on addressing systemic issues which prevent mokopuna from receiving an education, so that each and every mokopuna can thrive in all areas of their lives.