



OCHRE

- a continuing conversation

ABORIGINAL LANGUAGES

**Issues and Opportunities Paper
Legislative recognition and
protection of Aboriginal languages**

This paper proposes an Act to recognise and protect the Aboriginal¹ languages of NSW and for the State to develop, implement and evaluate strategic plans for revitalisation of Aboriginal languages. The proposed Act builds on the legal recognition of Aboriginal cultures as part of the State's identity and heritage. It also builds on national progress toward Indigenous recognition in the Australian Constitution, where there was strong community support for including recognising and valuing Indigenous languages. North America provides precedent 'Recognition Acts' that give insights into the form, objectives and operation of such Acts.

These developments provide the following justifications for official recognition and protection of Aboriginal languages:

- Aboriginal languages are an essential part of the State's culture and identity;
- Aboriginal languages are being lost, which adversely affects the wellbeing of Aboriginal people;
- Recognising Aboriginal languages is an important act for community unity and reconciliation; and
- Revitalising Aboriginal languages is a shared responsibility between Aboriginal communities and government.

Statutory intervention in revitalising Aboriginal languages raises three opposing arguments, namely: the difficulty listing all NSW Aboriginal languages; the efficacy and appropriateness of official recognition; and the impact on the status of English in NSW. This paper and the proposed legislation attempts to address these concerns.

It is proposed that legislation to recognise and provide enduring protection to Aboriginal languages in NSW could take the following form:

- a) A statement of recognition of Aboriginal Languages of New South Wales that includes:
 - a. The importance of Aboriginal Languages to the identity, culture and wellbeing of Aboriginal people of NSW;
 - b. The rights of Aboriginal people of NSW to practice and revitalise their Languages;
 - c. The contribution of Aboriginal Languages to the intangible heritage and identity of the State of NSW; and
 - d. The importance of NSW Government taking action to recognise and protect NSW Aboriginal Languages;
- b) A requirement for the Head of Aboriginal Affairs to prepare an Aboriginal Languages Strategic Plan and to prepare annual performance reports on actions in the Strategic Plan; and
- c) A statement that the Bill does not affect the status of English in NSW.

Why legislate to recognise Aboriginal Languages?

Aboriginal languages are an essential part of the State's culture and identity

Aboriginal languages are a unique and important part of the culture and identity of New South Wales. The *Aboriginal Land Rights Act 1983* and the *Constitution Act 1902* provides the NSW statutory precedent for recognising Aboriginal culture and languages as part of the identity of the State of NSW.

¹ The term 'Aboriginal' is used in preference to 'Indigenous' in the NSW context. 'Indigenous' is used where it relates to national and international matters.



The *Aboriginal Land Rights Act 1983* recognises that “*Land in the State of New South Wales was traditionally owned and occupied by Aboriginal people and ... is of spiritual, social, cultural and economic importance to Aboriginal people*” (Preamble).

Similarly the *Constitution Act 1902* “*acknowledges and honours the Aboriginal people as the State’s first people and nations... and recognises that Aboriginal people, as the traditional custodians and occupants of the land in New South Wales have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and have made and continue to make a unique and lasting contribution to the identity of the State*” (Section 2).

The Commonwealth Government also provided statutory recognition to Aboriginal cultures and language such as the *Native Title Act 1993* and *Aboriginal and Torres Strait Islander Act 2005*. The *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013* includes specific recognition for Aboriginal and Torres Strait Islander languages. The current legislative proposal is for a statement of recognition to recognise Aboriginal languages in NSW law, as well as a strategic plan with actions to protect Aboriginal languages.

Aboriginal languages are being lost and that loss is impacting the wellbeing of Aboriginal people

The *United Nations Declaration on the Rights of Indigenous People* (UNDRIP) recognises the importance of languages to the identity and wellbeing of Indigenous people and obliges governments to take action to protect and develop Indigenous languages (Article 13).

The National Indigenous Languages Survey 2005 (‘the NILS report’) recognised that languages are storehouses of cultural knowledge and tradition and that they are under threat. Before 1788, NSW was home to about 35 Aboriginal languages and over 100 dialects of those languages.² The NILS report found that only about five Aboriginal languages in NSW are still spoken, and that most Aboriginal languages in NSW are critically endangered. The second NILS report (2014) found that while the numbers of speakers had increased for some NSW languages because of revitalisation efforts, all languages remained at risk of declining.

Participation in Aboriginal language revitalisation improves Aboriginal health and wellbeing and learning Aboriginal languages improves education outcomes for Aboriginal students. There is a growing body of evidence connecting use and transmission of Indigenous languages with improved health and wellbeing of Indigenous peoples.³ Former Senator Aden Ridgeway said ‘Aboriginal language goes to the heart and soul of one’s identity and gives connection to family, country and community...it instils a sense of enormous pride and provides the strength from which to see the world beyond the fences of your own community—then everything seems possible.’⁴ In 2009, the Aboriginal and Torres Strait Islander Social Justice Commissioner said the loss of Indigenous languages, which impacts on culture knowledge, identity and health of Indigenous people, is a loss

² Wafer J and Lissarrague, *A Handbook of Aboriginal Languages of New South Wales and the Australian Capital Territory*, Muurrbay Aboriginal Language and Culture Cooperative (2008)

³ Williams ST, *The Importance of Teaching and Learning Aboriginal Languages and Cultures*, Aboriginal Affairs, 2011 (unpublished). See also Williams ST, ‘Teaching Local NSW Aboriginal Languages and Cultures: A Guide for Schools’, New South Wales Aboriginal Education Consultative Group Incorporated (2014)

http://www.aecg.nsw.edu.au/media/forms/Aboriginal_Language_and_Culture_Programmes_Schools_Guide_1_June2014.pdf

⁴ Ridgeway A, ‘Language is power; let us have ours’, *Sydney Morning Herald* 26 November 2009. <http://www.smh.com.au/federal-politics/language-is-power-let-us-have-ours-20091125-jrsb.html>



for all Australians.⁵ The loss of Aboriginal languages also means non-Aboriginal Australians cannot share and gain from the unique Aboriginal culture and identity of the Australia.

Recognising Aboriginal languages is an important act for community unity and reconciliation

In 2010, the Commonwealth Government established an Expert Panel (comprised of Aboriginal and community leaders, legal experts, and parliamentary members) to develop options for constitutional recognition. Recognition of Aboriginal cultures and languages in the Australian Constitution was a strong theme raised during the community consultations. Polling conducted for the Expert Panel found 70 per cent support for the recognition of Aboriginal and Torres Strait Islander cultures and languages in the Constitution⁶. The Expert Panel reported its recommendations in 2012, including a new provision in the Australian Constitution to recognise Aboriginal and Torres Strait Islander languages as the original Australian languages and a part of Australia's national heritage. This languages recognition provision would, according to the Expert Panel, 'contribute to a more unified and reconciled nation' and 'be capable of being supported by an overwhelming majority of Australians from across the political and social spectrums'.

Aboriginal languages carry knowledge and culture

The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report *Our Land Our Language* (2012) found a growing body of evidence of the connection between language and wellbeing and that intergenerational transmission of cultural knowledge occurs through Aboriginal language. The Standing Committee also found education benefits for Aboriginal youth of teaching Aboriginal languages in schools, and the importance of languages in efforts to *Close the Gap*. *Our Land Our Language* also highlighted the civic benefits of improved intergenerational and cross-cultural interactions of language revitalisation activities.

Aboriginal languages, like literature, music, screen, theatre, dance and visual arts, are part of the intangible heritage of NSW that contains stories of history, culture and identity. The *United Nations Declaration on the Rights of Indigenous People* recognises the right of Indigenous people to maintain, control and protect their intangible heritage (Article 31). National and NSW heritage protection laws are currently limited to protecting tangible heritage items (places and objects), see *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Commonwealth), *Protection of Moveable and Cultural Heritage Act 1986* (Commonwealth), *National Parks and Wildlife Act 1974* (NSW) and *Heritage Act 1977* (NSW). The need for legislative recognition and protection of Aboriginal languages was raised during the consultations on proposed reforms to Aboriginal heritage laws in NSW. The proposed Recognition Act will complement but remain separate from any future Aboriginal heritage Act.

Revitalising Aboriginal languages is a shared responsibility between Aboriginal communities and government

Opponents of official recognition of Aboriginal languages argue that the survival of Aboriginal languages depends on Aboriginal families and communities and therefore government should have no role. However, past government policies, such as assimilation, were intended to stop use and transmission of Aboriginal languages, and the resultant decline of almost all Aboriginal languages in NSW requires resourcing and effort that only government can dedicate. Language revitalisation will

⁵ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009*, Australian Human Rights Commission (2009) https://www.humanrights.gov.au/sites/default/files/content/social_justice/sj_report/sireport09/pdf/sjr_2009_web.pdf

⁶ *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel* (2010) at 80



only work in NSW through coordinated, sustained effort and collaboration between Aboriginal families and communities, and government. This sustained effort and partnership was the objective of the NSW Aboriginal Languages Policy (2004).

In 2004, NSW was the first State in Australia with an Aboriginal Languages Policy, and the only policy with an influence over a range of portfolio areas. The policy built on existing activities, such as the NSW Geographical Names Board's Dual Naming Policy and local school-based Aboriginal languages classes. The Policy and associated Strategic Plan sought to better coordinate and integrate the diverse locally-focussed Aboriginal language activities. The Policy focussed on Aboriginal Languages in Aboriginal communities, education and broader community. The Policy and Strategic Plan supported Aboriginal Languages in Aboriginal Communities through local language revitalisation and maintenance projects, community-based language awareness and education; and language promotion and teaching materials. In Education, Aboriginal language teaching was supported by an Aboriginal Languages school curriculum and teaching materials, language teacher training, adult education and higher education courses, and language programs in correctional centres. The Policy and Strategic Plan promoted Aboriginal languages in the broader community through Aboriginal place names, tourism materials, and cultural events.

NSW Government policies reaffirm strong support for Aboriginal languages. *NSW 2021* included the target of increased access for people to learn Aboriginal languages (Goal 26). The importance of Aboriginal languages to local Aboriginal communities was a consistent message during the Ministerial Taskforce on Aboriginal Affairs community consultations in 2012. In response, OCHRE proposed establishing five Aboriginal Language and Culture Nests, supporting Aboriginal language revitalisation, revising Aboriginal language education in schools, and reviewing the 2004 Policy. The NSW Aboriginal Education Consultative Group has also assisted communities on local language revitalisation projects.

The form of a Recognition Act

The Expert Panel on recognition of Aboriginal and Torres Strait Islanders in the Constitution conducted exploratory qualitative research into recognition of Aboriginal languages in the Constitution. The research found the following issues in formal recognition of Aboriginal languages:

- Practicality in recognising so many languages;
- Practical benefits of legislative recognition; and
- Effects of recognition on other Australians.

International examples (see Attachment)

Canadian provincial legislatures, which are similar to NSW, provide examples of Aboriginal Languages Acts to compare and contrast. They vary from the simple statements of recognition (such as *Aboriginal Languages Recognition Act* (Manitoba), to the detailed *Official Languages Act* (Northwest Territories) that enacts a system of governance, oversight and reporting to bring Aboriginal languages into the everyday business of government. The *Native American Languages Act 1990* (United States) includes recognition of Indigenous languages and policy objectives.

In New Zealand, the *Māori Language Act 1987* gives Māori language official status in New Zealand, along with English and New Zealand Sign Language. Because *Te Reo Maori* has official language status, speakers can conduct business and legal proceedings in language, and signs and official notices are in bilingual formats. The New Zealand Ministry of Education supports both Māori-



medium and English-medium education. The Māori Language Commission, created under the Act, is responsible for Māori language policy and programs, and promoting the use of Māori as a living language and as an ordinary means of communication.

Addendum

In April 2016, the *Māori Language Act 2016* was enacted, giving Māori language official status in New Zealand, meaning *Te Reo Maori* can be used to conduct business, in legal proceedings, and on signs and official notices. The Act creates Te Mātāwai, an organisation made up of government and Māori language stakeholders to lead language revitalisation activities.⁷

Practicality of recognising so many languages

There were approximately 35 Aboriginal languages and over 100 dialects of those languages at 1788 but the actual number, the differences between discrete languages versus dialects of related languages, and the spelling of language names remains highly contentious in NSW. There are several Aboriginal or Torres Strait Islander languages being used in NSW. There is some controversy whether Aboriginal Languages of NSW is limited to the traditional Aboriginal languages spoken within the lands that now form the state of NSW, or includes all Indigenous languages from Australia that are spoken or used in NSW.

The proposed legislation could avoid these controversies by using an inclusive description such as the 'Aboriginal Languages of NSW' as used in section 3(3) of *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013* (Commonwealth). The descriptor, 'Aboriginal Languages of NSW' leaves open the question of Indigenous languages from outside of NSW being spoken within NSW, and the question of hybrid languages such as Aboriginal English. These are, however, more minor controversies and could be included in a liberal interpretation of Aboriginal Languages of NSW.

Practical benefits of legislative recognition

States enshrine Indigenous languages into law for due recognition and more effective revitalisation of languages. Just as the law once was an agent of assimilation and loss of languages, it can also aid in reversing language loss. However to effectively drive revitalisation of Aboriginal languages, official recognition must also influence the language use and transmission choices within families and communities. Critics of official recognition legislation argue language policies cannot be about recognition alone, they must include planning for State action and legal implications of inaction. The Canadian and New Zealand Acts also focus on making government services, programs and communications accessible to First Nations. In NSW, Aboriginal communities still face language and cultural barriers to accessing their entitlements as citizens (such as access to the justice system).

In 2012, the Commonwealth Parliamentary Inquiry, *Our Land, Our Language* criticised the existing policy approaches saying 'without concrete actions, clear goals and accountability, [it] will not

⁷ <http://www.tpk.govt.nz/en/a-matou-kaupapa/strengthening-maori-cultural-wealth/te-reo-maori/>



achieve its intended goals. If [it] is to be taken seriously, then it must contain more than aspirational words.’⁸

Sociolinguists have identified effective Aboriginal language policies have the following features:

- The most decisive factor in the future of endangered languages is the will and attitude of the communities who are using, or wish to use, and transmit endangered languages. Without the interest of that community in revitalisation, any effort to promote institutional protection would be egoistic and meaningless.
- Language policies have a stronger impact if they are constructed in a realistic and effective way, accounting for the state of endangerment. The goal and measure of efficacy of any language policy is a change that would result in spontaneous language use by a large community of speakers.
- Language policy must consider the complex nature of language loss, the functional and structural aspects of the language, and the extra-linguistic processes (values and ethics of the public, and economic, political and civic status of the language and language speakers).⁹

The state of Aboriginal languages is often explained in metaphors from biology, such as “the danger of language extinction and of the loss of linguistic diversity parallels and exceeds the severity of the decline of [biological] diversity”.¹⁰ Such metaphors are helpful to explain the scale of the problem, the effort and potential approaches required to reverse the decline; however caution must be exercised in using biological metaphors because of the past classification of Aboriginal culture alongside flora and fauna. Carefully continuing with the biological diversity analogy, a legislative precedent for a strategic planning mechanism could be the Biodiversity Strategy provisions in the *Threatened Species Conservation Act 1995* (NSW). The Biodiversity Strategy sets out: proposals for the survival and development of all species, populations and communities; proposals for ecological sustainable development strategies; proposals for research, education and community involvement; and objectives, performance measures, reporting and evaluation. The *Threatened Species Conservation Act 1995* also prescribes community and expert input into the development of the Biodiversity Strategy. The Northwest Territories (NWT) *Official Languages Act* has similar regular reporting on Aboriginal languages and evaluations of revitalisation activities, as a “State of Aboriginal Languages” annual report.

An effective Aboriginal Languages Strategic Plan requires programs that meets the specific needs of Aboriginal communities, where they control the resources, decision-making processes, and institutional domains where language socialisation occurs (such as family, community, schools). The current proposal, informed by these efficacy factors, is that the recognition provisions will be followed by strategic planning mechanisms.

The Canadian NWT Act creates an authority responsible for handling complaints, driving and overseeing revitalisation efforts, and monitoring and reporting of language activities. This would

⁸ Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Our Land Our Languages*, report on the inquiry into language learning in Indigenous communities (2012) at 57 (http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=/atsia/languages2/report.htm)

⁹ Koenig M (ed.), Protecting Endangered Minority Languages: Sociolinguistic Perspectives, *International Journal on Multicultural Societies* 4(2) 2002 at 159

¹⁰ Koenig M (above)



have significant resource implications for NSW. The NWT Act also provides guidance on the requirements of strategic planning mechanisms:

- Input from community language speakers/workers who advises on the efficacy of programs;
- Ministerial responsibility for development and implementation of strategic plan; and
- Oversight and accountability within government for delivery of the plan.

Impacts on other citizens

The position of English in Australia, in official government business and in the wider society, is not impacted by recognition of Aboriginal languages. The supremacy of English in Australia as the only official language is discussed in the Expert Panel's report *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution*.¹¹ The Panel recommended that recognition of Aboriginal and Torres Strait Islander languages include confirmation that "English is Australia's national language" because it "concluded that the recognition of English as the national language simply acknowledges the existing and undisputed position". Similar to Australia, the United States' *Native American Languages Act* affirms the importance of English.

In Canada, the competing claims between French and English for official language status meant there was no consensus on the hegemony of a single language and led to the creation of an existing legal framework for recognising multiple official languages. Language academics note that the absence of an official language policy implicitly grants de-facto official status to the dominant language and delegitimises Aboriginal languages.¹²

The only mandated use of Aboriginal languages in the wider community is in the case of place names. Even then, dual names give the English and Aboriginal names equal value, and Aboriginal place names must be able to be easily spelt, pronounced, and meet other requirements. Place name policies have not had adverse consequences on the position of English in NSW. Similarly, the teaching of Aboriginal languages in schools in NSW is not mandatory, yet many non-Aboriginal students elect to learn Aboriginal languages at school. This proposal will neither change the status of English in NSW nor oblige citizens to use or learn Aboriginal languages.

Aboriginal Affairs seeks your comments on the proposals outlined in this paper and the exposure draft Bill.

Please send your comments to:

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¹¹ *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel* (2010) at 131

¹² Koening M (above)





Attachment:

1. The Aboriginal Languages Recognition Act [Manitoba, Canada 2010]

WHEREAS there are seven Aboriginal languages currently spoken in Manitoba, being Cree, Dakota, Dene, Inuktitut, Michif, Ojibway and Oji-Cree;

AND WHEREAS recent studies indicate that just 30% of First Nations people can speak an Aboriginal language well enough to carry on a conversation;

AND WHEREAS the Michif language, a blend of French and Cree that was once common in Metis communities, is now considered endangered, as there are fewer than 1,000 people who speak it;

AND WHEREAS younger generations of Aboriginal people are increasingly likely to acquire their language as a second language rather than as a mother tongue — a trend that is most evident among those living off-reserve in urban areas;

AND WHEREAS Aboriginal languages are vital to the survival of the culture and identity of Aboriginal people;

AND WHEREAS language revitalization can contribute to increased self-esteem, community well-being and cultural continuity;

AND WHEREAS the government has a role to play in recognizing and promoting the preservation and use of Aboriginal languages;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Recognition of Aboriginal languages

1 The languages of Cree, Dakota, Dene, Inuktitut, Michif, Ojibway and Oji-Cree are recognized as the Aboriginal languages spoken and used in Manitoba.

C.C.S.M. reference

2 This Act may be referred to as chapter A1.5 of the Continuing Consolidation of the Statutes of Manitoba.

Coming into force

3 This Act comes into force on the day it receives royal assent.

OVERVIEW: The Aboriginal Languages Recognition Act [Manitoba, Canada, 2010]

The Act has an extensive list of recitals in the preamble, which defines the seven languages, their form and transmission, the loss of languages, importance of language to culture, identity and wellbeing, and the government's role in protecting languages. While the preamble has no legal effect, it aids in the interpretation of the substantive provisions of the Act, which is limited to a list of the seven Manitoban Aboriginal languages.

The Legislative Assembly of Manitoba debates on the Act gave the following reasons for its enactment:

- “the unfortunate state of languages of Aboriginal people, nationwide ... only three of Canada’s 60 Aboriginal languages will stand the test of time...”
- The first step is to acknowledge and recognise that these languages exist in the province of Manitoba and have been a key factor to the development of this province. The second is to include these languages in the school curriculum, and provide funding to Manitoba First Nations education organisation to educate people in Aboriginal languages.
- Aboriginal languages are “the fundamental core of our communities and our cultures and our nations is dependent on the use of our languages.” The distinct languages are an indication of who we are as Canadians.



- Quote from Premier in Legislative Assembly on passage of legislation: [through this Act] *we send a powerful message to our First Nation brothers and sisters in this province about how we value the contribution they've made to this province and the strength they bring to this province as we help them to recognise and work with them to strengthen their language and culture and their economy and their institution so that they can raise their children and families in dignity and make a contribution to the overall wellbeing of all Manitobans."*
- The Bill is one more step toward reconciliation between people of different background and different cultures...one more step toward a better and more united province of Manitoba.
- The Bill was enacted to coincide with the Canadian Prime Minister's apology to Aboriginal people for the abuses they experienced in the residential school system.
- Was the second legislature (after Northwest Territories, see below) to formally recognise Aboriginal languages.

2. Official Languages Act [Northwest Territories, Canada, 1988]

In 1984, the Northwest Territories (NWT) Legislative Assembly enacted the original *Official Languages Act* based on a similar Federal Act. The Act gave equal status to English and French as the languages of government communications and services, and separately recognised the Aboriginal languages of the NWT. In 1990, the Act was amended to give equal status to Aboriginal languages of NWT (alongside French and English) in government communications and services. The Act listed nine languages as the "Official Aboriginal Languages" of the NWT.

The Act is supported by the NWT Official Languages Policy. The policy objective is that members of the public have reasonable access to its programs and services in official languages.

Preamble

- Recognises Aboriginal peoples prior occupation of NWT and that they are "a fundamental characteristic of Canada" and also a distinct society within Canada;
- Recognises Aboriginal languages of the NWT, commits to their preservation and development, and that they should be recognised in law and the Canadian Constitution;
- The law should provide for the use of Aboriginal languages for all or any official purposes at a time and a manner that is appropriate;
- Enshrining protection of languages in law will assist in preserving culture;
- Aboriginal languages should not be an impediment to public sector employment or participating in provincial institutions; and
- preserving languages is a shared responsibility of language communities and NWT Government

Official languages

- Lists the nine Aboriginal languages, English and French as the Official Languages of NWT (section 4);
- Any official languages can be used in the Legislature (section 6) or in provincial courts (section 9)
- Requires legislative, judicial or administrative instruments to be published in French, English and any other Official Language (section 7, 8) with simultaneous translation of court proceedings if required (section 8(3))
- Official communications and service delivery in any Official Language where there is significant demand and it is reasonable in the circumstances and in consideration of Aboriginal rights on their homelands (section 11).

Languages Commissioner

- The Languages Commissioner is a public office holder accountable to the Legislative Assembly (sections 15 and 16)
- The Languages Commissioner's duty is to take all actions and measures to ensure recognition of the rights, status and privileges of each Official Language and compliance with the spirit and intent of the Act in the administration of the affairs of government institutions (section 20).



- The Languages Commissioner investigates, reports and makes recommendations (on their own initiative or in response to a complaint) the administration of the affairs of government institutions regarding the recognition of an Official Language or non-compliance with the spirit and intent of the Act (sections 20 and 21).
- The Languages Commissioner must prepare annual reports on their activities and recommendations for reforms to the Act to give effect to its spirit and intent (section 23).

Minister for Official Languages

- Minister for Official Languages has responsibility for the Act and general direction and coordination of Official Languages policies and programs of the NWT Government, including:
 - Development of policies and regulations to implement the Act;
 - Promote Official Languages education in schools, higher education and adult education/literacy programs;
 - Promote use of Official Languages in the administration and delivery of programs and services by government institutions; and
 - Encourage the maintenance and revitalisation of Aboriginal languages (section 26).
- The Minister must prepare an annual report that includes an assessment of the status of each Official Language, an evaluation of the effectiveness and efficiency of the policies and programs of government institutions related to languages, and the activities of the Official Languages Board and Aboriginal Languages Revitalisation Board (section 27).

Official Languages Board

- Comprised of representatives of each Official Language community, including 9 Aboriginal languages (section 28);
- Reviews the rights and status of each Official Language, their use in the administration and delivery of government services, the effectiveness of the Act and makes recommendations to the Minister (section 29)

Aboriginal Languages Revitalisation Board

- Comprised of representatives of each Aboriginal Language community (section 30);
- Reviews programs and initiatives of communities, government institutions and other bodies to maintain, promote and revitalise Aboriginal languages, evaluates the effectiveness of the Act and makes recommendations to the Minister (section 31).

3. Native American Languages Act 1990 (United States of America)

P.L. 101-477 (October 30 1990)

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act."

FINDINGS

SEC. 102. The Congress finds that—

- (1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;
- (2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;
- (3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;
- (4) there is a widespread practice of treating Native American languages as if they were anachronisms;
- (5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;



- (6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;
- (7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take step to realize these ends;
- (8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;
- (9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and
- (10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

- (1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.
- (2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).
- (3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).
- (4) The term "Native American Pacific Islander" means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.
- (5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b).
- (6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.
- (7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.
- (8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

- (1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;
- (2) allow exceptions to teacher certification requirements for Federal programs and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;
- (3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—
 - (a) Native American language survival,
 - (b) equal educational opportunity,
 - (c) increased student success and performance,
 - (d) increased student awareness and knowledge of their culture and history, and
 - (e) increased student and community pride;
- (4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;



- (5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;
- (6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;
- (7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and
- (8) encourage all institutions of elementary, secondary, and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

- (1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this Act;
- (2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this Act; and
- (3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this Act.
- (4) By no later than the date that is one year after the date of enactment of this Act, the President shall submit to Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this Act.

USE OF ENGLISH

SEC. 107. Nothing in this Act shall be construed as precluding the use of Federal funds to teach English to Native Americans.

OVERVIEW: Native American Languages Act 1990 (United States of America)

The Act provides that the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages and to preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American languages. The Act is a Federal policy statement recognising the language rights of Native Americans (American Indians, Alaska Natives, Native Hawaiians, and Pacific Islanders) but authorises no new spending or programs for Native American language revitalisation.

