

## Cabinet Paper material

### Proactive release

Minister & portfolio	Hon Chris Hipkins, Minister of Education
Name of package	Healthy Food Promotion and Student Reporting - Education (School Boards) Amendment Regulations 2022
Date considered	14 November 2022
Date of release	10 February 2023

#### These documents have been proactively released:

**Cabinet paper: Healthy Food Promotion and Student Reporting - Education (School Boards) Amendment Regulations 2022**

Date considered: 14 November 2022

Author: Minister of Education

**Cabinet minute: CAB-22-MIN-0507**

Date considered: 14 November 2022

Author: Cabinet office

**Cabinet minute: LEG-22-MIN-0184**

Date considered: 10 November 2022

Author: Cabinet office

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 11 November 2022

On 14 November 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 11 November 2022:

Out of scope



LEG-22-MIN-0184


**Healthy Food Promotion and Student Reporting - Education (School Boards) Amendment Regulations 2022**  
Portfolio: Education

CONFIRMED

Out of scope



Out of scope



Rachel Hayward  
Secretary of the Cabinet

In Confidence

Office of the Minister for Education  
Cabinet Legislation Committee

## **Education (School Boards) Amendment Regulations 2022 – promotion of healthy food and nutrition and reporting on individual student performance**

### **Proposal**

- 1 This paper seeks authorisation to submit the Education (School Boards) Amendment Regulations 2022 ('the Regulations') to the Executive Council. The Regulations amend the Education (School Boards) Regulations 2020 to impose duties on school boards to promote healthy food and nutrition, and to report to students and parents on the progress and achievement of individual students.

### **Policy**

- 2 From 1 January 2023, the National Administration Guidelines (NAGs) for school boards will cease to have effect as new provisions in the Education and Training Act 2020 ('the Act') for schools' strategic planning and reporting come into force. These include NAG 5(b), which requires schools to promote healthy food and nutrition for all students, and NAG 2(c), which specifies requirements for schools to report on student progress and achievement.
- 3 On 29 August 2022, Cabinet agreed to replicate the NAG 5(b) requirements regarding the promotion of healthy food and nutrition, in regulations made under section 638 of the Act. Cabinet also agreed to replicate the NAG 2(c) requirement regarding student reporting in regulations made under section 639 [CAB-22-MIN-0336 refers].
- 4 Retaining these NAG requirements through regulations will ensure the continuation of obligations on school boards to promote healthy food and nutrition, and to report to individual students and their parents on the progress and achievements of the students in the same detail and frequency as they currently do.
- 5 Cabinet's decisions will be given effect through amendments to the existing Education (School Boards) Regulations 2020, rather than by creating new sets of regulations. Amending existing Regulations will simplify and minimise the number of Regulations for schools to keep track of, and for the Ministry of Education to administer.

- 6 The Education (School Boards) Regulations 2020 have been made under section 638 of the Act, and currently include the powers and procedures of boards, but can be broadened to impose duties on school boards, as specified in section 638 2(b). In addition, section 639 (1)(c) allows regulations to be made for the purpose of monitoring and reporting on the progress of a school's students.

*Promotion of Healthy Food and Nutrition*

- 7 The Regulations will replicate NAG 5(b) to require boards to promote healthy food and nutrition for all students.

*Reporting on Student Progress*

- 8 The Regulations will specify that school boards, together with the school principal and teaching staff must use good quality assessment or aromatawai information<sup>1</sup>, report to students and their parents on the progress and achievement of individual students. The reports must be:

- 8.1 written in plain language;
- 8.2 address the relevant foundation curriculum policy statements and national curriculum statements made under section 90 of the Act 2020, including in mathematics and literacy, or te reo matatini and pāngarau; and
- 8.3 be provided at least twice a year.

- 9 Under authority delegated to me by Cabinet [CAB-22-MIN-0336 refers] I have agreed to include in the Regulations the following two minor and technical changes in respect of student reporting, that arose during the drafting process:

- 9.1 The terms *New Zealand Curriculum* and *Te Marautanga o Aotearoa* used in NAG 2(c) have been replaced with 'foundation curriculum policy statements and national curriculum statements made under section 90 of the Act 2020.' This change future-proofs the Regulations and accounts for circumstances where additional national curricula may be issued or there are name changes.
- 9.2 The words "or aromatawai" have been added to the main wording after "good quality assessment", and to the definition of "good quality assessment information". This is needed to reflect Māori medium practices and te ao Māori.

**Timing and 28-day rule**

- 10 It is intended that the Regulations come into force on 1 January 2023 to align with when the NAGs cease to have effect. Subject to Cabinet's approval, I

---

<sup>1</sup> Good quality assessment and aromatawai information draws on a range of evidence to evaluate the progress and achievement of students and build a comprehensive picture of student learning across the curriculum.

recommend that the Regulations be submitted to the Executive Council on 14 November.

## **Compliance**

- 11 The Regulations comply with the following:
  - 11.1 the principles of the Treaty of Waitangi;
  - 11.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 11.3 the principles and guidelines set out in the Privacy Act 2020;
  - 11.4 relevant international standards and obligations;
  - 11.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 12 The Government consulted on a proposed duty on schools to provide only healthy drinks, in addition to replacing NAG 5(b), in regulations during April to June 2022.
- 13 The proposal to create regulations to replace NAG 2(c) was not consulted on given the Regulations would not alter the existing student reporting requirements on school boards.

## **Regulations Review Committee**

- 14 There are no grounds identified under Standing Order 327 where the Regulations Review Committee could draw these regulations to the special attention of the House.

## **Certification by Parliamentary Counsel**

- 15 The Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

## **Impact Analysis**

- 16 These proposals did not require a Regulatory Impact Statement, on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.

## **Publicity**

- 17 Once the Regulations are notified in the Gazette, the Ministry of Education will advise schools via the School Bulletin – an online publication sent to all school leaders and published on the Ministry of Education website.

## Proactive release

- 18 I intend to proactively release this Cabinet paper once Cabinet decisions have been made, and subject to redaction as appropriate under the Official Information Act 1982.

## Consultation

- 19 The Treasury, Department of Prime Minister and Cabinet, Public Service Commission, Te Puni Kōkiri, Ministry for Pacific Peoples, Ministry for Women, Ministry of Business, Innovation and Employment, Ministry of Social Development, Office for Disability Issues – Whaikaha, Ministry of Disabled People, Ministry of Health, Ministry of Justice, Oranga Tamariki, Ministry for Ethnic Communities, Education Review Office, and the New Zealand Qualifications Authority have been consulted.

## Recommendations

- 20 We recommend that Cabinet Legislation Committee:
- 1 **note** that on 29 August 2022 Cabinet agreed to create new regulations under sections 638 and 639 of the Education and Training Act 2020 that replicate the National Administration Guidelines (NAG) 2(c) and 5(b) [CAB-22-MIN-0336 refers];
  - 2 **note** that the Education (School Boards) Amendment Regulations 2022 will give effect to the decisions referred to in recommendation 1 above;
  - 3 **note** that as per my delegated authority [CAB-22-MIN-0336 refers], I have included two minor and technical changes that arose during the drafting process, and that are consistent with the intent of the proposals;
  - 4 **authorise** the submission to the Executive Council of the Education (School Boards) Amendment Regulations 2022; and
  - 5 **note** that the Education (School Boards) Amendment Regulations 2022 will come into force on 1 January 2023.

Authorised for lodgement  
Hon Chris Hipkins  
Minister of Education

## **Education (School Boards) Amendment Regulations 2022**

Governor-General

### **Order in Council**

At Wellington this                      day of                      2022

Present:  
in Council

These regulations are made under sections 638 and 639 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

### **Contents**

		Page
1	Title	1
2	Commencement	2
3	Principal regulations	2
4	Enacting statement amended	2
5	New regulations 20 and 21 and cross-headings inserted	2
	<i>Promotion of healthy food and nutrition</i>	
20	Duty to promote healthy food and nutrition	2
	<i>Reporting on progress and achievement of students</i>	
21	Duty to report on progress and achievement of students	2

### **Regulations**

#### **1 Title**

These regulations are the Education (School Board) Amendment Regulations 2022.



**2 Commencement**

These regulations come into force on 1 January 2023.

**3 Principal regulations**

These regulations amend the Education (School Boards) Regulations 2020.

**4 Enacting statement amended**

In the enacting statement, replace “section 638” with “sections 638 and 639”.

**5 New regulations 20 and 21 and cross-headings inserted**

After regulation 19, insert:

*Promotion of healthy food and nutrition*

**20 Duty to promote healthy food and nutrition**

The board of a school must promote healthy food and nutrition for all of the school’s students.

*Reporting on progress and achievement of students*

**21 Duty to report on progress and achievement of students**

- (1) The board of a school, together with the school’s principal and teaching staff, must use good quality assessment or aromatawai information to report to each student at the school and their parents on the student’s progress and achievement.
- (2) The reports must—
  - (a) be written in plain language; and
  - (b) include the student’s progress and achievement—
    - (i) across any relevant foundation curriculum policy statements and national curriculum statements made under section 90 of the Act; and
    - (ii) in literacy and mathematics or te reo matatini and pāngarau; and
  - (c) be provided at least twice per year.
- (3) In this regulation, **good quality**, in relation to assessment or aromatawai information, means that the information draws on a range of evidence to evaluate the progress and achievement of each student and build a comprehensive picture of that student’s learning.

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 1 January 2023, amend the Education (School Boards) Regulations 2020 (the **principal regulations**).

*Regulation 4* amends the enacting statement of the principal regulations by adding a reference to an additional provision of the Education and Training Act 2020 (the **Act**) that authorises the making of regulations under the Act.

*Regulation 5* inserts *new regulations 20 and 21* into the principal regulations. *New regulation 20* provides that there is a duty on school boards to promote healthy food and nutrition. *New regulation 21* requires school boards, together with principals and teachers, to provide reports to students and their parents on each student's progress and achievements at the school. Both of these new regulations carry over requirements currently in the national administration guidelines (made under the now repealed Education Act 1989), which will cease to have effect on 1 January 2023.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.



# Cabinet Legislation Committee

## 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.*

### Healthy Food Promotion and Student Reporting - Education (School Boards) Amendment Regulations 2022

Portfolio Education

On 10 November 2022, the Cabinet Legislation Committee:

- 1 **noted** that in August 2022, the Cabinet Social Wellbeing Committee (SWC) agreed to create new regulations under sections 638 and 639 of the Education and Training Act 2020 that replicate the National Administration Guidelines (NAG) 2(c) and 5(b) [SWC-22-MIN-0151];
- 2 **noted** that the Education (School Boards) Amendment Regulations 2022 give effect to the decisions referred to in paragraph 1 above;
- 3 **noted** that SWC authorised the Minister of Education (the Minister) to make minor and technical decisions during the drafting of the regulations that are consistent with the intent of the agreed proposals;
- 4 **noted** that the Minister has included two minor and technical changes that arose during the drafting process, and that are consistent with the intent of the proposals;
- 5 **authorised** the submission to the Executive Council of the Education (School Boards) Amendment Regulations 2022 [PCO 25059/5.0];
- 6 **noted** that the Education (School Boards) Amendment Regulations 2022 come into force on 1 January 2023.

Rebecca Davies  
Committee Secretary

**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon Nanaia Mahuta  
Hon Michael Wood  
Hon Kiri Allan  
Hon Dr David Clark  
Hon Priyanca Radhakrishnan  
Hon Kieran McAnulty  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG