



## Education Report: Authorisation to release an Exposure Draft of Education (School Planning and Reporting) Regulations 2023

<b>To:</b>	Hon Jan Tinetti, Minister of Education Hon David Parker, Attorney-General		
<b>Date:</b>	1 March 2023	<b>Priority:</b>	Medium
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1303486
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<b>Messaging seen by Communications team:</b>	No	<b>Round robin:</b>	Yes

### Purpose of report

This paper seeks your joint authorisation to publicly release an exposure draft of the Education (School Planning and Reporting) Regulations 2023 (the Regulations) (attached as Annex 1) for consultation on 13 March 2023.

### Summary

1. Parliamentary Counsel Office (PCO) have completed an exposure draft of Regulations that set out the required content of school planning and reporting documents, the specified dates, such as when the new strategic plans need to be made, and how the Regulations will be applied differently for iwi and hapū affiliated schools.
2. Cabinet agreed that the Ministry of Education seek the Attorney-General's authorisation to release an exposure draft of the Regulations in early 2023 for public consultation. [SWC-22-MIN-0223 and CAB-22-MIN-0535 refer].

9(2)(h)

### Recommended Actions

The Ministry of Education recommends that you:

- a. **note** that the draft Education (School Planning and Reporting) Regulations 2023 have been prepared

**Noted**

Minister of Education

- b. **note** that Cabinet agreed to the release of an exposure draft of the Regulations in early 2023 for public consultation, subject to the Attorney-General's authorisation [SWC-22-MIN-0223 and CAB-22-MIN-0535 refer]

**Noted**

Minister of Education

- c. **agree** to seek authorisation from the Attorney-General to release an exposure draft of the Education (School Planning and Reporting) Regulations 2023 for public consultation

**Agree** **Disagree**

Minister of Education

- d. **sign** this Education Report and forward it to the Attorney-General seeking authorisation

**Agree** **Disagree**

Minister of Education

- e. **authorise** the release of an exposure draft of the Education (School Planning and Reporting) Regulations 2023 for public consultation

**Agree / Disagree**

Attorney-General

#### Proactive Release Recommendation

- f. **agree** that this Education Report be proactively released once the Regulations are released, subject to any grounds for withholding information under the Official Information Act 1982.

Minister of Education

**Agree / Disagree**

Attorney-General

**Agree / Disagree**

9(2)(a)

**Group Manager**  
**Te Pou Kaupapahere**  
01/03/2023

Hon Jan Tinetti  
**Minister of Education**

04/03/2023

Hon David Parker  
**Attorney-General**

8/3/23

## Release of an exposure draft of the Regulations

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1. On 28 November 2022, Cabinet agreed to the content and other details of the new Education (School Planning and Reporting) Regulations 2023 (the Regulations). Cabinet also agreed to the release of an exposure draft of the Regulations for public consultation in early 2023, subject to authorisation from the Attorney-General [SWC-22-MIN-0223 and CAB-22-MIN-0535 refers].
2. Drafting instructions were issued to Parliamentary Council Office (PCO) in November 2022 and an exposure draft has now been prepared for public release (attached as Annex 1).
3. Cabinet Office circular CO (19) 2: **Attorney General's Protocol for Release of Draft Government Legislation outside the Crown** applies to the release of the Regulations. The Attorney-General holds legal professional privilege in the draft legislation. Agreeing to release the Regulations will constitute waiver of that privilege.
4. The question of waiver is determined in accordance with the principles in the Cabinet Manual (paragraphs 4.70):

*When determining whether to release legal advice that has been provided to the Government, or to refer to the content of such advice, and waive (or potentially waive) legal privilege, there is a need to:*

  - (a) ensure a coordinated government approach to release;*
  - (b) avoid any adverse impact from a release on current or potential legal proceedings; and*
  - (c) ensure that no single release will create an undesirable precedent.*
5. The Ministry considers the principles are consistent with the waiver in this instance. If agreed, the exposure draft will be made available for comment from school boards, school leaders, school communities, including iwi and hapū, peak education bodies, including Te Runanga Nui o Ngā Kura Kaupapa Māori o Aotearoa and Ngā Kura ā iwi o Aotearoa and the public. The consultation will be focused on ensuring the Regulations implement the policy changes in a practicable and effective way and will run during March and April 2023.
6. Alongside the release of an exposure draft of the Regulations, the Ministry intends to engage with the same groups on how best we can support communities to participate in schools' planning and reporting and how schools can continuously improve their planning and reporting practice. The release of an exposure draft will ensure this engagement is fully co-ordinated. We do not anticipate any adverse effects from the release of an exposure draft and do not consider that the release would create an undesirable precedent.

9(2)(h)



### New framework for school and kura planning and reporting

9. The Regulations provide the detail of a new framework for schools and kura planning and reporting that was initially enacted in 2017. The new framework is being implemented to address concerns:
- a. from schools that:
    - their schools and communities did not get value out of the process;
    - the requirements of planning documents (annual school charters) were too complex and not well-aligned to requirements in the rest of the schooling system; and
    - accountability for board performance, as set out in their charter and annual reports, was focused on government compliance rather than accountability to the community
  - b. from communities that:
    - there was little opportunity to engage in the planning system;
    - charters and annual reports were difficult to understand and were inaccessible;
    - despite school charters, there continued to be students whose needs have not been met; and
    - planning did not provide for their various identities, needs and aspirations to be reflected.
10. The Act requires that school and kura boards have three separate planning and reporting documents:
- a. a **strategic plan** that sets out strategies for how a school board is working towards achieving the primary objectives set out in the Act and any other priorities identified with its community,
  - b. an **annual implementation plan** that sets out how a school board will implement the strategies in its strategic plan each year, and
  - c. an **annual report including a statement of variance** that sets out the school's performance for the year and includes audited financial statements.

11. The framework also introduced a new requirement for school boards to consult their communities when developing their strategic plans to help schools reflect, and be more responsive to, their communities' priorities.
12. The Act does not specify what must be included in these documents and instead allowed for this to be specified in regulations. The detailed content of the regulations is set out in Annex 2.

#### Public consultation on the Regulations and implementation of the framework

13. Consultation on the exposure draft of the Regulations is intended to be between mid-March and mid-April 2023. This will enable the Regulations to be made in July 2023 with a 1 January 2024 start date. From that date, school boards will be required to have their first strategic plan in place.

#### Annexes

- Annex 1: Exposure draft of the Education (Planning and Reporting) Regulations 2023  
*(attached separately)*
- Annex 2: Detailed content of the Regulations

## Annex 2: Detailed content of the Education (School Planning and Reporting) Regulations 2023

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### **Strategic plans**

#### *Content*

The proposed regulations set out what boards must focus on and include in their strategic plans, these include:

- The school's vision,
- The board's strategic goals for the next 3 years for meeting its primary objectives in section 127 of the Education and Training Act 2020 (the Act), other goals identified through consultation, and information about how they prioritised those goals,
- Strategies the board will use over the next 3 years to achieve, or make progress towards achieving, its strategic goals including strategies for identifying and catering for students whose needs have not yet been well met\*, and strategies for giving effect to the board's Te Tiriti o Waitangi / The Treaty of Waitangi obligations
- Measures, evidence and processes the board will use to evaluate its progress towards achieving its strategic goals, and
- Information on how the board's strategic goals are linked with the [national education learning priorities](#) and relevant national education strategies/plans such as the [Ka Hikitia plan](#), [Action Plan for Pacific Education](#), [the Learning Support Action Plan](#) and the [Oranga Tamariki Action Plan](#).

\* Students whose needs have not been well met includes, but is not limited to:

- Māori students,
- Pacific students,
- Students with disabilities,
- Students with learning support needs (including gifted and talented students),
- Students who are, or are at risk of, not progressing towards or achieving their highest possible standard of educational achievement,
- Children and young people for whom a care or protection order has been made under the Oranga Tamariki Act 1989, and
- Students in the youth justice system.

#### *Timing of strategic plans*

The first strategic plan must be made by 1 January 2024 and be in effect for two years (2024 and 2025). The plans must be published and submitted to the Secretary for Education by 1 March.

All subsequent strategic plans will be in place for three years.

### **Annual implementation plans**

Annual implementation plans help the board plan and track its performance each year towards meeting its three-year strategic goals. The Regulations will require a board to include in its annual implementation plan:

- Annual targets for each of its strategic goals,
- Actions it will take to meet its targets,
- How it will allocate resources to meet their targets,
- The measures and evidence it will use to evaluate progress towards achieving its annual targets,

- Information about its previous year's performance (including how it will address any unachieved targets from the previous year),
- Teaching and learning programmes and strategies with particular emphasis on foundational learning for the year to address the needs of its students whose needs have not yet been well met, and
- Information on how its annual targets and actions will support it to give effect to Te Tiriti o Waitangi/The Treaty of Waitangi.

Annual implementation plans must be prepared and published each year by 31 March.

### **Annual reports and statements of variance**

The Regulations set out what boards must include in their annual reports and statements of variance, these include:

- Financial statements which are required under section 134 of the Education and Training Act and S87(3) of the Education Act 1989<sup>1</sup>,
- A report on the whole school's student progress and achievement for the previous year which includes information on the progress and achievement of groups of students whose needs are not yet well met,
- A report on the progress and achievement of Māori students and how it has given effect to the Te Tiriti o Waitangi objectives
- Actions it took in the previous year to achieve its annual targets
- Outcomes of its actions and the sources of information it used to determine them,
- Reasons for any differences between the outcomes and targets, and
- How the differences in outcomes and targets will inform next year's planning (including what it will do to address any unachieved targets).

### **Accessibility of planning and reporting documents**

All planning and reporting documents must be written and presented in a way that is accessible to their communities.

### **Application of the Regulations to kura**

Because there is a focus on boards' planning and reporting meeting their primary objectives, including giving effect to Te Tiriti o Waitangi/the Treaty of Waitangi, the Regulations do not require kura affiliated to Te Rūnanga Nui or other kura affiliated to iwi and hapū to set out in full detail how they have met their Tiriti/Treaty objectives. Instead, the Regulations will allow boards of those kura to include:

*In strategic plans:*

- Strategic goals that reflects Te Aho Matua and local tikanga.
- A general statement about how the kaupapa of the kura reflects Te Tiriti/The Treaty.

*In annual implementation plans:*

- A general description of how their targets and actions reflect the kaupapa of their kura.

<sup>1</sup> There is no change to the financial reporting information required. However, some of the requirements of the previous Education Act will be set out in regulations. Further, financial statements would not need to be presented in plain language as they are required to meet accounting standards.

# DRAFT FOR CONSULTATION

## Education (School Planning and Reporting) Regulations 2023

Governor-General

### Order in Council

At Wellington this                      day of                      2023

Present:  
in Council

These regulations are made under section 639 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

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	<b>Regulations</b>	
1	<b>Title</b>	
	These regulations are the Education (School Planning and Reporting) Regulations 2023.	
2	<b>Commencement</b>	
	These regulations come into force on [X].	
3	<b>Interpretation</b>	
	In these regulations, unless the context otherwise requires,—	
	<b>2022 charter</b> means a board's charter that is in effect for the 2022 year	
	<b>Act</b> means the Education and Training Act 2020	
	<b>annual implementation plan</b> means an annual implementation plan described in section 138(1)(b) of the Act and prepared by a board in accordance with section 143 of the Act	
	<b>annual financial statement</b> means an annual financial statement that a board is required to include in its annual report under section 134(2) of the Act	
	<b>annual report</b> means an annual report that a board is required to give to the Secretary in accordance with section 134(1)(b) of the Act	
	<b>annual target</b> means a target included in a board's annual implementation plan under <b>regulation 10(1)(a)</b>	
	<b>election year</b> means a year divisible by 3	
	<b>first strategic plan</b> —	
	(a) means the first strategic plan for a school that the school's board is required to prepare; and	
	(b) despite section 138(3) of the Act, does not include a 2022 charter	
	<b>oranga tamariki action plan</b> has the meaning given by section 5(1) of the Children's Act 2014	

**specified kura board** means the board of a—

- (a) kura kaupapa Māori; or
- (b) designated character school with a character that is hapu or iwi based or that affiliates with Ngā Kura ā Iwi o Aotearoa; or
- (c) State-integrated school with a special character that is hapu or iwi based

**strategic plan** means a strategic plan described in section 138(1)(a) of the Act and prepared by a board in accordance with section 139 of the Act

**statement of variance** means a statement of variance defined in section 134(8) of the Act and given by a board to the Secretary in accordance with section 134(1)(a) of the Act.

#### **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.

#### *Strategic plans*

#### **5 Timing: preparation of first and subsequent strategic plans**

- (1) A board must prepare the first strategic plan for its school before 1 January 2024.
- (2) The board must prepare its second strategic plan before 1 January 2026.
- (3) After its second strategic plan, the board must prepare a strategic plan before 1 January of every year following an election year or before an earlier date determined by the Secretary.

#### **6 Timing: submission of strategic plans to Secretary**

A board must submit a strategic plan to the Secretary and publish it before 1 March in the year following the preparation of the plan.

#### **7 Content of strategic plans**

- (1) A board's strategic plan must include—
  - (a) the board's vision for its school;
  - (b) the board's strategic goals for meeting—
    - (i) the board's primary objectives as set out in section 127 of the Act; and
    - (ii) any other objectives identified by the board, including (if applicable and appropriate) any objectives reflecting Te Aho Matua or local tikanga;
  - (c) information relating to how the board has prioritised its strategic goals;
  - (d) information relating to the link between the board's strategic goals and—

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- (i) the statement of national education and learning priorities issued by the Minister under section 5 of the Act; and
    - (ii) any other relevant national education strategies or plans, including Ka Hikitia, the Action Plan for Pacific Education, and the oranga tamariki action plan:
  - (e) the board's strategies for achieving or making progress towards its strategic goals based on the identities, needs, and aspirations of its school community, including, without limitation, strategies for identifying and catering to students whose needs have not yet been well met:
  - (f) the board's strategies for giving effect to Te Tiriti o Waitangi, including strategies for—
    - (i) ensuring the school's plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and
    - (ii) improving the progress and achievement of Māori students; and
    - (iii) making progress towards providing instruction in tikanga and te reo Māori:
  - (g) information describing the measures, evidence, and processes the board intends to use to evaluate its progress towards achieving the strategic goals:
- (2) If a board is a specified kura board,—
- (a) the requirement in **subclause (1)(f)** does not apply; and
  - (b) the board's strategic plan must instead include a general statement about how the kaupapa of the board's school reflects Te Tiriti o Waitangi.
- (3) In this regulation and **regulations 10 and 11**, **students whose needs have not yet been well met** includes, without limitation, the following students:
- (a) Māori students:
  - (b) Pacific students:
  - (c) students with disabilities:
  - (d) students with learning support needs, including gifted and talented students:
  - (e) students who are, or are at risk of, not progressing towards or achieving their highest possible standard in educational achievement:
  - (f) students in respect of whom a care or protection order has been made under the Oranga Tamariki Act 1989:
  - (g) students in the youth justice system.

*Annual implementation plans*

**8 Timing of annual implementation plans**

A board must prepare and publish its annual implementation plan before 31 March each year.

**9 Content of annual implementation plans**

(1) A board's annual implementation plan must include—

- (a) annual targets for each of the board's strategic goals;
- (b) the actions the board intends to take to meet the annual targets (**intended actions**);
- (c) information addressing how the board intends to allocate resources to meet the annual targets;
- (d) information describing the measures and evidence the board intends to use to evaluate its progress towards achieving the annual targets;
- (e) information regarding the board's performance in meeting its annual targets from the previous year and, if relevant, a plan setting out how the board will address any annual targets from the previous year that were not achieved;
- (f) information regarding the teaching and learning strategies and programmes of the board's school, with a particular emphasis on foundational learning for the year to address the needs of students whose needs have not yet been well met;
- (g) information describing how the annual targets and intended actions will support the board to give effect to Te Tiriti o Waitangi.

(2) If the board is a specified kura board,—

- (a) the requirement in **subclause (1)(g)** does not apply; and
- (b) the board's annual implementation plan must instead include a general description of how its annual targets and intended actions reflect the kaupapa of the board's Kura Kaupapa Māori.

*Annual reports*

**10 Content of annual reports**

In addition to the matters set out in section 134(2) of the Act, a board's annual report must include—

- (a) a report, in plain language, on the student progress and achievement of the board's school for the previous year, including information relating to the progress and achievement of groups of students whose needs have not yet been well met;

- (b) a report on how the board has given effect to Te Tiriti o Waitangi, including the progress and achievement of Māori students and the progress made towards making instruction available in tikanga and te reo Māori.

#### **11 Content of annual financial statements**

A board must prepare its annual financial statement in accordance with generally accepted accounting practice, audited as required by section 135 of the Act, and include all of the following:

- (a) a statement of the financial position of the board as at its balance date;
- (b) a statement of financial performance reflecting the revenue and expenses of the board for the financial year;
- (c) if required by generally accepted accounting practice, a statement of cash flows reflecting cash flows of the board for the financial year;
- (d) a statement of the commitments of the board as at the balance date;
- (e) a statement of the contingent liabilities of the board as at the balance date;
- (f) a statement of accounting policies;
- (g) any other statements that are necessary to fairly reflect the financial operations of the board for the financial year and its financial position at the end of the financial year;
- (h) any other statements that the Secretary determines in consultation with the Auditor-General;
- (i) in relation to each statement required by paragraphs (a) to (c) and, if appropriate, by paragraph (g), budgeted figures for the financial year;
- (j) in relation to each statement required by paragraphs (a) to (e) and, if appropriate, by paragraph (g), comparative actual figures for the previous financial year.

Compare: 1989 No 80 s 87(3)

#### *Statements of variance*

#### **12 Content of statements of variance**

A board's statement of variance must detail—

- (a) the actions the board took in the previous year to achieve its annual targets for that year;
- (b) the outcomes of those actions and the sources of information the board used to determine those outcomes;
- (c) the reasons for any differences between the outcomes and the annual targets;

- (d) how the differences in outcomes and annual targets will inform planning for the next year, including how the board will address any targets that were not achieved.

*Accessibility to school communities*

**13 Accessibility of plans, reports, and statements to school communities**

A board must ensure that every strategic plan, annual implementation plan, annual report, or statement of variance it produces is accessible to its school community in the way the plan, report, or statement is written and presented.

**Schedule 1**

**Transitional, savings, and related provisions**

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**Part 1**

**Provisions relating to these regulations as made**

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

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 [X], provide details relating to several planning and reporting requirements of school boards under the Education and Training Act (the Act).

*Clauses 5 to 8* relate to the strategic plans that boards must prepare in accordance with section 139 of the Act. These clauses set out when boards must prepare their first and subsequent strategic plans, when the plans must be submitted to the Secretary, and content and accessibility requirements for the plans.

*Clauses 8 and 9* provide for the timing and content of annual implementation plans, which boards are required to prepare in accordance with section 143 of the Act.

*Clause 10* sets out content that boards must include in annual reports that they are required to give to the Secretary in accordance with section 134(1)(b) of the Act. The annual reports must include, in accordance with section 134(2) of the Act, annual financial statements and *clause 11* sets out content that boards must include in those statements.

Explanatory note      **Education (School Planning and Reporting) Regulations  
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*Clause 12* sets out content that boards must include in the statements of variance that they are required to give to the Secretary under section 134(1)(a) of the Act.

*Clause 13* provides that boards have an obligation to ensure that any strategic plan, annual implementation plan, annual report, or statement of variance is written and presented in a way that is accessible to their school communities.

**Regulatory impact statement**

The Ministry of Education produced a regulatory impact statement on 31 August 2022 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—

- [Insert URL link(s) to the RIS on the agency's/agencies' Internet site(s)]
- <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.