

Cabinet Paper material

Proactive release

Minister & portfolio	Hon Erica Stanford, Minister of Education
Name of package	Education (School Boards) Amendment Regulations 2023 – Banning Cell phones in Schools
Date considered	18 December 2023
Date of release	27 February 2024

These documents have been proactively released:

Cabinet Paper: Education (School Boards) Amendment Regulations 2023

Date considered: 18 December 2023

Author: Office of the Minister of Education

Cabinet Minute CAB-23-MIN-0357

Date considered: 18 December 2023

Author: Secretary of the Cabinet

Briefing Note 1319218: Banning cell phones in schools

Date considered: 29 November 2023

Author: Ministry of Education

Briefing Note 1320201

Date considered: 12 December 2023

Author: Ministry of Education

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Education (School Boards) Amendment Regulations 2023

Portfolio

Education

On 18 December 2023, Cabinet:

- 1 **noted** that on 11 December 2023, Cabinet agreed to the creation of regulations to make the *Away for the Day* cell phones policy a requirement in schools [CAB-23-MIN-0483];
- 2 **noted** that the Education (School Boards) Amendment Regulations 2023 gives effect to the decision referred to in paragraph 1 above;
- 3 **authorised** the submission to the Executive Council of the Education (School Boards) Amendment Regulations 2023 [PCO 26020/3.0];
- 4 **noted** that the Education (School Boards) Amendment Regulations 2023 come into force on 18 January 2024.

Rachel Hayward
Secretary of the Cabinet

In Confidence

Office of the Minister of Education

Chair, Cabinet

Education (School Boards) Amendment Regulations 2023

Proposal

- 1 I seek Cabinet agreement to submit the Education (School Boards) Amendment Regulations 2023 (the Regulation) to the Executive Council for approval. The Regulation will give effect to the Government's 100 Day Plan commitment to restrict cell phone use in schools through the Education and Training Act 2020 (the Act).

Policy

- 2 As part of the 100-day Plan, this Government intends to require cell phones to be kept away throughout the day in all schools to reduce distractions and improve student achievement.
- 3 Some New Zealand schools already restrict cell phone use by setting rules under section 126 of the Act. On 11 December, Cabinet agreed to the creation of regulations under section 638 of the Act which will require all schools to set similar rules, an *Away for the Day* policy [CAB-23-MIN-0483 refers].
- 4 School Boards will be responsible for establishing rules related to the implementation of the policy and practical arrangements within their respective schools. This will involve making amendments to their by-laws. They will make exemptions to the policy for educational purposes, to support students with health and/or learning needs, and in special circumstances for limited individual cases that principals judge access to a cell phone to be necessary.
- 5 Schools will implement and enforce the policy using their usual behaviour management and disciplinary systems. The Education Review Office (ERO) will monitor and report on schools' compliance with the requirement.
- 6 I expect that schools will start implementing *Away for the Day* policies from the start of next year. Schools are required to consult with their communities on their rules before introducing new rules.

Timing and 28-day rule

- 7 I recommend that the regulations come into force on 18 January 2024, 28 days after publication in the Gazette, given that I am not seeking a waiver of the 28-day rule. This ensures that schools have time to get started on the

preparation and consultation needed before implementation. The regulations require all schools to have rules in place by the first day of Term 2 (29 April 2024).

- 8 The Ministry of Education intends to notify schools as soon as practicable of the regulations.

Compliance

- 9 These regulations comply with each of the following:
- 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the principles and guidelines set out in the Privacy Act 2020;
 - 9.3 relevant international standards and obligations;
 - 9.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 10 Also, the regulations engage the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993, but this engagement is within justified limits.

Regulations Review Committee

- 11 There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 12 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Regulatory Impact Analysis

- 13 A Regulatory Impact Assessment (RIA) was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval was sought of the policy relating to the regulations [CAB-23-MIN-0483].

Publicity

- 14 I expect there will continue to be significant interest in the Away for the Day policy about cell phone use in school classes and intend to publicly announce the policy by the end of the year.
- 15 I intend to announce this policy and supporting regulation following Cabinet decisions. There will be a media release to schools on 18 December 2023 along with the other 100-Day commitments involving schools.

Proactive release

- 16 I intend to release the material within this Cabinet paper within 30 days after decisions have been made by Cabinet, subject to any redactions as appropriate under the Official Information Act 1982.

Consultation

- 17 Given the short timeframes, we did not provide the paper for any agency consultation for this Cabinet paper.
- 18 There was also insufficient time to undertake Ministerial consultation for this Cabinet paper.

Recommendations

- 19 I recommend that the Cabinet committee:
- 1 **note** that on 11 December 2023 Cabinet agreed to the creation of regulations to make the Away for the Day cell phones policy a requirement in schools [CAB-23-MIN-0483];
 - 2 **note** that the Education (School Boards) Amendment Regulations 2023 will give effect to the decision referred to in recommendation 1 above;
 - 3 **authorise** the submission to the Executive Council of the Education (School Boards) Amendment Regulations 2023;
 - 4 **note** that the Education (School Boards) Amendment Regulations 2023 come into force on 18 January 2024.

Authorised for lodgement

Hon Erica Stanford

Minister of Education

Education (School Boards) Amendment Regulations 2023

Governor-General

Order in Council

At Wellington this day of 2023

Present:
in Council

These regulations are made under section 638 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal regulations	2
4	New Part 1 heading inserted	2
Part 1		
Preliminary provisions		
5	Cross-heading above regulation 4 revoked	2
6	New Part 2 heading inserted	2
Part 2		
Powers of boards		
7	Cross-heading above regulation 5 revoked	2
8	New Part 3 heading inserted	2
Part 3		
Procedure of boards		
9	Cross-heading above regulation 10 revoked	3
10	New Part 4 heading inserted	3

**Education (School Boards) Amendment Regulations
2023**

r 1

Part 4		
Duties of boards		
11	Cross-heading above regulation 20 revoked	3
12	Cross-heading above regulation 21 revoked	3
13	New regulation 22 inserted (Duty to prohibit the use or access of mobile phones)	3
22	Duty to prohibit the use or access of mobile phones	3

Regulations

- 1 Title**
These regulations are the Education (School Boards) Amendment Regulations 2023.
- 2 Commencement**
These regulations come into force on 18 January 2024.
- 3 Principal regulations**
These regulations amend the Education (School Boards) Regulations 2020.
- 4 New Part 1 heading inserted**
After regulation 2, insert:

Part 1
Preliminary provisions

- 5 Cross-heading above regulation 4 revoked**
Revoke the cross-heading above regulation 4.
- 6 New Part 2 heading inserted**
After regulation 4, insert:

Part 2
Powers of boards

- 7 Cross-heading above regulation 5 revoked**
Revoke the cross-heading above regulation 5.
- 8 New Part 3 heading inserted**
After regulation 9, insert:

Part 3

Procedure of boards

9 Cross-heading above regulation 10 revoked

Revoke the cross-heading above regulation 10.

10 New Part 4 heading inserted

After regulation 19, insert:

Part 4

Duties of boards

11 Cross-heading above regulation 20 revoked

Revoke the cross-heading above regulation 20.

12 Cross-heading above regulation 21 revoked

Revoke the cross-heading above regulation 21.

13 New regulation 22 inserted (Duty to prohibit the use or access of mobile phones)

After regulation 21, insert:

22 Duty to prohibit the use or access of mobile phones

- (1) The board of a State school (other than Te Aho o Te Kura Pounamu) must prohibit students from using or accessing mobile phones at all times while they are attending school.
- (2) The board may do anything within its powers that it thinks is necessary or desirable to implement the prohibition.
- (3) However, the board must ensure that the prohibition does not apply to a student to the extent that—
 - (a) the board is satisfied that the student needs to use or access a mobile phone—
 - (i) for a purpose connected with the student's health; or
 - (ii) for the purpose of assisting the student in connection with any disability or learning support need; or
 - (b) a registered teacher determines that the student needs to use or access a mobile phone for a specific educational task or purpose; or
 - (c) the principal determines that there are special circumstances that make it necessary for the student to use or access a mobile phone (for example, the student is a teenage parent).

- (4) The board must ensure that the prohibition takes effect no later than 29 April 2024.

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 18 January 2024, amend the Education (School Boards) Regulations 2020 (the **principal regulations**).

The regulations insert into the principal regulations *new regulation 22*, which imposes a duty on boards of State schools (other than Te Aho o Te Kura Pounamu) to prohibit students from using or accessing mobile phones at all times while they are attending school. The prohibition will also apply to students of the school who are undertaking courses of education, gaining work experience, or making visits outside the school premises (by virtue of section 53(2) of the Education and Training Act 2020 (the **Act**)).

New regulation 22 provides that the prohibition must take effect no later than 29 April 2024 and that the board may do anything within its powers that it thinks is necessary or desirable to implement the prohibition (for example, the board may make bylaws under section 126 of the Act).

However, *new regulation 22* also requires the board to ensure that the prohibition does not apply to a student to the extent that the board is satisfied that the student needs to use or access a mobile phone—

- for a purpose connected with the student's health (for example, to monitor insulin levels); or
- for the purpose of assisting the student in connection with a disability or learning support need (for example, to assist with impaired communication).

New regulation 22 also requires the board to ensure that the prohibition does not apply to a student to the extent that—

- a registered teacher determines that the student needs to use or access a mobile phone for a specific educational task or purpose (for example, for a class assignment); or
- the principal of the school determines that there are special circumstances that make it necessary for the student to use or access a mobile phone (for example, the student is a teenage parent).

The regulations also divide the principal regulations into Parts and remove cross-headings that are no longer needed.

Regulatory impact statement

The Ministry of Education produced a regulatory impact statement on 1 December 2023 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.education.govt.nz/our-work/information-releases/advice-seen-by-our-ministers/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.



Advice: Banning cell phones in schools

To:	Hon Erica Stanford, Minister of Education		
Cc:			
Date:	26/11/2023	Priority:	Low / Medium / High
Security Level:	In Confidence	METIS No:	1319218
Drafter:	Pam McLean	DDI:	
Key Contact:	Jennifer Fraser	DDI:	9(2)(a)
Messaging seen by Communications team:	Yes / No	Round Robin:	Yes / No

Purpose

- This briefing provides advice on the commitment to ban student use of cell phones in schools.
- It outlines the work needed to establish this ban and seeks your feedback on some key aspects needed to implement the ban.

Summary

1. The commitment to ban cell phone use at schools is part of National's 100 Day Action Plan. The purpose is to help lift achievement by reducing the amount of distraction students have through the use of cell phones in class.
2. Some schools already ban cell phones. From our enquiries with schools, there is general support for restrictions on student use of cell phones but there are mixed views on whether it should be a mandatory ban. There are also mixed views on whether the ban should apply to the whole day, or just during class time. We understand that many schools already have bans applying to class time.
3. To mandate the ban regulations will be needed. Schools will be able to make practical arrangements on how to implement and enforce the ban through making their own rules. They will need to decide how to manage the ban (for example, how cell phones are stored, the ban is enforced and any exemptions).
4. To develop the regulatory framework for the ban, we seek your decisions on:
 - a. The scope of the ban – to confirm it applies to State schools and cell phones only;
 - b. Whether the ban applies just during class time or to the whole school day;
 - c. The appropriate regulatory framework – we recommend the ban is made mandatory through regulations made under section 638 of the Education and Training Act 2020 (Act) with schools able to make practical arrangements through rules made under section 126; and
 - d. The timing of implementing the mandatory ban – the ban could start from Term 2 2024 although this would require permission from the Attorney-General for the Parliamentary Counsel Office to draft the regulations ahead of policy approvals, and Cabinet availability for the necessary approvals..

5. The Ministry will provide further advice on other areas outlined in this briefing and other aspects as you request, following your feedback on these initial decisions.

Recommendations

The Ministry of Education recommends that you:

- a. **agree** to the creation of a regulation under s 638 of the Education and Training Act 2020 to institute a ban on student use of cell phones in schools with schools able to make rule on the practical arrangements for how to implement and enforce the ban
Agree / Disagree
- b. **agree** the ban should apply to student use of cell phones only
Agree / Disagree
- c. **agree** the ban should apply to the whole school day, including breaks
Agree / Disagree
- d. **agree** that the ban should apply to all State and State-integrated schools,
Agree / Disagree
- e. **agree** that the ban will be enforced by schools' usual behaviour management and disciplinary regime
Agree / Disagree
- f. **agree** that the ban will come into force from the beginning of Term 2 2024 (29 April 2024)
Agree / Disagree
- g. **agree** that Te Aho o Te Kura Pounamu (the correspondence school) is exempt from the ban
Agree / Disagree
- h. **agree** that the following exemptions to the ban are included in the regulation:
- i. where cell phones are to be used in class for an educational purpose as part of a student's schoolwork; and
 - ii. where students need to use their cell phone for a health purpose (e.g. monitoring a health condition as part of a school-approved health care plan); and
 - iii. where students with learning support needs are aided by cell phones (e.g. assisting with a learning programme);
Agree / Disagree
- i. **agree** that School Boards are responsible for making rules related to the implementation of the ban within school contexts, in keeping with their responsibilities under s 126 of the Education and Training Act 2020, and may make exemptions to the ban for the following reasons
- i. Special circumstances like emergencies

- ii. students in a particular unit within their school (e.g. teen parent units) as decided by schools;

Agree / Disagree

- j. **note** the draft letter for you to send to the Attorney-General if you wish to seek approval for the Parliamentary Counsel Office to begin drafting the regulations ahead of policy approvals, in order to progress regulations before Christmas, attached as Annex One

Noted

- k. **note** that the Ministry recommends engaging with Te Rūnanga Nui o nga Kura Kaupapa Māori, and Ngā Kura-a-Iwi, the Kaupapa Māori education schooling peak bodies, on the approach to banning cell phones in kura, however this is not possible in the timeframe.

Noted

- l. **note** the Education Review Office will monitor compliance of schools with the proposed ban, and has advised you separately on this

Noted

Proactive release recommendation

- m. **agree** that the Ministry of Education release this report in full once Cabinet's decision has been made

Agree / Disagree

Andy Jackson
Hautu
Te Pou Kaupapahere

__/__/__


Hon Erica Stanford
Minister of Education

29/11/2023



Background

1. The commitment to ban the use of cell phones at schools is part of your Government's 100 Day Action Plan. It aims to help lift achievement by reducing the amount of distraction students have through the use of cell phones in class.
2. According to the National Party's manifesto proposal:
 - a. the ban will apply to all schools - primary, intermediate, and secondary;
 - b. the presumption is that cell phones are off and away all day, including during breaks between class;
 - c. the ban will be implemented via regulations;
 - d. schools will be able to decide on how to practically enforce the ban;
 - e. cell phones can only be used in class for an educational purpose that is part of a student's schoolwork;
 - f. students who need their cell phone for health purposes will be granted an exemption to the ban;
 - g. students with learning challenges, who are aided by cell phones, will be granted an exemption to the ban; and
 - h. the Education Review Office will check that schools are complying with the ban.

Some schools already ban cell phones

3. Schools can already ban cell phones and some do. They have this power to make bans under section 126 of the Education and Training Act 2020 (the Act) which allows a board to make bylaws (or rules) it thinks are necessary or desirable for the control and management of the school.
4. From public information available on school websites and initial enquiries, we know that:
 - a. most schools require students to keep their phones out of sight during class time;
 - b. schools that have a ban include:
 - i. 52 schools in the Te Tai Runga (Southern) area
 - ii. 12 schools in the Te Tai Whenua (Central) area
 - iii. 17 schools in the Te Tai Raro (Northern) area
 - c. the majority of schools with bans are secondary schools;
 - d. some schools ban cell phones during the whole day and others restrict the use of cell phones during class time;
 - e. some schools ban phones for junior students but use a trust model for senior students to self-manage;
 - f. schools that have bans enforce the bans through positive behaviour strategies and the usual disciplinary processes, with the level of enforcement varying;
 - g. schools use cell phones for educational purposes such as in music class and learners with extra learning needs using their phones to help with their learning;
 - h. schools that have bans report it has positive impacts including better engagement for learning, better social engagement, and fewer instances of bullying during break times;



- i. there are logistical challenges for schools needing to implement the ban (i.e., how to store the cell phones).
5. We understand there is concern from some parents who want their children to have access to their phone if there is an emergency.
6. We will continue to engage with schools and interest groups to better understand the current situation, and any concerns about having a mandatory ban. Although we anticipate a ban will be relatively straight forward for most schools, some have indicated that they will need support in implementing it because students and their families and whānau may not be supportive.

Many overseas jurisdictions have similar mandatory or voluntary bans

7. Many overseas jurisdictions restrict the use of cell phones in schools. Most Australian jurisdictions that restrict use allow schools to determine how cell phones and other devices such as wearable devices are stored during the day. For example, Queensland is starting a mandatory ban in Term 1, 2024. This will apply to mobile phones and wearable technology like smartwatches. School principals will have flexibility to determine how mobile phones and wearable devices are stored during the day and will be able to make reasonable adjustments for students with disability or learning difficulties, medical needs, those experiencing trauma, and where use of a personal device is approved to support student learning.

Purpose of the ban

8. The main purpose of having a mandatory ban is to help lift achievement by eliminating unnecessary disturbances and distractions. Schools in New Zealand and overseas have reported positive outcomes from banning cell phones including improved student engagement.
9. There are a number of overseas studies that have found bans of cell phones and other devices improve students' participation in classroom activities and learning with the lowest-achieving students having the most to gain.¹ The level of success depends on the scope of the ban and how it is enforced, including whether or not students find alternative ways to access technology.²
10. Some jurisdictions that have banned cell phones also report the ban has a noticeably positive effect on the level of bullying in schools.

A mandatory ban requires legislation

11. To make a cell phone ban mandatory there will need to be regulations made under section 638 of the Act. Section 638 enables regulations to be made for "control, management, organisation, conduct, and administration of schools". The regulations would establish the ban and provide for key components such as exemptions.
12. Schools would still need to make rules under section 126 for the practical arrangements. This section requires schools to consult with staff, students and the school community before making a rule.

¹ For example, the UNESCO report: "Technology in education: a tool on whose terms" (2023) is available at unesdoc.unesco.org/ark:/48223/pf0000385723/PDF/385723eng.pdf.multi; and a review by New South Wales Government on the non-educational use of mobile devices in NSW schools [Review into the non-educational use of mobile devices in NSW schools – report](#).

² A 2020 Swedish study examined high school students marks before and after a year-long mobile phone ban and found it had no impact. This was due to students finding alternative ways to access their phones during class times such as using smartwatches or earphones: Kessel, D., Hardardottir, H.L. and Tyrefors, B. (2020), "The impact of banning mobile phones in Swedish secondary schools", *Economics of Education Review*, Vol. 77, p. 102009.

The ban can be in place in most schools by Term 2 if made urgently

13. The ban could start from Term 2 2024 although this would require priority given by your office and Cabinet for the necessary approvals prior to the start of Term 1 2024.
14. If you wish to progress with urgency then the first priority is for your office to secure a date for Cabinet policy approvals. This could be done during December and we can supply you with a draft Cabinet paper based on the decisions you take in response to this paper.
15. You would also need to seek agreement from the Attorney-General for Parliamentary Counsel Office to commence drafting the regulations ahead of Cabinet policy approvals. We can supply you with a letter to this effect. Once we have an agreed date for regulations to go to Cabinet Legislation Committee (or Cabinet if prior to Christmas), then we can finalise the timetable for implementation.
16. We have attached a draft letter to the Attorney-General for you to send, if you want to seek approval for PCO to begin drafting the regulations ahead of policy approvals (see Annex One).
17. Schools would then need to consult on and issue policies during term 1. During this time the Ministry would develop supporting material and engage with schools, for example through webinars. Term 2 starts on 29 April 2024. We expect that most schools would have been able to issue updated policies by this date.
18. Regulations usually take about nine to twelve months to make which includes time for public consultation. In normal circumstances we recommend engagement with the sector, students and whānau to test that the proposed approach is workable and getting support for the ban. There is some risk that by not consulting or engaging with the sector on the regulations, we do not have the opportunity to test their workability in practice, or they do not have the intended consequences. An alternative approach would allow sector engagement, and see the ban implemented by Term 3.

A pragmatic regulatory regime

19. You have proposed a regulatory regime with schools able to decide on the practical arrangements on how to enforce the ban. The key elements of the ban need to be in the regulations to make the ban mandatory and consistent across schools.
20. We would like to discuss with you the following division between what is in the regulations and the rules:

Regulations	Rules made by schools
Establishes a mandatory ban	
The ban applies to all State schools, including primary, intermediate, composite and secondary schools Exemptions for some types of schools such as Te Kura, a distance education provider	
The ban applies to student use of cell phones	Rules on how cell phones are managed (e.g., must be kept out of sight in bags, or stored in locations such as pouches on the wall)
The ban applies during the entire school day while students are on school premises	Rules for student use of cell phones while on school activities offsite

<p>Schools can grant exemptions, including but not limited to</p> <ul style="list-style-type: none"> ○ students who need to use their cell phone for a health purpose ○ students with learning needs, who are aided by cell phones ○ use of cell phones for educational purposes 	<p>Rules on exemptions (including exemptions relevant to their circumstances such as being a teen parent or when cell phones are needed for a student's schoolwork)</p> <p>Rule on how exemptions are applied for and granted.</p>
---	--

21. As the proposal is for schools to decide how to practically enforce the ban, we recommend using schools' usual behaviour management and disciplinary regimes, rather than introducing specific disciplinary actions for the ban.

Matters that need to be clarified

22. There are some matters that we will need to discuss with you.

Who the ban applies to

23. The manifesto proposal is to ban cell phones in all schools, including primary, intermediate and secondary. We have interpreted this to include State and State-integrated schools and not private schools. This is consistent with practice in international jurisdictions, where private schools are often excluded from mandatory bans. Students in private schools are similarly impacted by cell phones, but it is not usual for the Government to regulate private schools in this way.
24. There may need to be some exemptions for having such a broad ban. For example, the ban would not make sense for Te Kura, which is a state school that relies on distance education. It may also be difficult for some types of units or services, such as teen parent units, where other considerations may apply (such as students having parenting duties). We propose the regulations provide exemptions for a type of school, but schools are able to make exemptions for students in particular unit within their school (such as a teen parent unit).
25. In view of recent (and live) Treaty claims by kura kaupapa Māori (e.g., Wai 1718), we recommend engaging with Te Rūnanga Nui o nga Kura Kaupapa Māori, and Ngā Kura-a-Iwi, the kaupapa Māori education schooling peak bodies, on the approach they may wish to take to the Government's intent of supporting achievement through banning cell phones in kura.

What the ban applies to

26. The manifesto proposal is to ban cell phones only. Some overseas jurisdictions that have a mandatory ban on cell phones include other devices as well, such as smartwatches, tablets, and/or laptops. Other jurisdictions have bans that apply to cell phones only.
27. There is a risk of reducing the effectiveness of the ban if other personal devices are not also included. While we recommend laptops and tablets should remain outside the scope of this ban, we would like to discuss whether other wearable devices such as watches should be included.

When and where the ban applies

28. The manifesto proposal is to ban cell phones for the entire school day, including breaks and lunch time. We would like to discuss this with you.

29. According to overseas studies and evidence, requiring students to keep their phones away for the entire school day is both more manageable and enforceable in comparison to restricting the ban to class time only.

Exemptions

30. The manifesto proposal is for the following exemptions:
- a. cell phones can be used in class for an educational purpose that is part of a student's schoolwork
 - b. students who need to use their cell phone for a health purpose (for example, to monitor a health condition as part of a school-approved health care plan); and
 - c. students with learning challenges, who are aided by cell phones (for example, to assist with a learning programme).
31. We propose the exemptions should be signalled in the regulations with schools able to make rules on the exemptions that suit their circumstances and determine the process for how exemptions are applied for and granted. The Ministry can support schools on this.

How the ban will be enforced and monitored

32. Schools that currently ban cell phones use the usual school disciplinary regime to implement the ban in addition to using positive behaviour strategies on the use of digital technology. If a student refuses to comply with the rules, a school can undertake disciplinary actions which could range from confiscating phones at one end to stand-down or suspension at the most extreme end.
33. The manifesto proposal is for schools to be able to decide how to enforce the ban. This suggests the usual disciplinary regime is appropriate, rather than introducing specific disciplinary actions for students.
34. There will need to be some way to monitor whether schools are implementing the ban. The purpose is to ensure schools are implementing the ban as well as assess its effectiveness. The proposal is for the Education Review Office (ERO) to monitor compliance with the ban.
35. ERO has suggested that they could require schools to attest compliance with the cell phone ban through the Board Assurance Statement. ERO will provide you with further advice on how they could monitor compliance.

Communication

36. Initial media attention has shown the proposal to ban cell phones in schools will generate significant interest. Continued clear communication with the public and the education sector will therefore be important. The main aims will include explaining the purpose of the ban, dispelling any myths, and encouraging schools to start considering how they would implement the ban including by sharing current and good practice.
37. We will develop a plan pending your decision on some of the ideas for discussion in this paper.

Financial implications

38. The proposal to ban cell phones in schools should not require any funding from the Government but could generate costs for schools, such as the provision of designated places for devices and increased insurance costs. This will depend on the practical arrangements schools make to manage cell phones. There may also be cost in terms of staff time in managing cell phones, depending on how schools implement the ban.

Schools could draw on the experience of others already implementing similar policies to decide a cost-effective and practical approach to this.

39. Any financial costs need to be balanced against the time already taken by teachers to manage the problem now.

Annexes

Annex One: Draft letter to the Attorney-General (attached separately)

Hon Judith Collins
Attorney-General

Judith.Collins@parliament.govt.nz

Dear Judith

Approval for drafting by Parliamentary Counsel Office before policy approved by Cabinet

As you will know, our government has committed to banning cellphones in schools.

To make a cell phone ban mandatory there will need to be regulations made under section 638 of the Act. Section 638 enables regulations to be made for "control, management, organisation, conduct, and administration of schools". The regulations would establish the ban and provide for key components such as exemptions.

I am intending to take regulations to Executive Council before Christmas. The need for urgency is because the proposed ban is in the 100 day plan and will be important for schools to implement early next year (in Term 2 2024) with the purpose of reducing student distraction and improving student wellbeing and achievement.

I am seeking your approval for the Parliamentary Counsel Office (PCO) to begin drafting the regulations prior to final policy approvals by Cabinet expected on 11 December. The drafting will not be significantly in advance of policy decisions, and will occur in parallel to preparation of the Cabinet paper on the policy decisions. This will avoid the risk of drafting being misaligned with the Cabinet policy decision process.

Provided you agree, Ministry of Education officials will instruct PCO on the proposed regulations.

I look forward to your response.

Yours sincerely



Hon Erica Stanford
Minister of Education



Briefing Note: Draft 'Away for the Day' Policy Regulations under the Education and Training Act 2020

To:	Hon Erica Stanford, Minister of Education		
Date:	12 December 2023	Priority:	High
Security Level:	In-Confidence	METIS No:	1320201
Drafter:	Lawrence Gao	DDI:	
Key Contact:	Clare Old	DDI:	9(2)(a) [REDACTED]
Seen by the Communications Team:	Yes	Round Robin:	No

Purpose of Briefing

The paper seeks your agreement to lodge the Cabinet paper *Education (School Boards) Amendment Regulations 2023*, for consideration at Cabinet on 18 December 2023.

Recommended Actions

- a. **note** that Cabinet agreed to policy decisions on regulations on 11 December 2023 to give effect to the "Away for the Day" cellphone use policy Noted
- b. **note** we have attached the regulations and subject to your agreement, PCO will submit the final regulations to the Cabinet Office Noted
- c. **agree** to lodge the Cabinet paper *Education (School Boards) Amendment Regulations 2023* and Regulations *Education (School Boards) Amendment Regulations 2023* (Annexes One and Two) by 10am this Thursday (14 December 2023) for the 18 December 2023 Cabinet meeting with crednets
Agree / Disagree
- d. **note** we have provided you with talking points (Annex 3) to support this item at the 18 December 2023 Cabinet meeting Noted

Proactive Release

- e. **agree** that the Ministry of Education release this briefing in full following Cabinet decisions on the attached papers.

Agree / Disagree



Jen Fraser
General Manager, Schools Policy
Ministry of Education

12/12/2023



Hon Erica Stanford
Minister of Education

13 / 12 / 23

Background

1. On 11 December 2023, Cabinet agreed to the creation of a regulation under s638 of the Education and Training Act 2020 to institute the Away for the Day policy on student use of cell phones in schools [CAB-23-MIN-0483 refers].
2. The Parliamentary Counsel Office (PCO) have been working with Ministry of Education officials in drafting the regulations. Subject to your agreement, PCO will submit the final regulations to the Cabinet office.
3. This briefing seeks your agreement to lodge the final Cabinet paper '*Education (School Boards) Amendment Regulations 2023*' (Annex 1) and Regulations '*Education (School Boards) Amendment Regulations 2023*' (Annex 2) for consideration by Cabinet on 18 December 2023 to approve the regulations.

Agency and Ministerial Consultation

4. Given the short timeframes, we did not provide the paper for any agency consultation for this Cabinet paper.
5. There was also insufficient time to undertake Ministerial consultation for this Cabinet paper.

Next Steps

6. The table below summarises the next steps:

Milestone	Timeline
Lodge Cabinet regulation decision paper	Before 10am on 14 December
Cabinet regulation consideration	18 December
Executive Council consideration	18 December
Regulations Gazetted	21 December
Regulation comes into force	28 days after Gazetted - 18 January 2024
School Boards policy comes into force	By 29 April 2024

Annexes

- Annex 1: LEG Cabinet Paper- Education (School Boards) Amendment Regulations 2023
(attached separately)
- Annex 2: Regulations- Education (School Boards) Amendment Regulations 2023
(attached separately)
- Annex 3: Talking points - Approving regulations for the Away for the Day policy

Annex 3: Talking points - Approving regulations for the Away for the Day policy

- I am seeking Cabinet's agreement to submit the '*Education (School Boards) Amendment Regulations 2023*' to the Executive Council for approval. These regulations will deliver on our 100-day commitment to make sure students' cell phones are away for the day in schools.
- I expect that this will reduce distractions and improve student achievement.
- As agreed, school boards will be responsible for the implementation and practical arrangements around the policy within their respective schools by amending their by-laws.
- They would also be responsible for making exemptions to the policy for educational purposes and to support students with health and/or learning needs.

Timing and Implementation

- Subject to Executive Council approval, I recommend that the regulations come into force on 18 January 2024, 28 days after they are published in the Gazette. This timeline ensures that schools have enough time to prepare and consult with their communities before they are required to have rules in place by 29 April 2024.
- I intend to announce these regulations through a media release to schools today following Executive Council approval, along with the other 100-Day commitments involving schools.