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AEU Victoria Submission to the Yoorrook Justice Commission's investigation of systemic injustice in Victoria's school system.

Acknowledgment of Country

The Australian Education Union Victorian Branch acknowledges the Traditional Custodians of the lands on which union members educate children, young people, and adults in kindergartens, schools, TAFEs, Adult Migrant English Services, and disability services. We pay respect to elders past and present.

We acknowledge Aboriginal and Torres Strait Islander Peoples as the first educators of these lands and honour their continuous connection to Country.

Sovereignty was never ceded. This always was and always will be Aboriginal Land.

Introduction

The Victorian Branch of the Australian Education Union (AEU) welcomes this opportunity to make a submission to the Yoorrook Justice Commission's investigation of systemic injustice in Victoria's school system. The AEU represents 251 members who identify as First Peoples in addition to 59 student members in kindergartens, schools, TAFEs, Adult Migrant English Services, and disability services. AEU First Peoples members undertake a range of roles in schools and non-school locations of the Department of Education. This submission is informed by the experiences and perspectives of these members who are authoritative voices concerning the lived experiences of staff, students, their families and communities in Victoria's system of school education. Producing this submission has been primarily the work of the AEU's First Nations Committee and First Nations organisers.

In presenting this submission, the AEU would like to acknowledge that it has not done enough to be a culturally safe organisation, nor to stand in active solidarity with First Nations members in eliminating racism and oppression within the public education system and more broadly. Too many years of inadequate action by non-Aboriginal members of the union, including senior leadership, meant that the union was not culturally safe, inclusive, and a place where Aboriginal and Torres Strait Islander members could collectively organise and exercise their power apart from and as part of the union's 45,000 strong membership.

We acknowledge that when the union has previously employed an Aboriginal member in an identified role to work with other Aboriginal and Torres Strait Islander members, that the AEU was not close to being a culturally safe organisation and that we did not have the cultural competency to maintain the relationship. This is a situation the AEU is addressing through focused engagement with First Nations members and First Nations People and organisations more generally.

In 2020, the AEU recommenced proactive engagement with Aboriginal and Torres Strait Islander members of the union. Our initial steps were small and tentative but have grown increasingly sure footed guided by a recommendation¹ by Aboriginal and Torres Strait Islander members through the union's inaugural First Nations Members Forum, and the response² by the AEU Branch Executive. The AEU Victorian Branch acknowledges the work of AEU Federal Office's Yalukit Yulendj Committee and the AEU Federal Executive, through the AEU Aboriginal and Torres Strait Islander engagement plan. In particular, the AEU Victorian Branch acknowledges the expertise and guidance provided by the former AEU Federal Aboriginal Education Officer, Darcel Russell.

¹ AEU First Nations Forum (2021), Recommendation to AEU Branch Executive.

https://www.aeuvic.asn.au/sites/default/files/elections/4127A_First_Nations_Forum_Recommendations.pdf

² AEU (2021). AEU Branch Executive response to First Nations Forum Recommendation.

<https://www.aeuvic.asn.au/sites/default/files/jobs/AEU%20Branch%20Executive%20Response%20to%20First%20Nations%20Forum%20Recommendation%20.pdf>

The AEU Branch Executive’s response sets out a truth, and a beginning of a process which acknowledges that the union is part of the coloniser’s structures and “commits the union to listen carefully and conscientiously to First Nations members [and that] our solidarity is directed to decolonisation and [that] we pledge to undertake that solidarity in a decolonised way, and be accountable for it.”³ Through the statement “we acknowledge that the union has not done enough to be a culturally safe organisation and to stand in active solidarity with First Nations members to raise our voices together to address the dispossession and alienation experienced by Aboriginal and Torres Strait Islander Peoples. This includes the racism, prejudice, and other oppressions faced by First Nations educators in the union, within public education, and in society more broadly. We acknowledge that the absence of action reveals an absence of respect for First Nations members and contributes, in its own way, to entrenching the effects of colonisation. We take responsibility for our inaction and we are sorry.”⁴

In the last 18 months, the AEU has progressively developed a process for and the content of a cultural safety and anti-racism plan, guided by the recommendations outlined in the Jumbunna Institute report *Making our words and actions meet: Understanding the experiences of Indigenous educators in the workforce*.⁵ The AEU’s work seeks to set out commitments and actions to be taken by the union as an employer as well as detailed consideration of the ways in which we will implement those actions. Central to the work has been establishing a process for First Nations employees and members to direct and/or co-create the content of the plan. The need for non-Aboriginal union employees to be learning how to engage, how to hear, how to listen, and how and when to talk has been central to process and those imperatives are embedded actions outlined in the draft plan. We are also learning how to ensure that non-Aboriginal employees carry the responsibility to create a workplace that is culturally safe but do so in a way realises the status of First Nations employees and members as sovereign people.

Our draft cultural safety and anti-racism plan also focuses on the ways in which the union can help to drive the significant change needed to make the structures, systems, values, and behaviours which Aboriginal and Torres Strait Islander members confront at work are culturally safe and free of racism.

This submission is structured around the goals of the Yoorrook inquiry:

- record past and contemporary educational injustices against First Peoples

³ Ibid

⁴ Ibid

⁵ Jumbunna Institute (2023). *Making our words and actions meet. Understanding the experiences of Aboriginal and Torres Strait Islander educators in the workforce*. Australian Education Union. <https://www.aeuvic.asn.au/sites/default/files/2024-03/AEU%20Jumbunna%20Institute%20Report%202023%20Final.pdf>

- identify the source and breadth of these injustices across the education sector
- identify the causes and consequences of those injustices
- improve State accountability to prevent continuance or recurrence
- identify pathways to remediation.

The themes and issues outlined in the Issues Paper are illustrated by experiences and observations from the AEU’s First Nations members. First Nations voices recorded in other projects including research designed and commissioned by the AEU Federal Office’s Yalukit Yulendj Committee.

There are currently 220 members of the AEU in Victoria who identify as First Peoples and work in and with schools (just under 0.6% of all members working with and in schools). These members undertake a range of roles in schools and non-school locations of the Department of Education. Although current figures on numbers employed in Victorian government schools are not yet available, data suggests that First Peoples are more highly represented in the AEU’s membership than in Victorian government schools, generally (0.3% in 2022).⁶ Addressing the workplace issues faced by Aboriginal and Torres Strait Islander educational professionals will be vital to ensure that staffing levels rise in line with the rapid increase in the proportion of students identifying as Aboriginal or Torres Strait Islanders in Victorian government schools whose numbers have increased by 143% between 2006 and 2023. Overall enrolments in government schools have increased by just 22% over this period.⁷

Record past and contemporary educational injustices against First Peoples

Educational injustices are intrinsically linked to the broader injustices inflicted on First Peoples in the initial and ongoing processes of colonisation. Accounts of these injustices have been explained and acknowledged elsewhere. As noted in the *Tyerri Yoo-rrok “Seed of Truth” Report*:

For First Peoples the links between massacres, exile from Country, stolen generations and deaths in custody today are self-evident and do not fall neatly into separate categories of historic systemic injustice and ongoing systemic injustice. The [First Peoples’] Assembly heard that the official silence and widespread lack of

⁶ Victorian Public Sector Commission (2024). Aboriginal and/or Torres Strait Islander employees. <https://vpvc.vic.gov.au/data-and-research/data-facts-visuals-state-of-the-sector/employee-demographics-and-diversity/aboriginal-and-or-torres-strait-islander-employees/>

⁷ Australian Bureau of Statistics (2023). *Schools*. ABS. <https://www.abs.gov.au/statistics/people/education/schools/latest-release>.

recognition of these intergenerational links is itself a further source of injustice, and one of the greatest challenges in broader public acknowledgement and understanding.⁸

Government policies relating to education and schooling have been overt components of broader injustices inflicted on the First Peoples of the lands that would become known as the Port Phillip District and Victoria. It should be recognised that these demarcations themselves constitute expressions of colonial violence and dispossession. Conceptions of education enacted by colonial governments similarly reflected and reflect constructs and structures imposed by the invaders.⁹ Traditional forms of education would be challenged by the violence, dispossession and displacement of invasion. What follows is a brief and partial overview of some of the historical and persistent effects of a few key educational policies enacted in Victoria.

Early colonial policies were focused on displacement and segregation of First Peoples through the establishment or support of various missions often with associated schools. Part 2 of the *Bringing Them Home Report* contains a summary of early colonial policies governing the treatment of Indigenous young people. It relates many of the genocidal policies¹⁰ enacted in Victoria:

Between 1838 and 1849 Victoria was the site of an unsuccessful 'Protectorate' experiment in which government appointed protectors attempted to persuade Indigenous people to 'settle down to a life of farming' (Rowley 1970 page 56). From 1837 missions established schools, attempting to wean the children away from 'tribal influences'. Protectors and missionaries alike had Aboriginal 'orphans' living with them.¹¹

Control of all mission and government reserve schools came under the control of the Board of Education in 1891.¹²

Explicitly racist policies determining where and how Indigenous children could or must be 'educated', based on genetically-derived categorisations of First Peoples under the Aborigines' Protection Act 1886 (Vic), continued into the 1950s whilst the widespread removal of children from their families endured for much longer. Today, young First Nations People are more likely to be in out-of-home care, making up 29% of children and young

⁸ First People's Assembly of Victoria (2021). "Tyerri Yoo-rrook" (Seed of Truth). Report to the Yoo-rrook Justice Commission from the First Peoples' Assembly of Victoria. https://www.firstpeoplesvic.org/wp-content/uploads/2021/09/Tyerri-Yoo-rrook-Seed-of-truth-Report-2021_Final.pdf, p.17

⁹ Shorten, A. (1996). The legal context of Australian Education: An historical exploration. *Australia New Zealand Journal of Law Education*, Vol 1, 1, pp.2-32

¹⁰ Wilson, R. D. (1997). *Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*. Human Rights and Equal Opportunity Commission. P.230

¹¹ Ibid, p.50

¹² <https://victoriancollections.net.au/stories/school-days-education-in-victoria/aboriginal-schooling>

people in care.¹³ Whilst criteria for placement in care and the types of care available have improved, these figures are a legacy of racist policies and, as noted by the Commission for Children and Young People, a racism “that persists in the education system from early childhood settings onwards. A lack of cultural safety is also evident.”¹⁴

From the latter 1950s the Victorian government pivoted towards a policy of assimilation for First Peoples under the *Aborigines Act 1958*. As noted by Marsden:

In addition to the [Aborigines Welfare] Board’s aggressive pursuit of assimilation, the Education Department’s view on Aboriginal education appeared to be firmly grounded in the ideology perpetuated by the 1886 Act, that as there were so few Aboriginal children in the state, special provisions for their schooling were not required. But the role of the Education Department extended further than refusing to consider the needs of Aboriginal students and to develop a policy for their learning and education. The construction of Victoria as a state without Aboriginal people was reinforced, over and over, by the curriculum and the materials that the Education Department produced; by the omission of representations of Aboriginal people in Victoria, and through narratives which reinforced the myth that all “real” Aboriginal people in Victoria had disappeared soon after white settlement.¹⁵

These assimilation policies paid no heed to cultural differences, or the legacy of enforced displacement enshrined in the *Aborigines Protection Act 1886* which required “that at the age of 13 years ‘half-caste’ boys were to be apprenticed or sent to work on farms and girls were to work as servants. Having left, they were not allowed to return to their families on reserves without official permission for a visit.”¹⁶ It is instructive that the passage of this legislation was instrumental in removing Kulin Nations People living at Coranderrk from the station that they had successfully developed.¹⁷

As noted by Shorten, nationally there had been “a retreat from the assimilationist policy in Aboriginal affairs since the mid-1960s.”¹⁸ This decade contained high-profile civil and industrial actions by First Peoples including the Freedom Rides in NSW, and the Yirrkala petitions and Wave Hill walk-off the Northern Territory. As is duly noted by Hogarth, “The Aboriginal activism of the early twentieth century laid the foundation for the political

¹³ Commission for Children and Young People (2023). *Let us learn. Systemic inquiry into the educational experiences of children and young people in out-of-home care*, <https://ccyp.vic.gov.au/assets/Publications-inquiries/let-us-learn/CCYP-Education-inquiry-report-FINAL.pdf>, p.87

¹⁴ Ibid, p.31

¹⁵ Marsden, B. (2018). “The system of compulsory education is failing”. Assimilation, mobility and aboriginal students in Victorian State schools, 1961-1968. *History of Education Review*, 47, 2, p.146

¹⁶ Wilson (1997), p.51

¹⁷ Minutes of Evidence (2014). *The Coranderrk Inquiry*. <http://www.minutesofevidence.com.au/the-coranderrk-story/>

¹⁸ (1996). p.22

reforms evident in the 1960s.”¹⁹ The decade culminated in the 1967 Referendum enabling the Commonwealth to make laws for First Peoples. The Commonwealth also became more active in school policies and funding from the 1970s. The all-Aboriginal National Aboriginal Education Committee (NAEC) was organised in the early 1970s²⁰ and state-based Aboriginal education consultative groups including the Victorian Aboriginal Education Association (later, VAEAI) were also formed in the 1970s. The NAEC recognised the need to address the under-representation of First Nations staff in Australian schools and the lack of representation on school councils. At the same time came a push from these bodies to include First Nations history and culture within initial teacher education (ITE). Although the Australian Professional Standards for Teachers include “Strategies for teaching Aboriginal and Torres Strait Islander students” and a requirement to “Understand and respect Aboriginal and Torres Strait Islander people to promote reconciliation between Indigenous and non-Indigenous Australians”, there is evidence that these standards are often treated in a perfunctory way.²¹ Shay et al. note that the NAEC has had considerable impact, “despite the challenges of maintaining momentum and continuity to advocate for change when governments are constantly changing and funding arrangements are regularly withdrawn or reinvented”.²²

Challenges associated with inconsistent policy and funding settings remain in addressing the considerable educational injustices faced by First Peoples. It is also difficult to make progress towards a decolonised education system when so much attention is demanded by politicians and commentators determined to wage culture wars over education and other policies. Hradsky catalogues how several iterations of the Victorian and Australia curriculums have approached or retreated from confronting the concept of invasion, noting that the “ongoing politicisation of the curriculum also contributes to making teaching for reconciliation difficult terrain for teachers to navigate in their classrooms.”²³ More nuanced arguments around deficit framing, cultural bias and sovereignty are difficult to prosecute in such an environment. Hradsky also notes that “Reconciliation implies an initial period of peace that never existed in Australia, making ‘conciliation’ a more appropriate term”.²⁴

Increased involvement of First Nations bodies at national, state, and local levels has occurred at the same time that the function of school education has become more explicitly

¹⁹ Hogarth, M. (2016). One step forward, two steps back: The historical and social context of Indigenous education policy. *Journal of Australian Indigenous Issues*, 19(1–2), 148.

²⁰ Shay, M., Sarra, G. & Lampert, J. (2023). Indigenous education policy, practice and research: unravelling the tangled web. *Australian Educational Researcher*, 50(1), p.78

²¹ Deadly Ed (2003). Aboriginal Education and the AITSL Teaching Standards.

<https://www.deadlyed.com.au/blogs/news/aboriginal-education-and-the-aitsl-teaching-standards>

²² Ibid, p.79

²³ Hradsky, D. (2021). Invasion or reconciliation: What matters in the Australian curriculum? *The Conversation*. <https://lens.monash.edu/@education/2021/07/09/1383496/invasion-or-reconciliation-what-matters-in-the-australian-curriculum>

²⁴ Ibid

linked to economic goals in terms of both inputs (funding) and outputs (increasingly based on standardised test scores for which there is evidence of cultural bias).²⁵

The story of Northland Secondary College is an example of where First Nations People and organisations have clashed with this orientation of school education. In 1992, as a part of education funding cuts that saw the closure of 300 schools and sacking of 8000 teachers, the Kennett Government decided to close the school which, at the time, had the “largest concentration of Koori students in the State.”²⁶ This decision was made in spite of the outstanding performance of the school. The Royal Commission into Aboriginal Deaths in Custody noted that the school was an example of

what can be achieved through the use of culturally-sensitive curriculum, the employment of Aboriginal staff, the presence of members of the Aboriginal community or organisations in the classroom, and the cultivation of a caring and supportive environment addressed to the needs of Aboriginal students.²⁷

In a protracted and high-profile campaign, the school community (in conjunction with litigation funded by the AEU) fought the government’s decision at the Equal Opportunity Board and in the Supreme Court. During this process, a ‘rebel school’ run by a group of First Nations-led volunteers operated to serve the needs of students. The government was finally ordered to reopen the school at the beginning of 1995. The State was ordered to do so because of a finding that the closure of the school imposed a racially discriminatory condition or requirement upon First Nations students. That, in order for First Nations students to access public education in Victoria, they would need to do so without being able to attend Northland. The key finding of the Board, which survived various appeals was as follows:

The evidence supports a finding that it was only Northland School which managed to diffuse the cultural disadvantages of access to the traditional non-Aboriginal system of education to the point where [sic] it could be said that the Aboriginal student where [sic] able to access the delivery of the education service at that school in the same manner or similar manner as the non-Aboriginal students.²⁸

As noted by Knight:

The school had, since 1960, developed strong linkages to their local community; school policy was always inclusive of the diverse needs of its community, its doors

²⁵ Dobrescu, L., Holden, R., Motta, A., Piccoli, A., Roberts, P., & Walker, S. (2021). Cultural context in standardized tests. <http://research.economics.unsw.edu.au/RePEc/papers/2021-08.pdf>, p. 5

²⁶ Knight, T. (1998). Public knowledge: public education: Northland Secondary College versus the State, *International Journal of Inclusive Education*, 2:4, 295-308, p.298

²⁷ Commonwealth of Australia, Royal Commission into Aboriginal Deaths in Custody. (1991). Royal Commission into Aboriginal deaths in custody, Vol 4, p.192

²⁸ *Sinnapan v State of Victoria* (Equal Opportunity Board, unpublished report, No. 1/93, 7 December 1993), p. 30.

open to all irrespective of background. Northland had developed a store of good-will that it could draw upon when times became tough. In particular, the Koori community strongly felt that the initial school closure was yet another example of how state government had totally misread the cultural needs of their community and school.²⁹

Persisting structures of colonisation within education, and within society generally, drive a great deal of injustice in school education. First Nations students are heavily over-represented in low-socioeconomic status (SES) schools. Whilst governments fail to fund schools appropriately on the basis of need, First Nations students in these schools are not being appropriately resourced.

Identify the source and breadth of these injustices across the education sector.

As stated above, it is difficult to separate educational injustices from broader material and cultural injustices faced by First Nations People in Victoria. For example, 2023 data from The Australian Curriculum, Assessment and Reporting Authority (ACARA) shows that Aboriginal and Torres Strait Islander students are concentrated in disadvantaged schools in Victoria. As shown in Figure 1, schools in the lowest quartile of the Index of Community Socio-educational Advantage (ICSEA) have an average enrolment of First Nations students of 8.1% compared to just 0.5% in the highest ICSEA quartile (most advantaged). In other words, Victorian First Nations students are more than 16 times more likely to be in the bottom 25% of schools on this measure of advantage than in the top 25% of schools.³⁰

Figure 1. Percentage of Indigenous enrolments in Victorian schools by ICSEA quartiles – 2023



²⁹ Knight, op. cit. p.305

³⁰ ACARA (2023). *School Profile 2023*. <https://acara.edu.au/contact-us/acara-data-access>

Evidence from the Program for International Student Assessment (PISA) has shown low SES schools are also more likely lack teaching and other resources which can significantly limit their capacity to provide for the educational and wellbeing needs of their students which are more likely to be First Nations People.³¹

AEU First Nations members have firsthand experience of funding shortages at their workplaces. Sometimes this is linked to how schools choose to allocate funds attached to First Nations students in the Student Resource Package (SRP) funding model. One member related:

Schools and Kinders may talk the talk but the practices don't match the policies e.g. funding given per Koorie student in Primary schools is added to global school budget and programs go unfunded. This happened in a school with 16 First Nations students for 5 years when I was employed there up to 2016. This money could be used to add events and programs linked to promotion of cultural safety or First Nations culture to benefit Aboriginal students' self-esteem and benefit all students linked to experiencing culture.

This observation reveals the link between school resources, and student wellbeing and cultural safety. The employment of Koorie Engagement Support Officers (KESO) has been a step towards addressing issues of cultural safety and engagement but there is evidence that they are too few and that they under-resourced an under-supported. This observation reveals the needs for greater supports for Department employees in KESO roles:

KESOs' workload is untenable. They often have a large number of schools and/or students to cover and are also expected to deliver Cultural Understanding and Safety Training (CUST) to school employees who are almost exclusively non-Aboriginal. They often work with students and families who require a lot of support to engage in schooling or with transitions.

Often, these students are in out of home care and have experiences of trauma. They work across all sectors and are expected to have an understanding of early years, primary, secondary and further education with minimal training. KESOs have described how culturally unsafe it is to present and facilitate CUST as the content involved is often very close to home. For example, a KESO might be talking about the Stolen Generations and either themselves or a close family member is a member of the Stolen Generations.

Members also experience the consequences when schools are not effectively implementing cultural safety training and policies. One member related that schools are "doing the cultural training and filing it in the too hard basket" or consider that they have "done that now, let's move on and forget it." It is important that CUST is ongoing, especially when

³¹ Cobbold, T.(2020). Low SES schools have far less resources than high SES schools. *Save Our Schools*, <https://saveourschools.com.au/equity-in-education/low-ses-schools-have-far-less-resources-than-high-ses-schools/>

schools are frequently welcoming new students, staff and school council members. The cultural burden for First Nations staff can be severe. As one AEU First Nations member stated:

First Nations students come to me when there are issues in class. I have gone home and cried, because I need to be strong for them and I am strong with them but when I go home then I have this emotional load and burden. I watch children experience racism.

More than one-quarter of the respondents to the national survey commissioned by AEU's Federal Office Yalukit Yulendj Committee identified culturally unsafe workplaces, often due to experiencing racism from colleagues.³² Slightly more than half of the respondents to the Yalukit Yulendj national survey of AEU First Nations members reported that they experienced racism in the workplace at least on a yearly basis.³³ The survey also revealed that more than one in five AEU respondents had "previously left a role because of discrimination." More than one-third were "aware of a colleague moving positions due to racism."³⁴

Extreme forms of racism continued to be experienced within Victorian educational settings. One AEU member has reported overt racism occurring within TAFE situated within a correctional facility. The member reports that a First Nations student was called a "black c**t" by a corrections officer and, in a separate incident, had a piece of equipment thrown at him. These incidents were reported to the management of the TAFE but were not followed up. Both the AEU member and the former TAFE student are available and willing to give first-hand testimony to the Commission.

In addition to more overt forms of racism is a lack of understanding of cultural load. As one First Nations member stated: "The workload of First Nations Staff is ridiculous. We have an expected workload that we should do because we are Indigenous. When people say no, often it is responded to with guilt tripping."

This situation highlights the importance of having strengthened industrial protections and improved working conditions for First Nations employees. These enhancements will be discussed further below. They are particularly important if governments want to seriously commit to increasing the proportion of First Nations employees to more closely reflect the proportion of First Peoples in the community and the growing proportion of First Nations

³² Jumbunna Institute (2023). *Making our words and actions meet. Understanding the experiences of Aboriginal and Torres Strait Islander educators in the workforce*. Australian Education Union. <https://www.aeuvic.asn.au/sites/default/files/2024-03/AEU%20Jumbunna%20Institute%20Report%202023%20Final.pdf>

³³ Ibid

³⁴ Ibid, pp.2-3

students in schools. The proportion of First Nations staff in government schools is well below the Victorian Public Service Aboriginal employment targets of a minimum of 2%.³⁵

As well as issues relating to employment conditions, AEU First Nations members also drew attention to inadequacies in policies in relation to the education of First Nations students. Some First Nations members felt that educational policies for Indigenous students were tokenistic and that educational structures reflect existing power structures:

The system is designed to suppress us except when it is convenient. We are asked to come out like a show pony when they want to show off that there is an Aboriginal staff member but expected to be quiet about injustices. We should be seen and not heard. We should be proud of our culture, but not so proud that it seems pushy. We should stand up and speak out against racism and discrimination, but quietly and politely. If you are angry you are an angry black woman. If you aren't angry you don't care about your mob. You can never win in the way that this country has set up all its structures and systems.

Members also report that the negative impact of power structures were also reflected in interactions between staff, and between staff and families: "Meetings with parents/families with only white educators in the room, usually in positions of power e.g., year level co-ordinators (where there is no consideration of the inherent power dynamics/cultural safety)." In a further example:

We are sometimes expected to enforce colonial expectations on children and families which impact on feelings of safety. I was asked by a Deputy Principal to check the Koorie child each day and report whether they had socks on and whether they had brought money for a lunch order or packed lunch.

AEU First Nations members also related instances when their non-Indigenous colleagues lacked the skills or knowledge to teach components of the curriculum resulting in unrealistic expectations and frustration:

I have had lots of non-mob teachers ask for advice on how to implement First Nations areas to curriculum, in areas I have no experience or knowledge teaching in and the expectation is we just know. When you indicate you don't know or you try and help there are comments that the curriculum shouldn't include this stuff.

I am often asked questions by other staff about Aboriginal issues/curriculum etc. I would love to see other teachers take initiative and do some learning for themselves rather than relying on me.

³⁵ Department of Education (2023). Aboriginal employment.
<https://www2.education.vic.gov.au/pal/aboriginal-employment/overview>

These experiences indicate that there may be deficiencies in ITE or in appropriate, ongoing professional development. Writing in 2022, Hogarth noted a low number of Aboriginal and Torres Strait Islander academics working in ITE programs and went on to say that this resulted in:

a risk that when educators seek to embed Indigenous peoples' perspectives within their teaching and learning Western ideologies about Aboriginal and Torres Strait Islander peoples are perpetuated and supported, maintaining the cultural gap. That is, Indigenous peoples' knowledges may be translated within the dominant Westernised frameworks founded within normalised assumptions and ideologies, further perpetuating deficit discourses, stereotypes and so forth.³⁶

Improve State accountability to prevent continuance of recurrence.

The experiences of First Nations members suggest that there should be an attempt to assess to what extent resources for Indigenous students are allocated between and within schools. There is a clear need to do more to ensure that the work of First Nations school staff is properly supported by industrial and other legislative protections. Appendix 1 contains the *Gari Yala 10 truths to centre Indigenous Australians' voices at work* adapted to the findings of research commissioned by Yalukit Yulendj. Appendix 2 contains examples of enterprise bargaining clauses from the same report that have been adopted and modified from the AEU Victorian Branch to support First Nations employees.

In addition, an audit of the capacities of all teaching staff to deliver First Nations curriculum content and to teach Indigenous students, against the requirements of the Professional Standards, could be fruitfully undertaken, together with an assessment of the adequacy of the Standards themselves. Finally, an honest assessment of the degree to which self-determination in public education for First Peoples has been supported by Victorian governments and schools should be undertaken in an attempt to remove any barriers identified. All of these actions should be led by First Nations People.

The AEU acknowledges the work of VAEAI and other First Nations bodies in the development of policies in Victoria including the Self-Determination Reform Framework and the Marrung 10-year Education Plan. The First Nations member perspectives outlined in this submission provides an opportunity to strengthen the development and implementation of these policies. First Nations members have shared their visions of self-determination in schools and school education:

In school communities I would like to see knowledge building, a shift in language, for example, being explicit about colonial load, people looking at things through a different lens, [non-Aboriginal] staff learning to change their thinking and be open to

³⁶ Hogarth, M. (2022). An analysis of education academics' attitudes and preconceptions about Indigenous Knowledges in initial teacher education. *The Australian Journal of Indigenous Education*, 51(2), p.3

new possibilities, being able to call out casual racism or bias, reframing how we work and shape our words and accountability from the Department to ensure policies are followed through with action.

A genuine gesture of value is understanding our need to connect with one another because that connection is therapeutic, capacity building, the way we're going to ensure retention. DE [Department of Education] should be funding these opportunities appropriately as a priority. Strategically and intentionally providing us with opportunities to connect and create self-determined spaces.

As an educator for many years, what I have seen work best in schools with a high number of First Nations students is the application of self-determination principles to processes. Rather than decisions being made about Aboriginal and Torres Strait Islander students, the students, family and local community are invited to share their ideas about how to best support and celebrate First Nations education. It is place-based and directed by people who have an understanding of community needs and the nuance, complexities and politics around those needs. This requires leadership at the school to work differently and can take many years. However, when the right voices are listened to in a meaningful way, positive change can happen. You see higher attendance, more engagement and better outcomes across the board.

Some First Nations members highlighted the importance of representation in leadership positions as well as contact with other First Nations colleagues.

Having an Aboriginal Principal has allowed me to feel more comfortable about who I am.

Staff have become more knowledgeable over the years thanks to the work of the Principal, this has made it a more culturally safe place to work.

The connection I have to other Aboriginal and Torres Strait Islander educators. It creates a comfortable and safe space for me to work.

Identify pathways to remediation.

Remediation of education injustices for First Nations People is connected with the remediation of broader economic, social and cultural injustices. It can both drive and benefit from the redress of these injustices. A just treaty and restored sovereignty would be an effective beginning. As argued by Vass,

issues linked with sovereignty must be placed as central to future education research, policy, curriculum and pedagogy agendas. Education is well positioned to play a decisive role in critiquing the historical, social, economic and political narratives and structures that underpin inequitable relationships within Australia. The enduring impact and influence of deficit thinking, assimilationist ideologies, and

race-based assumptions are all built on the legacies associated with dispossession and the ongoing denial of Indigenous sovereignty.³⁷

In schooling, the *Aboriginal Voices* project has identified,

the benefits of including Indigenous perspectives in the curriculum (Guenther et al.,2019; Harrison et al.,2019) in decision-making (Trimmer et al.,2019), and of recognising the different aspirations and purposes of schooling that Indigenous students and family hope for (Guenther et al.,2019; Moodie et al.,2019). The project has highlighted what is working well; teachers supported to engage in robust professional learning, families and communities meaningfully involved in the life of schools and decision-making, and the evidence base on how these improve Indigenous student outcomes.³⁸

Clearly, it is vital that First Nations staff, students and communities are at the heart of making decisions about any education policies that affect them.

AEU advocacy with Aboriginal and Torres Strait Islander members, to realise the changes we need, is guided directly by the Ten Truths and the recommendations set out in Appendix 1. Equally the Ten Truths and the recommendations provide the Victorian government and Department of Education with steps that, if implemented, promises culturally safe experiences at work for First Nations staff, with self-determination and sovereignty at the centre.

³⁷ Vass, G. (2013). 'So, what is wrong with indigenous Education?' Perspective, position and power beyond a deficit discourse. *The Australian Journal of Indigenous Education*, 41(2), p.93

³⁸ Moodie, N., Burgess, C., Lowe, K., Vass, G. (2023). The Aboriginal Voices Project: What Matters, and Who Counts, in Indigenous Education. In: Moodie, N., Lowe, K., Dixon, R., Trimmer, K. (eds) *Assessing the Evidence in Indigenous Education Research. Postcolonial Studies in Education*. Palgrave Macmillan, Cham., p.13

Appendix 1. Recommendations from AEU Findings, based on Gari Yala Ten Truths³⁹

Gari Yala Ten Truths	Recommendation based on AEU Findings
1. Commit to unearthing and acting on workplace truths – however uncomfortable this might be	<ul style="list-style-type: none"> • Commit to engaging with Aboriginal and Torres Strait Islander members across the nation to explore truths in more detail. This should be done on a regional scale.
2. Ensure any Aboriginal and Torres Strait Islander-related work is Aboriginal and Torres Strait Islander led and informed	<ul style="list-style-type: none"> • Ensure engagement with Aboriginal and Torres Strait Islander members and enterprise bargaining provisions are developed and led by Aboriginal and Torres Strait Islander staff.
3. Develop organisational principles to make it clear how Aboriginal and Torres Strait Islander community engagement and employment should work in practice	<ul style="list-style-type: none"> • Develop Aboriginal and Torres Strait Islander led enterprise bargaining provisions (Appendix 2) that reflect the needs of Aboriginal and Torres Strait Islander workers and legitimising Aboriginal and Torres Strait Islander people’s needs. This should include leave, anti-racism procedures as enforceable industrial concerns, payment for cultural knowledge and cultural concerns.
4. Focus on workplace readiness (cultural safety) rather than worker readiness	<ul style="list-style-type: none"> • Advocate for a baseline survey on cultural responsiveness across the sector and enforce training in workplaces with low levels of awareness. • Build cultural responsiveness across the sector through further training, particularly for non- Aboriginal and Torres Strait Islander colleagues.
5. Recognise identity strain and educate non- Aboriginal and Torres Strait Islander staff about how to interact with their	<ul style="list-style-type: none"> • Build identity strain considerations into workplace cultural responsiveness training.

³⁹ Jumbunna Institute (2023). *Making our words and actions meet. Understanding the experiences of Aboriginal and Torres Strait Islander educators in the workforce*. Australian Education Union.

<https://www.aeuvic.asn.au/sites/default/files/2024-03/AEU%20Jumbunna%20Institute%20Report%202023%20Final.pdf> p.3

Aboriginal and Torres Strait Islander colleagues in ways that reduce this	<ul style="list-style-type: none"> • Find industrial solutions to address identity strain, where necessary.
6. Recognise and remunerate cultural load as part of an employee's workload	<ul style="list-style-type: none"> • Redevelop Aboriginal and Torres Strait Islander stakeholder role descriptions to include cultural load considerations. These must also be considered in future enterprise bargaining provisions.
7. Consult with Aboriginal and Torres Strait Islander staff on how to minimise cultural load while maintaining organisational activity	<ul style="list-style-type: none"> • Build cultural load considerations into workplace cultural responsiveness training. • Find industrial solutions to address cultural load, where necessary.
8. Focus on sustainable careers and career development, rather than just short-term appointments	<ul style="list-style-type: none"> • Use engaging with Aboriginal and Torres Strait Islander members to listen and develop a real understanding of Aboriginal and Torres Strait Islander staff. • Develop Aboriginal and Torres Strait Islander led enterprise bargaining clauses. • Provide Aboriginal and Torres Strait Islander mentors to employees entering the workforce for the first time, remunerated at the appropriate rate. • Promote and develop career plans for Aboriginal and Torres Strait Islander people to move into leadership roles at a local, state, and federal level.
9. Take action to address workplace racism	<ul style="list-style-type: none"> • Test and evaluate the effectiveness of racism complaint procedures. • Redesign complaint procedures to meet the requirements of Aboriginal and Torres Strait Islander staff. • Ensure racism complaint procedures are regularly tested and evaluated. • Provide anti-discrimination compliance training for staff. • Create a positive duty on employers to ensure the workplace is free from racism (built into enterprise bargaining provisions). • Explore the possibility of workplace anti-racism advocates.

<p>10. Look to high-impact initiatives – those that research shows are linked to better wellbeing and retention for Aboriginal and Torres Strait Islander staff</p>	<ul style="list-style-type: none">• Develop formal career development programmes for Aboriginal and Torres Strait Islander employees.• Develop and test the awareness and effectiveness of racism complaint procedures.
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Appendix 2. Model enterprise bargaining clauses from *Making our words and actions meet.*⁴⁰

Acknowledgement of Country

1. This agreement was written on the land of the Worimi people and includes the voices and contributions of First Nations educators from Nations across Australia. We acknowledge and pay our respects to all Aboriginal and Torres Strait Islander peoples and Traditional Custodians across this country, including Elders past and present. We particularly note that Aboriginal and Torres Strait Islander people have been educating youth for millennia and acknowledge their role and insights in this practice.

Commitments

2. The Employer and its representatives commit to and are accountable at the school, regional, and central Department levels for consulting with, listening to, respecting, planning for, and implementing advice from Aboriginal and Torres Strait Islander employees and relevant stakeholders (including but not limited to Traditional Owners and Aboriginal owned and controlled organisations), when engaging with Aboriginal and Torres Strait Islander curriculum, employees and student welfare, and cultural issues that concern First Nations peoples.
3. The Employer has a positive duty to take all reasonably practical measures to eliminate racism in the workplace as reasonably practicable.
4. The Employer commits to the principles of the United Nations Declaration of the Rights of Indigenous Peoples, as the minimum standards for the survival, dignity, and wellbeing of Aboriginal and Torres Strait Islander people in the state.
5. Priority placement will be granted for Aboriginal and Torres Strait Islander employees on Country, being the land in which they are connected to. This also extends to partners of Aboriginal and Torres Strait Islander people, who may seek to raise their children on their ancestral country.
6. The Employer commits to undertaking a cultural awareness training audit and mandatory cultural awareness training for all staff on a yearly basis.

Aboriginal and Torres Strait Islander Employees

7. Having regard to the objective of the progressive realisation of equality in the workplace and recognising that the achievement of substantive equality requires the taking of special measures.
 - a. By the Nominal Expiry Date of this Agreement, the Employer will ensure that the number of Aboriginal and Torres Strait Islander Employees employed under this Agreement is no less than the number of employees that is in direct proportion (calculated to the nearest whole number) of Aboriginal and Torres Strait Islander students who are taught in the Employer's schools (ascertained by reference to the Employer's most current statistics prior to the Nominal Expiry Date of this Agreement) (Equitable Ratio Requirement);
 - b. The Equitable Ratio Requirement applies in relation to each class of employees employed under this Agreement.

⁴⁰ Ibid, p.45

- c. The Employer agrees that the commitments are not merely aspirational but are binding upon the Employer.
- d. The Employer will, so far as is practicable, endeavour to employ Aboriginal and Torres Strait Islander Employees on an ongoing basis.
- e. The Employer will ensure that Aboriginal and Torres Strait Islander Employees are offered a suitable mentor who will be made available to individual Aboriginal and Torres Strait Islander Employees to facilitate their professional development.
- f. Aboriginal and Torres Strait Islander Employees who are teachers are entitled, on request, to a 10% reduction in their face-to-face teaching load to attend to further professional development. Aboriginal and Torres Strait Islander Employees who are Educational Support are entitled, on request, to a 10% reduction in their regular scheduled duties to attend further professional development. Aboriginal and Torres Strait Islander Employees who are education support class employees who are training to become teachers, are entitled to request such measures that are necessary to be taken to ensure that they can meet the requirements to become a registered teacher. Such measures include being absent with no reduction in pay to undertake student placements.
- g. Aboriginal and Torres Strait Islander employees are entitled to five (5) days per annum, non-accruing paid leave, and other relevant support, to attend courses to learn the language of their country and connect with community on national days of significance where this is connected to their duties.

Leave for Aboriginal and Torres Strait Islander Employees

- 8. Subject to notice and evidence requirements clauses, Aboriginal and Torres Strait Islander Employees are entitled to apply for paid Cultural and/or Bereavement Leave.
 - a. An application for this will not be unreasonably refused.
 - b. An employee must provide notice of their intention to take leave as soon as is practicable.
 - c. The Employer may request evidence that would satisfy a reasonable person that the leave is for Cultural and/or Bereavement Leave purposes.
 - d. In considering applications for Cultural and/or Bereavement Leave and its duration, the Employer must do so in a culturally sensitive manner considering:
 - i. the closeness of the association between the applicant and the deceased; this association need not be a blood relationship;
 - ii. whether the applicant has to take significant responsibility for any or all of the arrangements to do with the ceremonies;
 - iii. the amount of time needed to discharge properly any responsibilities or obligations;
 - iv. adequate travelling time; and;
 - v. the need to make a decision as quickly as possible so that the applicant is given maximum time possible to make any arrangements necessary. In most cases the necessary decision will be made immediately, but may be made retrospectively where appropriate.
 - e. For the avoidance of doubt an employee who is on approved Cultural and/or Bereavement Leave is not required to undertake their normal duties.

No adverse action

- 9. The Employer and its agents must not take adverse action against an Aboriginal or Torres Strait Islander Employee because that employee has, has not, or proposes to or not to

exercise their rights under this clause, or to prevent the exercise of their rights under this clause.

Cultural Safety

10. The employer recognises that:
 - a. racism is a serious health and safety hazard; and
 - b. no worker should experience racism at work.

11. The employer and its representatives have a positive duty to provide a working environment that is culturally safe and without risk to health. This obligation includes a requirement to take all reasonably practicable steps, in a timely manner, to remove racism from schools, and create inclusive workplaces, including through the provision of ongoing Cultural Understanding and Safety Training across the workforce.

Allocation of work to Aboriginal and Torres Strait Islander Employees

12. Where an Aboriginal or Torres Strait Islander employee agrees to undertake work that requires a cultural responsibility their work and/or duties will be adjusted to consider the work and/or duties associated with that cultural responsibility in context of their other duties, and/or paid an allowance/special payment at the daily rate of a casual teaching rate to recognise that responsibility.

Definitions

In this Section:

- **“Aboriginal and Torres Strait Islander”** refers to any person/s who:
 - o Is a member of the Aboriginal and/or Torres Strait Islander race of Australia; and;
 - o Identifies as an Aboriginal and/or Torres Strait Islander person; and;
 - o Is accepted by the Aboriginal and/or Torres Strait Islander community as an Aboriginal and/or Torres Strait Islander person.

- **“Cultural and/or Bereavement Leave”** for Aboriginal and Torres Strait Islander Employees refers to leave to:
 - o attend or take part in treaty processes as a representative or associated meetings as a member or attendee;
 - o attend to Sorry Business, including funeral business of Family (funeral business applies to the process of mourning and paying respect to a deceased person and their family);
 - o fulfil ceremonial/cultural responsibilities including to perform a service to the community and attend community meetings, including Traditional Owner group meetings;
 - o fulfil Family cultural obligations;
 - o celebrate cultural national days related to the Aboriginal and Torres Strait Islander culture with which the employee identifies, including NAIDOC and Reconciliation Week;

- **“Family”** has a meaning that recognises that extended families exist within Aboriginal and Torres Strait Islander society and obligations of Aboriginal and Torres Strait Islander Employees may exist regardless of the existence of a bloodline relationship or not. Family also extends to cover relationships where there is a close association, which need not be a blood relationship.