

## Appendix 4

### ‘Accessible’ and ‘available’

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The following definitions of ‘accessible’ and ‘available’ were sourced from the Australian Human Rights Commission’s *Rural and Remote Education Inquiry Briefing Paper*.<sup>1</sup>

A more detailed discussion of human rights provisions that are relevant to remote school education can be found in the report of the National Inquiry into Rural and Remote Education: *Emerging Themes*. *Emerging Themes* was prepared by the Australian Human Rights Commission in 2000 and is available online at: [http://www.humanrights.gov.au/pdf/human\\_rights/rural\\_remote/emerging\\_themes.pdf](http://www.humanrights.gov.au/pdf/human_rights/rural_remote/emerging_themes.pdf).

### Accessible

The UN Committee on Economic, Social and Cultural Rights has identified 3 inter-connected elements of ‘accessibility’ in the context of education.

- i. Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds;
- ii. Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighborhood school) or via modern technology (e.g. access to a “distance learning” program);
- iii. Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) [of the International Covenant on Economic, Social and Cultural Rights] in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education (*General Comment No. 13, 1999, paragraph 6*).

Another element of ‘accessibility’ is what the Committee has termed ‘acceptability’: ‘the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4))’.<sup>2</sup>

1 Australian Human Rights Commission, *Rural and Remote Education Inquiry Briefing Paper*, (2001). At [http://www.humanrights.gov.au/Human\\_Rights/rural\\_education/briefing/right\\_ed2.html](http://www.humanrights.gov.au/Human_Rights/rural_education/briefing/right_ed2.html) (viewed 30 January 2009).

2 The Committee on Economic, Social and Cultural Rights, *General Comment No. 13*, (1999), para 6. At <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/ae1a0b126d068e868025683c003c8b3b?Opendocument> (viewed 14 January 2009).

Whether education is 'accessible' must be measured by objective criteria. Children should not be required to forego other entitlements, such as rest and leisure or cultural commitments, in order to access an education.

### Available

'Availability' has four dimensions:

- Geographic distribution
- Sufficient quantity
- Open and non-discriminatory right of entry
- Provision of proper facilities and staff.

'[F]unctioning educational institutions and programs have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programs are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology.'<sup>3</sup>

Secondary schooling must be 'generally available' which means 'firstly, that secondary education is not dependent on a student's apparent capacity or ability and, secondly, that secondary education will be distributed throughout the State in such a way that it is available on the same basis to all'.<sup>4</sup>

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3 The Committee on Economic, Social and Cultural Rights, *General Comment No. 13*, (1999), para 6(a). At <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/ae1a0b126d068e868025683c003c8b3b?OpenDocument> (viewed 14 January 2009).

4 The Committee on Economic, Social and Cultural Rights, *General Comment No. 13*, (1999), para 13. At <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/ae1a0b126d068e868025683c003c8b3b?OpenDocument> (viewed 14 January 2009).