

# DRAFT FOR CONSULTATION

## Education (Board Elections) Regulations 2022

Governor-General

### Order in Council

At Wellington this                      day of                      2022

Present:  
in Council

These regulations are made under sections 640 and 652 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

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**Education (Board Elections) Regulations 2022**

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## Regulations

### 1 Title

These regulations are Education (Board Elections) Regulations 2022.

### 2 Commencement

These regulations come into force on 9 June 2022.

### 3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

**accredited provider** means a provider accredited by the Secretary under regulation 9 to provide an electronic voting system that enables a board election to be held electronically

**Act** means the Education and Training Act 2020

**election day** means the date fixed for an election by the board under clause 3(4) of Schedule 23 of the Act

**elector** means a person who is eligible to vote in an election

**electronically**, in relation to a board election, means an election held using an electronic voting system

**in writing** includes in electronic form, and **written** has a corresponding meaning

**nomination form** means the appropriate nomination form approved by the Secretary under regulation 22, whether the form is—

- (a) a paper form; or
- (b) accessed electronically

**provider** means a provider of an electronic voting system

**returning officer**—

- (a) means a returning officer appointed under regulation 7 to run an election; and
- (b) includes a person performing or exercising all or any of the functions, duties, or powers of a returning officer with the returning officer's authority

**voting form** means the appropriate voting form approved by the Secretary under regulation 22, whether the form is—

- (a) a paper form; or
- (b) accessed electronically

**voting method**, in relation to an election, means the voting method specified in a notice issued under regulation 17

**voting period**, in relation to an election, means the period—

- (a) during which an elector may vote in an election; and
  - (b) that ends on election day.
- (2) In these regulations, a reference to an election of a parent representative includes a reference to an election for 1 or more parent representatives.

Compare: SR 2000/195 r 3

#### **4 Transitional, savings, and related provisions**

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

### **Part 1**

#### **Election timetables, returning officers, and voting method**

##### *Election timetables*

#### **5 Schools must follow election timetable**

- (1) A school must use the timetable set out in Schedule 2 for the election of a parent representative and a staff representative.
- (2) A school must use the timetable set out in Schedule 3 for the election of a student representative and for any by-election of a staff representative.

Compare: SR 2000/195 r 4

##### *Voting method*

#### **6 Board may choose voting method**

- (1) A board that holds an election of a parent representative, a staff representative, or a student representative may choose to hold the election—
  - (a) electronically; or
  - (b) in paper form.
- (2) However, if the board decides to hold the election electronically, the returning officer for the election must—
  - (a) offer nomination forms and voting forms in paper form for electors to use; and
  - (b) if requested by an elector, provide nomination forms and voting forms in paper form for the elector to use; and
  - (c) ensure that the results of the election declared under regulation 26 include the results of all votes validly cast, whether cast electronically or in paper form.

*Returning officers***7 Board must appoint returning officer**

- (1) A board must appoint a returning officer for each board election to elect any of the following:
  - (a) a parent representative:
  - (b) a staff representative:
  - (c) a student representative.
- (2) If the board fails to appoint a returning officer for an election within the time required under the relevant election timetable, the Secretary must appoint a returning officer for the election.
- (3) If a returning officer becomes unable to perform or exercise any of their functions, duties, or powers, the board or the Secretary (depending on who appointed the original returning officer) must appoint a replacement returning officer.
- (4) The returning officer must conduct the election—
  - (a) in accordance with these regulations and the relevant election timetable; and
  - (b) otherwise as the returning officer thinks fit.

Compare: SR 2000/195 r 5

*Requirements for elections held electronically***8 Board must engage or appoint accredited provider for certain elections held electronically**

- (1) This regulation applies if a board decides to hold an election of a parent representative or a staff representative electronically.
- (2) The board must—
  - (a) engage an accredited provider to provide services to the returning officer for the election; or
  - (b) appoint an accredited provider as the returning officer for the election.
- (3) An accredited provider engaged under subclause (2)(b) (or one of its officers) must carry out any functions, duties, or powers of the returning officer agreed between the board and the accredited provider.

**9 Grant of accreditation**

- (1) A provider must not administer an election of a parent representative or a staff representative electronically unless the provider has been granted accreditation by the Secretary.
- (2) A provider may apply to the Secretary for accreditation to administer a board election electronically.

- (3) The Secretary—
  - (a) may grant or refuse to grant an accreditation to the provider; and
  - (b) must give the provider written notice of their decision to grant or refuse accreditation.

#### **10 Reconsideration of refusal to grant accreditation**

- (1) A provider who has been refused accreditation under regulation 9(3) may apply to the Secretary for a reconsideration of the decision.
- (2) An application must be made within 20 working days after the date on which notice of the decision was given to the provider.
- (3) The Secretary must reconsider whether accreditation should be granted, and then—
  - (a) grant or refuse to grant accreditation for the provider to administer board elections electronically; and
  - (b) notify the provider in writing of the result of the reconsideration and the reasons for it.

#### **11 Lapse of accreditation**

An accreditation granted to a provider to administer board elections electronically lapses at the end of an election year, unless otherwise specified by the Secretary.

#### **12 Withdrawal of accreditation**

- (1) If the Secretary considers that there may be grounds for withdrawing the accreditation of a provider to administer board elections electronically, the Secretary must give written notice to the provider—
  - (a) setting out the grounds on which the Secretary is considering withdrawing the accreditation; and
  - (b) giving the provider a reasonable period to make submissions on the matter.
- (2) After that period, and having considered any submission made by the provider, the Secretary may, on any reasonable grounds, withdraw the accreditation.
- (3) If the Secretary withdraws an accreditation under subclause (2), the Secretary must give notice of the withdrawal, with reasons, to the provider concerned.

#### **13 Further requirements for certain elections held electronically**

- (1) This regulation applies if a board decides to hold an election of a parent representative, a staff representative, or a student representative electronically.
- (2) Nomination forms, voting forms, and any notices required to be given under these regulations in relation to the election must be issued electronically.
- (3) The electronic voting system used for the election must—

- (a) accurately count the votes cast electronically; and
- (b) allow for a scrutineer to undertake a recount under regulation 27 of votes cast electronically; and
- (c) maintain the secrecy of the election in accordance with regulation 28; and
- (d) allow for the Minister to assess the validity of the election in accordance with section 170 of the Act; and
- (e) ensure that an elector cannot be identified from their vote; and
- (f) include reasonable measures for verifying the identity of each elector before they cast their vote electronically; and
- (g) provide all information and processes related to the election in the languages in which the Secretary issues voting forms; and
- (h) ensure that all personal information collected or used for the purposes of the election is adequately protected; and
- (i) ensure that all information entered into, or generated by, the system for the purposes of the election, is held in a manner that—
  - (i) is secure and reliable, maintains the integrity of the information, and prevents non-authorised access or release of that information; and
  - (ii) is readily accessible for authorised persons.

## Part 2

### Rolls and nominations

#### *Rolls*

#### 14 Roll

- (1) The returning officer must prepare a roll for the election (the **main roll**).
- (2) The main roll must contain the name and contact details of every person entitled to vote in the election.
- (3) At any time before election day, the name (but not the contact details) of every person on the main roll or supplementary roll must be available for inspection at any reasonable time at the school.

Compare: SR 2000/195 r 6

#### 15 Supplementary roll

- (1) After the close of the main roll, the returning officer must prepare a supplementary roll that contains the names and contact details of every person—
  - (a) who becomes eligible to vote in the election after the close of the main roll; or

- (b) whose name was wrongly omitted from the main roll.
- (2) Once the supplementary roll has closed, it forms part of the main roll for the election.
- (3) The returning officer must ensure that any notices relating to the election that were given to electors on the main roll before the close of the supplementary roll are also given to electors on the supplementary roll.

Compare: SR 2000/195 r 7

## **16 Restriction on participating in 2 elections**

- (1) This regulation applies to a person who is eligible to stand or vote in both an election of a staff representative and an election of a parent representative, but who (under clause 3(7) of Schedule 23 of the Act) is not entitled to stand or vote in both elections.
- (2) The person must be enrolled only on the staff representative roll unless, before the close of that roll, the person advises the returning officer in writing that they wish to be enrolled on the parent representative roll instead.
- (3) If the returning officer receives advice from a person under subclause (2), the returning officer must ensure that—
  - (a) the person's name does not appear on the staff representative roll; and
  - (b) the person's name appears on the parent representative roll.
- (4) The name of a person that is entered on the parent representative roll must remain on that roll until—
  - (a) 3 years have elapsed and the person gives notice in writing that they wish to be enrolled on the staff representative roll instead of the parent representative roll; or
  - (b) the person ceases to be eligible to be enrolled on the parent representative roll.
- (5) The returning officer must take reasonable steps, before the close of the staff representative roll, to notify all persons to whom this regulation applies of the effect of this regulation.

Compare: SR 2000/195 r 8

## *Nominations*

## **17 Call for nominations**

- (1) The returning officer for a school (other than a distance school) must call for nominations for the election of a parent representative by—
  - (a) issuing a notice to each person named on the roll; and
  - (b) notifying the school community and any other affected parties in the wider local community in a manner that best meets the needs of the school community and the wider local community.

- (2) The returning officer for a school (other than a distance school) must call for nominations for the election of a staff representative or a student representative—
  - (a) by issuing a notice to each person named on the roll; or
  - (b) if the returning officer is satisfied that displaying notices will adequately inform electors about the call for nominations, by displaying notices in prominent places around the school.
- (3) The returning officer for a distance school must call for nominations for the election of a board member by issuing a notice to each person on the relevant roll.
- (4) A notice under this regulation must—
  - (a) state that an election is to be held; and
  - (b) state the voting method to be used; and
  - (c) state the voting period, including the time at which the voting period ends; and
  - (d) invite nominations for election; and
  - (e) state how many board members are to be elected and for what term (as applicable); and
  - (f) state the closing date and time for nominations; and
  - (g) state the form in which nominations must be made; and
  - (h) state that the roll is open for inspection and where it may be inspected; and
  - (i) for a notice that is issued, include a nomination form; and
  - (j) for a notice that is published or displayed, state where nomination forms may be obtained.

Compare: SR 2000/195 r 9

## **18 Acceptance of nomination**

- (1) Every nomination must give the name of the nominator and the nominee, and must be signed by both the nominator and the nominee.
- (2) A nomination for a parent representative is not valid unless the name of the nominator is on the roll; but the name of the nominee need not be on the roll.
- (3) A nomination for a staff representative is not valid unless the name of both the nominator and the nominee are on the roll.
- (4) A nomination for a student representative is not valid unless the name of both the nominator and the nominee are on the roll.
- (5) At any time before election day, the names (but not the contact details) of every candidate for election (being a person whose nomination has been accepted and

not withdrawn) must be available for inspection at any reasonable time at the school.

Compare: SR 2000/195 r 10

## **19 Withdrawal of nomination**

- (1) A person who has been nominated may, by written notice to the returning officer, withdraw from the election.
- (2) The returning officer must take reasonable steps to ensure that electors are notified of the withdrawal of any candidate that occurs after voting forms are issued.

Compare: SR 2000/195 r 12

## **20 Statements by nominees**

- (1) A nominee may, before the close of nominations, give the returning officer a brief statement, signed by the nominee, about their experience, qualifications, abilities, previous involvement with the school, interests, and reasons for standing for election.
- (2) For the purpose of issuing a copy of any such statement to electors, the returning officer may omit or abridge any part of the statement if the returning officer considers, on reasonable grounds, that the part is likely to be defamatory or offensive, or is too long.

Compare: SR 2000/195 r 11

# **Part 3 Elections**

## **21 Election not necessary in certain circumstances**

- (1) If the number of valid nominations received by the close of nominations does not exceed the number of board members to be elected, the returning officer must immediately declare the nominee or nominees duly elected, and no election may be held.
- (2) If at any time between the close of nominations and election day a candidate withdraws and, as a result of that withdrawal, the number of nominations does not exceed the number of board members to be elected, the returning officer must immediately declare the remaining nominee or nominees duly elected, and no election may be held.
- (3) If no election is to be held because subclause (1) or (2) applies, the returning officer must take all reasonable steps to ensure that electors are notified of that fact.

Compare: SR 2000/195 r 13

*Nomination forms and voting forms***22 Approval of nomination forms and voting forms**

- (1) The Secretary may approve different types of nomination forms and voting forms for use in different schools or types of school, and in different circumstances.
- (2) When the Secretary approves a nomination form or voting form, the Secretary must publish a notice in the *Gazette*—
  - (a) setting out the approved nomination form or voting form; and
  - (b) specifying the schools or types of school that must use that form, or the circumstances in which that form must be used, or both.
- (3) All or part of an approved nomination form or voting form may be written in te reo Māori or any other language.

Compare: SR 2000/195 r 18

**23 Issue of voting forms**

- (1) If an election is to be held, the returning officer must issue voting forms to every person whose name appears on the roll for the election.
- (2) In the case of an election of a staff representative or a student representative, if the returning officer is satisfied that electors can collect their own voting forms, the returning officer may, as well as or instead of issuing voting forms in accordance with subclause (1),—
  - (a) display notices in prominent places around the school advising where and when voting forms may be collected; and
  - (b) issue voting forms to any elector who seeks to collect their voting forms from the place, and at a time, specified in the notice.
- (3) When voting forms are issued, the following must be included with them:
  - (a) copies of any statements provided by nominees under regulation 20, other than statements by nominees who have withdrawn;
  - (b) if the election is held using paper voting forms, an envelope in which the voting forms may be returned.

Compare: SR 2000/195 r 14

**24 Validity of voting forms**

A vote is invalid if—

- (a) the elector votes more than once in the election; or
- (b) the elector votes for more candidates than there are board members to be elected; or

- (c) the voting form does not, in the returning officer's opinion, clearly indicate the candidate or candidates for whom the elector intended to vote; or
- (d) the returning officer believes on reasonable grounds that the voting form was not issued to the elector by the returning officer.

Compare: SR 2000/195 r 15

## **25 Custody of voting forms**

- (1) Until the result of an election is declared, the returning officer must keep all voting forms received by the returning officer in safe and secure custody.
- (2) As soon as practicable after declaring the results of an election, the returning officer must transfer the voting forms (whether electronic forms or paper forms), along with a copy of the roll for the election, to the Registrar of the nearest District Court, who, subject to any order to the contrary made by a court of competent jurisdiction,—
  - (a) must keep the forms and the roll in safe and secure custody; and
  - (b) must destroy or permanently delete the forms and the roll at the end of 6 months after the date on which the election was held.

Compare: SR 2000/195 r 17

### *Election result*

## **26 Declaration of result**

- (1) After counting the number of valid votes cast for each candidate, the returning officer must, subject to subclause (2), declare the result of the election.
- (2) If 2 or more candidates receive the same number of valid votes, the returning officer must decide which of them is elected by conducting a lot.
- (3) The lot must be conducted in the presence of the candidates' scrutineers (if any) and—
  - (a) 2 members of the board; or
  - (b) if 2 members of the board are not available within a reasonable time, 2 members of staff of the board.
- (4) The returning officer must declare the result of an election by giving written notice to the board and to the Secretary of the names of the candidates elected, the number of valid votes cast for each candidate, and the number of invalid votes cast.
- (5) After declaring the result, the returning officer must give notice of the names of the candidates elected, the number of valid votes cast for each candidate, and the number of invalid votes cast,—
  - (a) by prominently displaying notices at the school; and

- (b) for an election held using the timetable set out in Schedule 2, by issuing a notice to all electors on the roll; and
- (c) for an election held using the timetable set out in Schedule 3, by issuing a notice to the school community and any other affected parties in the wider local community in a manner that best meets the needs of the school community and the wider local community.

Compare: SR 2000/195 r 16

## **Part 4**

### **Miscellaneous**

#### **27 Scrutineers**

- (1) A candidate for election may, by written notice to the returning officer received before the voting period ends, appoint a scrutineer.
- (2) For an election held in paper form, the role of the scrutineer is—
  - (a) to be present and observe the opening of envelopes containing voting forms; and
  - (b) to examine the envelopes and voting forms; and
  - (c) to observe the counting of the votes.
- (3) For an election held electronically, the role of a scrutineer is—
  - (a) to perform a recount of votes cast electronically; and
  - (b) to perform the functions set out in subclause (2) in relation to any votes cast using paper voting forms.

Compare: SR 2000/195 r 19

#### **28 Maintaining secrecy of election**

A returning officer, scrutineer, or other person involved in the conduct of an election must not, directly or indirectly, give any person information likely to defeat the secrecy of the election, and in particular must not—

- (a) give or pretend to give information by which the final result may be made known before its declaration; or
- (b) make known who has voted for whom.

Compare: SR 2000/195 r 20

#### **29 Revocation**

The Education (Board Elections) Regulations 2000 (SR 2000/195) are revoked.

**Schedule 1**  
**Transitional, savings, and related provisions**

r 4

**Part 1**  
**Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions relating to these regulations as made.

**Schedule 2****Election timetable: parent representatives and staff representative**

rr 5(1), 26(5)(b)

<b>Process</b>	<b>Date and time frame</b>
Appoint returning officer	At least 63 days before election day
Close roll	At noon, 56 days before election day
Call for nominations	At least 54 days before election day
Close supplementary roll	At noon, 37 days before election day
Close of nominations	At noon, 35 days before election day
Issue voting forms	After close of nominations and at least 28 days before election day
Close poll	4 pm on election day
Accept postal votes	Up to 5 days after election day
Count votes	On sixth day after election day
Declare results	As soon as result is known

### Schedule 3

#### Election timetable: student representative and staff representative by-election

rr 5(2), 26(5)(c)

Process	Date and time frame
Appoint returning officer	At least 31 days before election day
Close roll	At noon, 24 days before election day
Call for nominations	At least 22 days before election day
Close supplementary roll	At noon, 17 days before election day
Close of nominations	At noon, 16 days before election day
Issue voting forms	After close of nominations and at least 10 days before election day
Close poll	4 pm on election day
Count votes	No later than 6 days after election day
Declare results	As soon as result is known

Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 9 June 2022, set out rules that apply to the election of parent representatives, staff representatives, and student representatives to school boards (a **board**) constituted under subpart 5 of Part 3 of the Education and Training Act 2020.

*Part 1 (regulations 5 to 13)—*

- provides that a school must follow the timetable set out in *Schedule 2* for the election of parent representatives and a staff representative to the board and the timetable set out in *Schedule 3* for the election of a student representative to the board and for any by-election of a staff representative:
- requires a board to appoint a returning officer for an election of board members:
- allows a board to choose to hold an election electronically or in paper form:
- sets out specific requirements relating to certain elections held electronically, including the requirement that the electronic voting system used for the election must be administered by an accredited provider approved by the Secretary for Education (the **Secretary**).

*Part 2 (regulations 14 to 20)—*

- requires a returning officer to prepare a main roll and a supplementary roll for each board election:
- restricts a person from participating in 2 elections:
- requires a returning officer to call for nominations for an election and sets out requirements relating to the acceptance and withdrawal of nominations.

*Part 3 (regulations 21 to 26)—*

- sets out circumstances when a election need not be held:
- sets out requirements relating to the issue, validity, and custody of voting forms:
- allows the Secretary to approve different types of nomination forms and voting forms for use by different schools, and in different circumstances and permits all or any part of an approved nomination form or voting form to be written in te reo Māori or any other language:
- requires the returning officer to declare the result of an election by giving written notice to the board and the Secretary.

*Part 4 (regulations 27 to 29)—*

- provides that a candidate in an election may appoint a scrutineer for the election:
- requires people involved in conducting an election to maintain secrecy:
- revokes the Education (Board Elections) Regulations 2000, which are replaced by these regulations.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.