



Briefing Note: Access to co-education for gender-diverse students

To:	Hon Chris Hipkins, Minister of Education		
Cc:	Hon Jan Tinetti, Associate Minister of Education		
Date:	22 December 2021	Priority:	Low
Security Level:	In Confidence	METIS No:	1276772
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Purpose of Paper

This paper responds to the advice you commissioned on access to co-education (co-ed) schooling for gender-diverse students.

Summary

- Earlier this year in their submission to the Ministry on proposals to change enrolment scheme balloting criteria, InsideOUT said that enrolment schemes are unfair because they are used to require gender-diverse and rainbow students to attend single-sex schools. You asked the Ministry to prepare advice on whether access to co-ed schooling for gender-diverse students is being restricted by enrolment schemes.
- We have identified four areas (Oamaru, Blenheim, Nelson, and Tauranga) where access to co-ed schooling is limited due to zoning or the local schooling network.
 - The zoning of Nayland College means that secondary students in central and north Nelson are zoned for only single-sex schooling options. However, the directed enrolment process allows gender-diverse students in these areas to access Nayland.
 - Blenheim does not have any co-ed state secondary schools. Students can attend Queen Charlotte College, a co-ed school in Picton, which is a 25-minute drive from Blenheim.
 - Oamaru has no co-ed state secondary schools. Awareness of gender-diverse students is increasing in Oamaru partially due to an increasing population of Pacific peoples. We understand that some gender-diverse students choose to attend St Kevin's College, a co-ed state-integrated secondary school in Oamaru.

- The recent zoning of Mount Maunganui College means that there are no state co-ed schools in the Tauranga district that do not have a zone. Accordingly, some secondary students in Tauranga city are zoned for only single-sex schooling options. However, the directed enrolment process allows gender-diverse students in these areas to access Mount Maunganui, Otumoetai or Papamoa Colleges. Students may also access co-ed education at the unzoned schools Te Puke High School and Katikati College which are both approximately a 35-minute drive from Tauranga.
- We consider that lack of access to co-ed schooling is limited to these areas and is not a widespread issue nationwide (89% of the total student population and 80% of the secondary student population attends co-ed schooling).
- We have heard concerns that the directed enrolment process may be distressing and difficult for rainbow students. In response, the Ministry has recently issued guidance to regional offices that a psychological assessment should not be requested for instances of directed enrolment relating to gender-diverse students. We will also issue guidance to clarify that the “disadvantage” required to be proven for a directed enrolment application is met by gender-diverse students who wish to attend a co-ed school because they consider it would be harmful to their mental health to attend a single-sex school.
- The Ministry will also seek to improve the operation of directed enrolment by issuing guidance to ensure that all parties are aware of their obligations under the process.
- We know that gender-diverse students do not always have positive education experiences, both in single-sex and co-ed schools. To support rainbow and gender-diverse ākonga inclusion more broadly, the Ministry provides guidance and curriculum materials. Support to schools is often provided on a case-by-case basis.

Proactive Release

Agree that the Ministry of Education release this briefing in full once it has been considered by you.

Agree Disagree

Ben O'Meara
Group Manager
Te Puna Kaupapahere | Policy

22/12/2021

Hon Chris Hipkins
Minister of Education

6/4/2022

Will the new approach only apply to gender diverse students or will it also be available to students who are gay? Many gay students find a coed environment more welcoming than a single sex one. CH

Background

1. In July 2021, we provided you with advice on the outcome of consultation on possible changes to the balloting criteria for out of zone enrolments (METIS 1264141 refers).
2. During consultation, we received a submission from InsideOUT,¹ which said that they are concerned that the current zoning and enrolment policies unintentionally force some gender-diverse students to enrol at single-sex schools, or schools that have not and are not likely to take steps towards making their schools safer for these students. These concerns were reiterated in their 7 September 2021 letter to you. A copy of InsideOUT's submission is attached as annex 1.
3. While the options for change for enrolment zone balloting were not progressed, you asked the Ministry to provide advice on access to co-ed schooling for gender-diverse students.

Access to co-ed schooling

4. Co-ed schooling is the norm in New Zealand with 2369 state and state-integrated co-ed schools, versus 98 single-sex schools. Only 11% of the total schooling population and 20% of secondary student's specifically attend single-sex schools². The Ministry has focused on constructing co-ed schools with the last single-sex state school constructed in 1961. In practice constructing a single co-ed campus is more cost effective than building more schools.
5. Schooling access is primarily restricted through enrolment schemes which limit guaranteed enrolment at a school to students who live within a specified geographic area and practical considerations like travel time.³
6. We have identified four areas in New Zealand where, due to these reasons, students are restricted to single-sex schooling options:
 - a. Nelson – the recent zoning of Nayland College means that students in central and north Nelson outside the zone can only access single-sex education at Nelson College or Nelson College for Girls.
 - b. Blenheim –has two single-sex secondary state schools (Marlborough Boys College and Marlborough Girls College). Neither of the secondary schools have enrolments schemes.
 - c. Oamaru – has two single-sex secondary state schools (Waitaki Boys High School and Waitaki Girls High School). It also has a co-ed state integrated Catholic school (St Kevin's College). Neither of the secondary schools have enrolment schemes.
 - d. Tauranga – there are no state co-ed secondary schools in the Tauranga district without a zone. Accordingly, some students in Tauranga city will only be zoned for the single-sex secondary schools (Tauranga Boys' and Tauranga Girls' Colleges).

¹ InsideOUT is a national organisation that works with youth, whānau, schools and communities to make Aotearoa a safer place for the rainbow and gender-diverse community.

² All state primary and intermediate schools are co-ed.

³ Ministry guidance is that travel time should not be more than 60 minutes by vehicle to a school.

Nelson

7. Gender-diverse students in Nelson who are zoned for only single-sex schools can use the directed enrolment process to enrol in Nayland College.⁴ 9(2)(a) [REDACTED]
8. 9(2)(g)(i) [REDACTED]
9. 9(2)(g)(i) [REDACTED]

Blenheim

10. The Ministry has not heard concerns of gender-diverse students being unable to access a co-ed school in Blenheim. Students in Blenheim who want to attend a co-ed school can currently enrol at Queen Charlotte College in Picton, which is a 25-minute drive from Blenheim. Queen Charlotte College is presently un-zoned so any domestic student can enrol there as a matter of right. 9(2)(f)(iv) [REDACTED]

Oamaru

11. There are no state co-ed secondary schools in Oamaru, with the nearest co-ed secondary schools being Waimate High School (35-minute drive from Oamaru) and East Otago High School (40-minute drive). Neither of these schools have enrolment schemes.
12. In part due to Oamaru's increasing Population of Pacific peoples, the number of students who have identities that do not match the western binary has increased. We understand that the majority of these students have enrolled at St Kevin's College, a co-ed state-integrated school in Oamaru. We have heard that St Kevin's has been very supportive of these students.

Tauranga

13. With the zoning of Mount Maunganui College in 2021, there are no state co-ed secondary schools in the Tauranga district without a zone.⁵ This means that some students in Tauranga city who may wish to attend a co-ed school will only be zoned for single-sex secondary schools (Tauranga Boy's and Tauranga Girls' Colleges).
14. We have not heard from any gender-diverse students that may be affected by this change at this point. 9(2)(a) [REDACTED]

⁴ Clause 14, schedule 20 of the Act allows the Secretary to direct the board of a state's school to enrol an applicant whose application for enrolment it has declined if satisfied that not giving the direction would be so disadvantageous to the applicant that overriding the enrolment scheme is justified.

⁵ Tauranga city also has the co-ed state-integrated schools Bethlehem College and Aquinas College.

15. Gender-diverse students in Tauranga City who are zoned for only single-sex schooling can seek a directed enrolment to zoned schools Otumoetai College or Mount Maunganui College. They may also seek a directed enrolment to Papamoa College which is further away from central Tauranga than Otumoetai or Mount Maunganui Colleges.
16. Alternatively, students who wish to attend co-ed schooling can enrol at Te Puke High School or Katikati College, neither of which operate an enrolment scheme and both are approximately a 35-minute drive from Tauranga.

Access to co-ed schooling is primarily caused by the schooling network

17. These regions show that lack of access to co-education is primarily caused by the local schooling network and has been exacerbated by the introduction of enrolment schemes where these are needed. In areas where enrolment schemes prevent gender-diverse students from attending a nearby co-ed school (as is the case in Nelson and Tauranga), existing mechanisms like directed enrolment can allow them to access the school.
18. Conversely, in situations where there are no nearby state co-ed schools (as with Oamaru), the current enrolment scheme policy settings have no bearing on access to co-ed schooling. In this situation students may seek access to co-ed schooling through state-integrated co-ed schools or state co-ed schools that are further away.
19. Given this, we do not believe there is a compelling case to amend our current enrolment scheme policies and legislation.

Operational improvements

20. However, the concerns about directed enrolment in Nelson indicate that operational improvements to ensure the process is fit for purpose are required. We consider that improved guidance to schools and regions to ensure that all parties are aware of their legislative obligations is an appropriate response.
21. We have also heard concerns that the process can be distressing to gender-diverse students. In response, the Ministry has taken steps to ensure that the directed enrolment process is a non-traumatising experience for gender-diverse students and their whanau. The Ministry's Te Pae Aronui (Operations and Integration) group has recently provided advice to regional Ministry offices to emphasise that a psychological assessment should not be requested for instances of directed enrolment relating to gender-diverse students, as it is inappropriate.⁶ A copy of this guidance is attached as annex 2.
22. The Ministry will also issue operational guidance to our regional offices clarifying that the evidentiary threshold of "disadvantage" to approve a directed enrolment is met if gender-diverse students who wish to attend a co-ed school advise us that it would be harmful to their mental health to attend a single-sex school.

⁶Health professional assessments may be requested (not required) in other circumstances to support an application for directed enrolment where the Ministry is taking care to ensure that moving a student from one school to another will not inadvertently do more harm than good. A health assessment can support their case by providing information on the disadvantage that the student would experience by staying at their in-zone school.

Gender-diverse experiences in school

23. While we don't believe that enrolment scheme policies need to be amended, we know about negative experiences of gender-diverse students in schooling more generally. Many requests for support that we receive from gender-diverse students and their whānau, including requests to move schools, come from students in co-ed school settings.
24. Gender-diverse students in New Zealand frequently report poor experiences in school. In a recent Youth19⁷ survey, 1% of students that took part identified as transgender or non-binary (a further 0.6% of all students reported they were not sure of their gender). Of the transgender and non-binary students surveyed, 70% said they felt part of their school compared with 87% of cisgender students. Students indicate low levels of support from and connection with their schools, including support from teachers and peers.⁸ We receive correspondence indicating that school policies and practices can prevent gender-diverse students from having their basic needs met (e.g. bathroom access) and engaging fully in education.

Workstreams to support rainbow students

25. Under the Education and Training Act 2020, a school's board is required to provide a safe environment for students and to ensure that their school is inclusive of, and caters for, students with differing needs (section 127(1)). School policies around transgender, intersex, and gender-diverse students should therefore aim to protect and promote the safety and inclusion of all students.
26. One of the National Education and Learning Priorities (NELP) is that schools are to be safe, inclusive, and free from racism and bullying. These priorities are design to protect all students, including gender-diverse students.
27. The Ministry has developed guidance and curriculum support for schools to follow in relation to Rainbow ākonga. Schools are encouraged and supported to utilise *Inclusive Education: Guide to LGBTIQA+ students*⁹ when creating a school-wide inclusive environment for young people, as well as *Relationships and Sexuality Education (Ministry of Education, 2020)*, a guide for teachers, leaders, and boards of trustees that focuses on consensual, healthy, and respectful relationships as being essential to student wellbeing¹⁰. The Ministry has a suite of supporting resources coming out early next year to support teaching & learning in relationships and sexuality education.
28. The Ministry has also recently supported InsideOUT to develop more comprehensive resources to support schools, including: *Creating Rainbow-Inclusive School Policies and Procedures*; *Making Schools Safer for Trans, Gender-diverse and Intersex Students*; and *Staff Supporting Rainbow Diversity Groups*. These resources were made available on the Inclusive Education guide website in November 2021. The Ministry of Education will continue to support schools to access and use these resources.

⁷ The Youth19 Survey is the latest of the Youth2000 series of health and wellbeing surveys conducted in the Auckland, Northland and Waikato regions by researchers from The university Auckland, Victoria University, AUT and the University of Otago.

⁸ https://countingourselves.nz/wp-content/uploads/2020/01/Counting-Ourselves_Report-Dec-19-Online.pdf

⁹ <https://inclusive.tki.org.nz/guides/supporting-lgbtqa-students/>

¹⁰ <https://health.tki.org.nz/Teaching-in-Health-and-Physical-Education-HPE/Policy-Guidelines/Relationships-and-Sexuality-Education>

29. The guidance we have provided tends to focus on best practice. The guides are not mandatory for schools to implement, and it is up to each school to determine how to implement the guidance.
30. We are preparing further advice on Rainbow-learner inclusion at state-integrated schools. We recently provided initial advice on the Government response to the inquiry into changes proposed Supplementary Order Paper (SOP) 59 on the Births, Deaths, Marriages and Relationships Registration Bill, including a recommendation that the Ministry of Education provide inclusive advice to schools [METIS 1278028 refers]. Our proposed response describes the recent detailed guidance developed by InsideOUT with support from the Ministry of Education.

Annexes *(attached separately)*

- Annex 1: InsideOUT submission - Proposed changes to priority categories for school enrolment schemes
- Annex 2: Guidance to regional offices

15 June 2021

Re: Proposed changes to priority categories for school enrolment schemes

Tēnā koe,

I am writing on behalf of InsideOUT Kōaro, a national organisation working to create safer schools and communities for rainbow young people in Aotearoa.

InsideOUT Kōaro expresses our support for the Ministry of Education's proposal to amend the out-of-zone priority categories in school enrolment schemes as currently outlined in the Education and Training Act 2020. We support Option 3 provided in the discussion document (Appendix 2), and would like to see this option progressed in the best interests of transgender and gender diverse young people and their whānau.

We are aware that the current enrolment scheme, though unintentionally, forces many trans and gender diverse ākonga and their whānau to enrol at a single-sex school, or a school that is not aware nor supportive of trans and gender diverse learners' needs. We therefore believe that reducing priorities based on family legacy, and increasing the number of applicants through an open ballot, would increase trans and gender diverse learners' access to affirming and co-educational schools.

Transgender and gender diverse young people, who make up between 1-3.5% of Aotearoa's youth population,¹ generally experience higher rates of bullying and discrimination at school and a lack of safe spaces such as gender-neutral toilets and uniforms.² Further, trans and non-binary people in Aotearoa experiences significantly higher rates of mental distress than the general population³ due to stigma and lack of understanding around gender diversity.

In our experience, having limited or no option to attend a co-educational or supportive school can cause heightened anxiety and distress among young people we have worked with, who often experience misgendering⁴ or discrimination in gendered or unsupportive environments. Considering the well-documented impacts minority stress can have on students' engagement and sense of belonging at school,⁵ the lack of safe learning environments can lead to compromised educational outcomes among this ākonga group.

¹ These statistics combine results from the Youth19 and Youth12 surveys, in which around 8,000 students participated in each survey. Reports are available at <https://www.youth19.ac.nz/>

² For example, according to *Counting Ourselves* (Veale et al., 2019), over half of youth participants (59%) disagreed that it is safe for trans and gender diverse students in their school to use a toilet or changing room that matches their gender.

³ Veale, J., et al. (2019). *Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand*. Transgender Health Research Lab, University of Waikato: Hamilton NZ. Retrieved from <https://countingourselves.nz>

⁴ Misgendering is the act of referring to someone as the incorrect gender. It can be unintentional, but can be done on purpose to discriminate against a trans or gender diverse person.

⁵ A recent study of sexually diverse students (Fenaughty et al., 2019) found a correlation between students' increased sense of belonging and self-reported positive educational outcomes.

While we acknowledge that Option 3 may not guarantee enrolment for disadvantaged students, we strongly believe this option is a step in the right direction to increasing trans and non-binary students' access to safe and affirming schools, by at least increasing the number of young people and whānau able to apply. Further, we would hope that the risk of misuse that may result from Option 3 (as outlined in the discussion document) would not be grounds to deny disadvantaged students access to apply for enrolment at safer schools.

We also wish to express our support for the a related petition , which is currently open, calling for amendments to Schedule 20 (2) of the Education and Training Act 2020 “to allow trans and non-binary students access to a co-educational school when their only in-zone school options are single sex.”⁶ In light of the growing awareness on this issue, we ask that the Ministry considers explicitly naming trans and gender diverse students, alongside other disadvantaged ākonga groups, when reviewing the Education and Training Act to create accountability for addressing each groups' unique learning needs.

These requests align with Objective 2 of the National Education Learning Priorities, to “reduce barriers to education for all, including Māori and Pacific learners/ākonga, disabled learners/ākonga, and those with learning support needs”.⁷ Trans and gender diverse ākonga, too, have the right to barrier-free learning, and we hope that you consider the impacts of your decisions on trans and gender diverse young people when reviewing the priority categories.

Thank you for considering our submission in favour of amending the priority categories in the Education and Training Act 2020, and progressing with Option 3. We look forward to hearing from you, and please do not hesitate to contact us for more information.

Nāku noa, nā

A handwritten signature in black ink that reads "Alex Ker". The signature is written in a cursive, flowing style.

Alex Ker, on behalf of InsideOUT Kōaro

⁶ https://www.parliament.nz/en/pb/petitions/document/PET_111278/petition-of-lilith-wiegand-enable-gender-diverse-students

⁷ <https://www.education.govt.nz/our-work/overall-strategies-and-policies/the-statement-of-national-education-and-learning-priorities-nelp-and-the-tertiary-education-strategy-tes/>

Directed Enrolment for Transgender and Non-Binary Young People

Schedule 20, clause 14 of the Education and Training Act 2020 (formerly section 11P) allows for the directed enrolment of a student to a school that they are not in zone to attend. In particular it allows for directed enrolment of a student who would be significantly disadvantaged if they are not able to enrol at a school for which they are not in zone.

The Act states this provision is for exceptional cases only. For most applications we say we need a medical professional's report (eg from a psychologist) that indicates the level of disadvantage the student would be under should they not gain a place at the school they want to attend.

While all school boards are required to provide a safe environment for students and to ensure that their school is inclusive of, and caters for students with differing needs, we have a growing number of cases of transgender and non-binary young people who are in zone for a single sex school and seeking directed enrolment to a co-educational school because their local school and its culture do not support the young person's identity.

While we may request a health professional assessment, a psychologist's report is not required in this situation. Being transgender or non-binary is not a psychological condition that can be overcome, it is who they are. Information about the disadvantage that the student would experience by staying at their in-zone school may be determined by talking with the school or a report from a school counsellor etc.

In this situation a directed enrolment is appropriate where the culture, policies and practices of the student's current school results in the student being disadvantaged because they are transgender or non-binary. Our processes need to determine the best school for the student that will support their identity.

We are updating our service guidance to ensure this advice is provided consistently.