

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Education (Board Elections) Regulations 2022
Date considered 9 May 2022
Date of release 25 October 2022

These documents have been proactively released:

Cabinet Minute: CAB-22-MIN-0166

Date considered: 9 May 2022
Author: Cabinet Office

Cabinet Minute: LEG-22-MIN-0051

Date considered: 5 May 2022
Author: Cabinet Office

Cabinet paper: Education (Board Elections) Regulations 2022 – enabling an electronic option

Date considered: 9 May 2022
Author: Minister of Education

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

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.

Report of the Cabinet Legislation Committee: Period Ended 6 May 2022


On 9 May 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 6 May 2022:

Out of scope

LEG-22-MIN-0051 **Education (Board Elections) Regulations 2022** CONFIRMED
Portfolio: Education

Out of scope

Out of scope



Michael Webster
Secretary of the Cabinet

Proactively Released



Cabinet Legislation Committee

Minute of Decision

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Education (Board Elections) Regulations 2022

Portfolio **Education**

On 5 May 2022, the Cabinet Legislation Committee:

- 1 **noted** that on 24 November 2021, the Cabinet Social Wellbeing Committee (SWC) agreed to enable school board elections to be held electronically through amendments to the Education (Board Elections) Regulations 2000 [SWC-21-MIN-0187];
- 2 **noted** that public consultation on an exposure draft of the Education (Board Elections) Regulations 2022 occurred from February through March 2022 and the majority of submitters were supportive of the proposed changes;
- 3 **noted** that the Minister of Education was delegated authority to make minor adjustments to the policy that arise as a result of the drafting process [SWC-21-MIN-0187];
- 4 **noted** that the Minister has included three minor and technical changes in response to feedback from public consultation and other minor adjustments that arose as a result of the drafting process;
- 5 **noted** that the Education (Board Elections) Regulations 2022 give effect to the decision referred to in paragraph 1 above;
- 6 **authorised** the submission to the Executive Council of the Education (Board Elections) Regulations 2022 [PCO 24367/6.0];
- 7 **noted** that the Education (Board Elections) Regulations 2022 will come into force on 9 June 2022.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Stuart Nash
Hon Kris Faafoi
Hon Kiri Allan
Hon Dr David Clark
Hon Meka Whaitiri
Kieran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

In Confidence

Office of the Minister of Education
Chair, Cabinet Legislation Committee

Education (Board Elections) Regulations 2022 – enabling an electronic option

Proposal

- 1 This paper seeks Cabinet Legislation Committee's authorisation to submit the Education (Board Elections) Regulations 2022 (the 2022 Regulations) to the Executive Council. The 2022 Regulations will amend the Education (Board Elections) Regulations 2000 to enable school elections to be held electronically.

Executive Summary

- 2 The 2022 Regulations will implement policy decisions made by Cabinet on 29 November 2021 [CAB-21-MIN-0503 refers] to modernise the school board election framework, including enabling school board elections to be held electronically. This includes:
 - 2.1 Two key proposals that will ensure electronic school board elections are performed safely and securely. These are a new set of minimum and technical process standards for the delivery of electronic elections and a new accreditation scheme for providers of electronic elections;
 - 2.2 Confirmation of the policy decisions relating to ensuring paper alternatives are available to voters, even in electronic elections, and allowing student board elections to take place without the use of accredited providers;
 - 2.3 Other changes that support enabling electronic elections, including allowing the count of electronic votes to happen without scrutineers and changes to the election timetable.
- 3 Under authority delegated to me by Cabinet to make decisions on additional policy or drafting issues [CAB-21-MIN-0503 refers], I have agreed to include three minor and technical changes in response to public consultation feedback on an exposure draft of the 2022 Regulations, and other minor adjustments that arose as a result of the drafting process.
- 4 Once Cabinet decisions have been made, I intend to Gazette the 2022 Regulations by 12 May 2022, before they come into force on 9 June 2022.

Policy

5 The 2022 Regulations introduce:

- 5.1 new minimum technical and process standards to ensure electronic elections are performed safely and securely, secretly, and in a manner that is auditable and can be validated by the Ministry of Education;
- 5.2 a new accreditation scheme empowering the Secretary for Education to accredit providers of electronic elections against the technical and process standards.

6 The minimum technical and process standards include the following requirements:

- 6.1 The vote counting must be accurate, and a scrutineer must be able to complete a recount if required;
- 6.2 The Ministry of Education must be able to assess the validity of the election as set out in section 170 of the Education and Training Act 2020;
- 6.3 The secrecy of the election must be maintained, meaning each voter must not be identifiable from their vote;
- 6.4 The identity of each voter must be verified before a vote is cast;
- 6.5 All electronic information and processes related to the election must be provided in the languages in which the Secretary issues voting forms and in accessible formats¹;
- 6.6 All personal information obtained and/or used for the purposes of the election must be adequately protected, in accordance with the Privacy Act 2020;
- 6.7 Information in electronic form must be held by secure and reliable means that maintains the integrity of the information, and prevents non-authorised access or release of that information;
- 6.8 As soon as possible after declaring the results of an election, the voting data and copy of the roll must be transferred to the District Court, who will take custody of the data and destroy it after six months, in line with the current Regulations.

¹ Currently, Te Reo Māori, English, Simplified Chinese, Tongan, and Samoan are the languages used. Provision of accessible formats will need to align with the NZ Government Web Accessibility Standard which requires online content to be accessible, including through the use of assistive technologies such as screen readers, braille displays, screen magnifiers, and alternative input devices.

- 7 The accreditation scheme for electronic election providers includes the following features:
- 7.1 the Secretary for Education will set assessment criteria and publish these on the Ministry's website, against which potential providers will be accredited;
 - 7.2 this assessment process will have two steps, with a potential provider able to be accredited at the first step;
 - 7.3 the step one assessment will be a self-declaration with evidence by the potential provider that they meet the assessment criteria;
 - 7.4 the step two assessment will be an independent assessment of the potential provider's ability to meet the assessment criteria (set by the Secretary of Education), and would only be necessary if the Ministry is not confident it can accredit the applicant based on the step one self-declaration assessment;
 - 7.5 if a potential provider is not accredited at step two, they can appeal to the Secretary of Education for review, who may confirm the decision or choose to grant accreditation;
 - 7.6 the Secretary of Education will be able to withdraw accreditation in the event of a breach of the technical standards that they consider serious and warrants revocation.
- 8 The 2022 Regulations also provide that:
- 8.1 paper alternatives must be provided when an election is held electronically, so that anyone can participate regardless of digital connectedness;
 - 8.2 only accredited providers can be used for parent and staff elections that are held electronically;
 - 8.3 student board elections can take place electronically without the use of an accredited provider, in recognition of the existing, different practice between staff and parent, and student, board elections.²
- 9 Other proposed changes in the 2022 Regulations that support enabling an electronic option include:
- 9.1 allowing the count of the vote in electronic elections to occur without scrutineers, but providing for scrutineers to perform a recount if desired;

² Student elections are held annually in around 350 schools, usually during school time, where students fill out their votes in class. This is a convenient, cost and time effective method for returning officers and students, compared to parent elections which take place in 2,400 schools, through the postal system on a less frequent basis. Requiring accredited providers for electronic student elections is likely to be unduly onerous for schools and students. Electronic student elections would still be required to meet the minimum technical and process standards set out in the 2022 Regulations.

- 9.2 removing the long election timetable as an option for board elections (because it is no longer fit for purpose);
- 9.3 amending the short election timetable through reducing the nominations period by two days and allowing a corresponding additional two days for returning officers to prepare for voting;
- 9.4 introducing a shorter timetable for student representative elections and staff by-elections (because student elections are done at school rather than through post and a shorter timetable would reduce the time staff need to take out of their schedules to engage in staff by-elections).

Feedback from public consultation on an exposure draft

- 10 Public consultation was held on an exposure draft of the 2022 Regulations, which opened on 4 February 2022 and closed on 18 March 2022. A total of 28 written submissions were received.
- 11 Consultation feedback was largely supportive of the proposed changes to enable electronic school board elections, but sought clarification on a few minor points. As a result, I have agreed to three minor and technical changes that have been included in the 2022 Regulations:
 - 11.1 the Secretary's authority to set the terms of accreditation, to make explicit the Secretary's power to grant accreditation in a manner or form approved by the Secretary, in line with Cabinet's decisions last year [CAB-21-MIN-0503 refers];
 - 11.2 that accreditation will lapse at the start of the next election year. This will enable the Ministry to ensure that providers are up to date with industry standards for online security before each triennial election;
 - 11.3 that the restriction from participating in both parent and staff elections only applies to representatives seeking to stand and vote for positions within the same school. This ensures that representatives are able to participate in elections at two different schools.
- 12 Under authority delegated to me by Cabinet [CAB-21-MIN-0503 refers], I have included in the 2022 Regulations, the above three changes and other minor adjustments that arose during the drafting process.

Timing and 28-day rule

- 13 It is intended that the 2022 Regulations come into force on 9 June 2022.

Compliance

- 14 The 2022 Regulations comply with each of the following:
 - 14.1 the principles of the Treaty of Waitangi;

- 14.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 14.3 the principles and requirements set out in the Privacy Act 2020;
 - 14.4 relevant international standards and obligations;
 - 14.5 the Legislation Guidelines (2021 edition), maintained by the Legislation Design and Advisory Committee.
- 15 There are privacy implications to consider in the 2022 Regulations, related to the proposed accreditation scheme for providers of electronic elections. The Ministry is undertaking a privacy impact assessment for the accreditation scheme and providers will be required to submit their own privacy impact assessment as part of the accreditation process.
- 16 There are no statutory prerequisites associated with the 2022 Regulations.

Regulations Review Committee

- 17 There are no grounds for the Regulations Review Committee to draw the 2022 Regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

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

Impact Analysis

- 19 A regulatory impact assessment was prepared in accordance with the necessary requirements and was submitted at the time that Cabinet committee approval was sought of the policy relating to the 2022 Regulations [CAB-21-MIN-0503 refers].

Publicity

- 20 The Ministry of Education and the New Zealand School Trustees Association will communicate the changes to the election requirements in the advice and guidance they provide to the sector.
- 21 I intend to Gazette the 2022 Regulations on 12 May once Cabinet decisions have been made.

Proactive release

- 22 I intend to proactively release this paper once Cabinet decisions have been made.

Consultation

- 23 The following agencies were consulted on this paper: the Ministry of Justice; the Ministry for Pacific Peoples; the Office for Disability Issues; the Office of the Privacy Commissioner; the Ministry of Youth Development; the Department of the Prime Minister and Cabinet; the Ministry of Business, Innovation and Employment; Oranga Tamariki; and the Ministry for Ethnic Communities.

Recommendations

- 24 I recommend that the Cabinet Legislation Committee:
- 1 **note** that on 29 November 2021 Cabinet agreed to enable school board elections to be held electronically [CAB-21-MIN-0503 refers] through amendments to the Education (Board Elections) Regulations 2000;
 - 2 **note** that public consultation on an exposure draft of the Education (Board Elections) Regulations 2022 occurred in February – March 2022 and the majority of submitters were supportive of the proposed changes;
 - 3 **note** that as per my delegated authority [CAB-21-MIN-0503 refers], I have included three minor and technical changes in response to feedback from public consultation and other minor adjustments that arose as a result of the drafting process;
 - 4 **authorise** the submission to the Executive Council of the Education (Board Elections) Regulations 2022;
 - 5 **note** that the Education (Board Elections) Regulations 2022 will come into force on 9 June 2022.

Authorised for lodgement
Hon Chris Hipkins
Minister of Education

Education (Board Elections) Regulations 2022

Order in Council

At Wellington this day of 2022

Present:
in Council

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

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Regulations

1 Title

These regulations are Education (Board Elections) Regulations 2022.

2 Commencement

These regulations come into force on 9 June 2022.

3 Interpretation

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

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

Act means the Education and Training Act 2020

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

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

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

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

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

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

provider means a provider of an electronic voting system

returning officer—

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

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

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

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

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

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

Compare: SR 2000/195 r 3

4 Transitional, savings, and related provisions

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

Part 1

Election timetables, returning officers, and voting method

Election timetables

5 Schools must follow election timetable

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

Compare: SR 2000/195 r 4

Voting method

6 Board may choose voting method

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

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

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

Compare: SR 2000/195 r 5

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

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

9 Grant of accreditation

- (1) A provider may apply to the Secretary for a grant of accreditation in a form or manner approved by the Secretary.
- (2) The Secretary—

- (a) may grant or refuse to grant an accreditation to the provider; and
 - (b) must give the provider written notice of their decision to grant or refuse accreditation.
- (3) For the purposes of this regulation, the Secretary must publish criteria relating to the accreditation of providers on an Internet site maintained by or on behalf of the Ministry.

10 Reconsideration of refusal to grant accreditation

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

11 Lapse of accreditation

- (1) Unless otherwise specified by the Secretary, an accreditation granted to a provider lapses on the first day of the election year.
- (2) The Secretary must give written notice of the lapse of an accreditation to the provider concerned.

12 Withdrawal of accreditation

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

13 Further requirements relating to elections held electronically

- (1) This regulation applies if a board decides to hold the election of any of the following persons electronically:

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

Part 2

Rolls and nominations

Rolls

14 Roll

- (1) The returning officer must prepare a roll for the election (the **main roll**).
- (2) The main roll must contain the name and contact details of every person entitled to vote in the election.

- (3) At any time before election day, the name (but not the contact details) of every person on the main roll or supplementary roll must be available for inspection at any reasonable time at the school.

Compare: SR 2000/195 r 6

15 Supplementary roll

- (1) After the close of the main roll, the returning officer must prepare a supplementary roll that contains the names and contact details of every person—
- (a) who becomes eligible to vote in the election after the close of the main roll; or
 - (b) whose name was wrongly omitted from the main roll.
- (2) Once the supplementary roll has closed, it forms part of the main roll for the election.
- (3) The returning officer must ensure that any notices relating to the election that were given to electors on the main roll before the close of the supplementary roll are also given to electors on the supplementary roll.

Compare: SR 2000/195 r 7

16 Restriction on participating in 2 elections

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

Compare: SR 2000/195 r 8

*Nominations***17 Call for nominations**

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

Compare: SR 2000/195 r 9

18 Acceptance of nomination

- (1) Every nomination must give the name of the nominator and the nominee, and must be signed by both the nominator and the nominee.

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

Compare: SR 2000/195 r 10

19 Withdrawal of nomination

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

Compare: SR 2000/195 r 12

20 Statements by nominees

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

Compare: SR 2000/195 r 11

Part 3 Elections

21 Election not necessary in certain circumstances

- (1) If the number of valid nominations received by the close of nominations does not exceed the number of board members to be elected, the returning officer must immediately declare the nominee or nominees duly elected, and no election may be held.
- (2) If at any time between the close of nominations and election day a candidate withdraws and, as a result of that withdrawal, the number of nominations does not exceed the number of board members to be elected, the returning officer

must immediately declare the remaining nominee or nominees duly elected, and no election may be held.

- (3) If no election is to be held because subclause (1) or (2) applies, the returning officer must take all reasonable steps to ensure that electors are notified of that fact.

Compare: SR 2000/195 r 13

Nomination forms and voting forms

22 Approval of nomination forms and voting forms

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

Compare: SR 2000/195 r 18

23 Issue of voting forms

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

Compare: SR 2000/195 r 14

24 Validity of voting forms

A vote is invalid if—

- (a) the elector votes more than once in the election; or
- (b) the elector votes for more candidates than there are board members to be elected; or
- (c) the voting form does not, in the returning officer's opinion, clearly indicate the candidate or candidates for whom the elector intended to vote; or
- (d) the returning officer believes on reasonable grounds that the voting form was not issued to the elector by the returning officer.

Compare: SR 2000/195 r 15

25 Custody of voting forms

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

Compare: SR 2000/195 r 17

*Election result***26 Declaration of result**

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

- (5) After declaring the result, the returning officer must give notice of the names of the candidates elected, the number of valid votes cast for each candidate, and the number of invalid votes cast,—
- (a) by prominently displaying notices at the school; and
 - (b) for an election held using the timetable set out in Schedule 2, by issuing a notice to all electors on the roll; and
 - (c) for an election held using the timetable set out in Schedule 3, by issuing a notice to the school community and any other affected parties in the wider local community in a manner that best meets the needs of the school community and the wider local community.

Compare: SR 2000/195 r 16

Part 4

Miscellaneous

27 Scrutineers

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

Compare: SR 2000/195 r 19

28 Maintaining secrecy of election

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

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

Compare: SR 2000/195 r 20

29 Revocation

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

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provisions relating to these regulations as made

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

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

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

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

Schedule 3

Election timetable: student representative and staff representative by-election

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

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

Clerk of the Executive Council.

Explanatory note

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

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

Part 1 (regulations 5 to 13)—

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

Part 2 (regulations 14 to 20)—

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

Part 3 (regulations 21 to 26)—

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

Part 4 (regulations 27 to 29)—

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

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.