

Education Report: Tertiary Education Institutions as Sponsors of Partnership Schools

This paper responds to your request for advice on the statutory amendments needed to enable Tertiary Education Institutions (TEIs) to become sponsors of Partnership Schools | Kura Hourua ("Partnership Schools").

Recommendations

We recommend that you:

- a) **note** that Partnership Schools are fully-funded schools outside the state system, focussed on delivering successful education outcomes for Māori, Pasifika, students with special education needs and students from low socio-economic backgrounds
- b) **note** that Partnership Schools need strong, capable sponsors with a vision and understanding of what will work to raise student achievement
- c) **note** that TEIs have the potential to be such sponsors because many already have links to schooling and are experienced educational managers
- d) **note** that TEIs can only perform those functions that are authorised by statute
- e) **note** that the relevant sections of the Education Act 1989 set out TEI functions that relate to continuing or higher education, which, by inference, excludes the control or management of a school

f) [Redacted]

YES / NO

s 9(2)(f)(iv) OIA

YES / NO

g) **note** that, [Redacted] amendments would be needed to manage the interface between a TEI as a tertiary institution and as a sponsor of a Partnership School

h) [Redacted]

i) [Redacted]

s 9(2)(f)(iv) OIA

j) **note** that it is highly likely that TEIs would set up some sort of related entity to govern any Partnership School s 9(2)(f)(iv) OIA

k)

l)

m)

n)

o) **note** that we consider that the amendments outlined above would not be within scope for inclusion in the Education Amendment Bill (No 2) currently being considered by the Education and Science Committee

p)

s 9(2)(f)(iv) OIA

s 9(2)(a) OIA

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Education Report: Tertiary Education Institutions as Sponsors of Partnership Schools

Purpose of report

1. This paper responds to your request for advice on the statutory amendments that would be needed to enable Tertiary Education Institutions (TEIs) to become sponsors of Partnership Schools | Kura Hourua ("Partnership Schools").

Background

2. The Government is implementing a new model of school in the education system [CAB Min (12)26/6 refers]. Partnership Schools are fully-funded schools outside the state system, focussed on delivering successful education outcomes for Māori, Pasifika, students with special education needs and students from low socio-economic backgrounds.
3. Partnership Schools have higher standards of accountability than state schools in return for certain operational freedoms. This includes a largely cashed-up funding system which provides them with funding similar to that provided to an equivalent state school.
4. Five Partnership Schools opened at the beginning of 2014. Applications for a second round of schools to open at the start of 2015 closed on 11 March 2014. Applications are undergoing a rigorous assessment process that identifies the strengths and weaknesses of each proposal. This will inform the advice to be provided to the Minister of Education in May 2014 by a statutory advisory body, the Authorisation Board, and the Ministry of Education.

Rationale for TEIs becoming sponsors of Partnership Schools

5. Partnership Schools have a focus on innovative education to lift achievement for priority learners. To do this, they need strong, capable sponsors with a vision and understanding of what will work to raise student achievement.
6. TEIs have the potential to be such sponsors. Many already have links to schooling through providing initial teacher education, teacher professional learning and development, secondary/tertiary programmes and research projects. Many also have long track records as capable educational managers with significant budgets and strong links with industry. Many academics within TEIs will be familiar with the latest educational research and theory.
7. The main risk is that a TEI could jeopardise its core business as a provider of tertiary education by being the sponsor of a Partnership School. The process of selecting and monitoring Partnership Schools and the processes around the monitoring of TEIs should ensure that this would not happen.

Why legislation is needed

8. TEIs are not specifically prevented by legislation from being sponsors of Partnership Schools. But, as is the case with all Crown Entities, they can only perform those functions that are authorised by statute¹.
9. Sections 192 and 193 of the Education Act 1989 set out the powers of TEIs and their councils respectively. In determining the scope of the powers under these sections, the TEI's functions must be ascertained by reference to section 162 of the Act, which defines the educational role or functional responsibilities that characterise each type of TEI (i.e. university, polytechnic or wānanga).
10. Those characteristics typically relate to continuing or higher education that is either vocational, research-based or specialised in nature (such as teacher training). By inference, this would exclude the control or management of a school, either as an integral part of the TEI or as a standalone entity. This reflects the historical separation between the different education sectors and the separate regulatory regimes in the Act for early childhood, schooling and tertiary education.

Recommended areas for legislative change

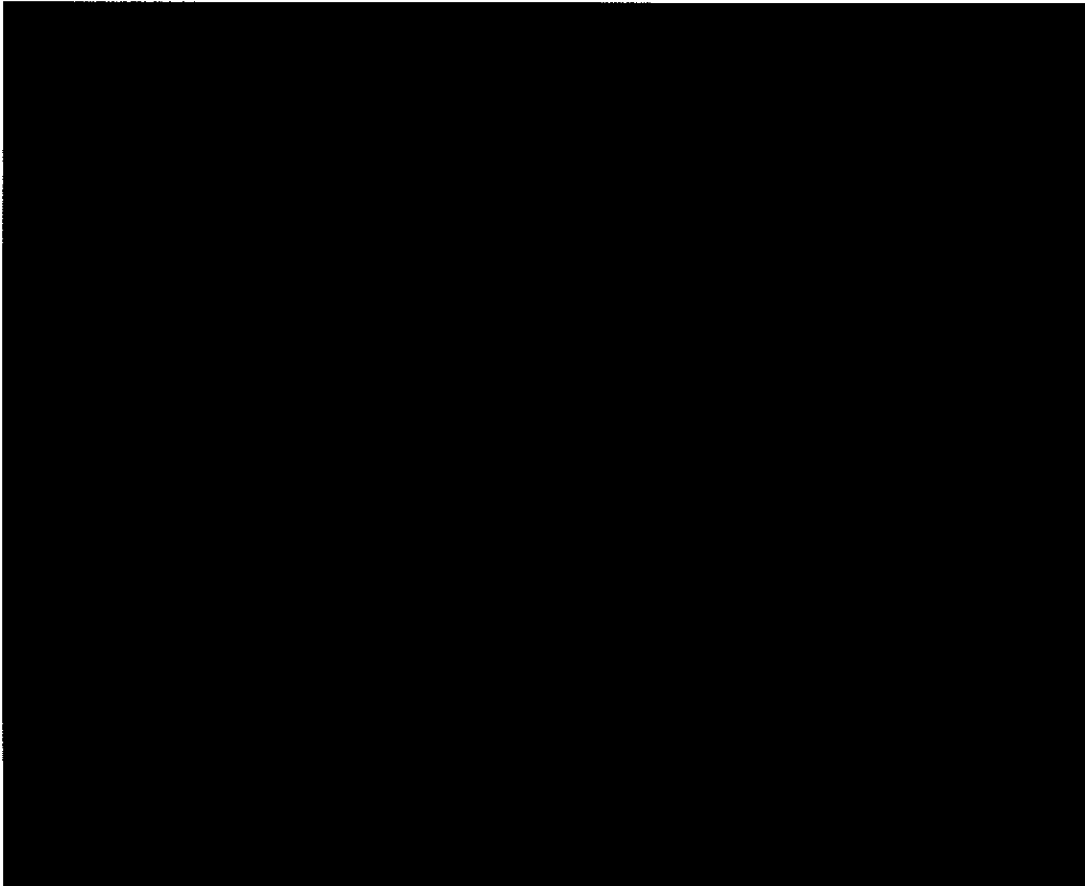
Managing the interface

11. To put beyond doubt the ability of TEIs to run a Partnership School, the Education Act 1989 should be amended to specifically allow TEIs to become sponsors of Partnership Schools. This would probably involve at least amendments to section 162 ("Establishment of institutions") and section 192 ("Powers of institutions") and section 193 ("Powers of Councils").
12. In addition to amendments enabling TEIs to become sponsors, amendments would also be needed to manage the interface between a TEI as a tertiary institution and as a sponsor of a Partnership School. The cleanest way to do this would be to provide that the law that relates to Partnership Schools applies to the TEI when it is acting as the sponsor of a Partnership School. Conversely, the Act may need to provide that a Partnership School that has an institution as its sponsor is not part of that institution for the purposes of the tertiary education provisions of the Education Act.
13. It may be advisable to have some specific clarification in respect of some key issues; for example, that enrolment at the school does not automatically confer the same rights on a student as enrolment at the TEI. The Parliamentary Counsel Office would be able to advise further on such amendments and the drafting of any consequential amendments.
14. There would need to be consequential amendments to the schedules to the Ombudsmen Act 1975 and the Official Information Act 1982 to reflect the different application of these Acts to TEIs when they are sponsors of Partnership Schools.

¹ Private Training Establishments can be sponsors of Partnership Schools as long as their instrument of incorporation allows this.

Related entities

15. It is highly likely that TEIs wishing to sponsor a Partnership School would set up some sort of related entity to do so. The sponsors of the existing Partnership Schools have set up separate legal entities for the school, as this separates the school's activities from other aspects of the sponsor's business or organisation.



s 9(2)(f)(iv) OIA, s 9(2)(g)(i) OIA

Next Steps

20. We consider that the range of amendments outlined above would not be within scope for inclusion in the Education Amendment Bill (No 2) currently being considered by the Education and Science Committee, as that Bill has no amendments relating to Partnership Schools. While it is amending constitutional arrangements for TEI councils, it is not amending sections relating to TEI functions.
[Redacted]
s 9(2)(f)(iv) OIA
21. The amendments would be controversial because they affect both Partnership Schools and the sections related to the functions and powers of TEIs. Any controversy would be heightened by inclusion of amendments after the Select Committee process.
s 9(2)(f)(iv) OIA
22. [Redacted]