



Education Report: Delaying the 2022 Triennial School Board Elections to enable electronic elections

To:	Hon Chris Hipkins, Minister of Education		
Date:	13 October 2021	Priority:	High
Security Level:	In Confidence	METIS No:	1272903
Drafter:	Angus Stallmann	DDI:	9(2)(a)
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This paper seeks your agreement to delay the May 2022 triennial school board elections to enable the Education (Board Elections) Regulations 2000 to be amended to make an electronic election option available for the elections next year.

Summary

1. School board elections for student representatives have been disrupted by the current COVID-19 Level 3 and 4 lockdowns. This has highlighted the need to move faster to introduce more resilient election options for schools and kura.
2. The next triennial school board elections are scheduled to occur in May 2022. There is a risk that these elections may also be impacted by COVID-19.
3. Earlier this year we consulted on options for amending the Education (Board Election) Regulations 2000 to enable online elections. While we were originally proposing that these changes occur in 2023, after next year's board elections, [METIS refers 1264141] we now consider that they should be brought forward.
4. To give time for the Regulations to be amended, we are seeking your agreement to delay the commencement of the 2022 triennial school board elections by four months. We need your agreement now because the new dates must be gazetted by 31 October 2021.
5. We will provide you with advice on proposed changes to the Regulations to enable electronic elections by the end of October.

Recommended Actions

The Ministry of Education recommends that you:

- a. **note** that current school board elections for student board representatives have been significantly disrupted by the COVID-19 lockdowns, and there is a risk that this will occur for the triennial board elections in 2022 Noted
- b. **agree** to delay the next triennial elections, currently scheduled for May 2022, so regulatory changes can be made to enable electronic elections ☒ Agree / ☐ Disagree
- c. **approve** 5 September 2022 to 23 September 2022 as the new range of dates for the 2022 triennial school board elections ☒ Approved / ☐ Not Approved
- d. **note** that the Ministry will propose 7 September 2022 as the 'common election date' within the range of dates to schools Noted
- e. **sign** the notice attached as Annex 1 for the *New Zealand Gazette* ☒ Yes / ☐ No

Proactive release recommendation

- f. **agree** that this Education Report will be proactively released once final Cabinet decisions have been made. ☒ Agree / ☐ Disagree


Ben O'Meara
Group Manager
System & Schooling Policy
Te Puna Kaupapahere

13/10/2021


Hon Chris Hipkins
Minister of Education

15 / 10 / 2021

I agree to the revised dates to allow for electronic voting because I think that will help to increase participation, not because I think there will be further COVID-19 disruption. CH

Delaying the triennial school board elections to enable electronic elections

Student board elections were disrupted by COVID-19 this year

1. As many as 339 New Zealand schools with students in year 9 and above must hold student representative elections in September each year. The election processes for these elections begin in July. Some schools also hold by-elections for staff or parent representatives at this time.
2. During the August-September national lockdown, these schools were instructed to pause all election processes. For at least 83 schools in Auckland, these elections remain paused under the Alert levels 4 and 3 and will remain paused until in-person attendance for all students is allowed at schools again.
3. The pause is necessary because Returning Officers have not been able to issue voting papers or perform other election duties under lockdown restrictions. The current regulations also do not enable schools to hold the voting process electronically.
4. The Ministry of Education has issued extensions for schools outside of Auckland whose elections were affected by the pause. Current student representatives will serve slightly longer terms, while representatives elected in these elections will serve shorter terms in office.

There is a risk that further COVID disruptions could occur during the triennial school board elections, which must be held in 2022

5. Further COVID-19 disruptions could impact the triennial school board elections next year. There are over 2,400 State and State-Integrated schools that will elect board members in these triennial elections – a much bigger group of schools that could be impacted than is occurring currently with student board elections.
6. The Education and Training Act 2020 (The Act) requires school boards to hold one or more elections in every election year (defined as a year divisible by three).¹ The previous triennial elections took place in 2019. This means that school board elections must be held sometime in 2022. The Act further requires that elections must be held within a range of dates within the election year specified by the Minister of Education.²
7. You previously agreed to school board triennial elections occurring from 2 May to 20 May 2022 (METIS: 1258486). These dates were Gazetted on 22 June 2021.

We have been looking at ways to create a more resilient system and enabling online elections earlier is one way of supporting this

8. The disruption to this year's elections has highlighted the need to ensure that we have flexible and resilient board election processes in the event of future COVID-19 disruptions.
9. Enabling electronic elections is one way to enhance resilience in the system and would give schools the option to proceed with elections during future COVID-19 disruptions. Enabling the option of electronic elections is one step we can take now to minimise the disruption to school boards, individual board members and candidates whose term of offices would be impacted by delayed elections.

¹ Schedule 23, Clause 3(3)

² Schedule 23, Clause 3(4)(a)(i)

10. Enabling electronic elections will not overcome all COVID-related disruptions. However, these changes will reduce the impacts of COVID by enabling some schools to hold board elections during lockdowns and reducing the impact of COVID restrictions on other board elections.
11. We are in the second phase of a review of the school board election framework. The second phase is focused on enabling electronic elections, elections through hui, as well as other modernising changes.³ These changes involve amendments to both the Education (Board Election) Regulations 2000 and the Education and Training Act 2020 and were intended to come into effect in time for the 2023 mid-term board elections.
12. We consulted on the proposal to enable electronic elections in April-June 2021 and many submitters were supportive of the changes. As part of our consultation, we talked to two providers who indicated a significant number of schools are interested in using these services now.⁴
13. In most circumstances where schools want to adopt electronic elections, the elections will need to follow a mixed model, where paper-based options are available for voters who cannot or do not want to vote electronically. One of the providers (Canterbury Education Service), already has a system that uses mixed model.

We are seeking to delay the elections to bring forward changes to the Regulations to enable electronic elections

14. We have considered three options around timing to enable electronic elections through changes to the Regulations. These are:
 - a. Option 1: Electronic election available in 2023 as previously agreed [METIS: 1264141 refers];
 - b. Option 2: Electronic election available in time for May 2022 triennial elections;
 - c. Option 3: Electronic election available in late 2022 with a delay, occurring in September 2022 at the end of Term 3 (recommended).
15. Option one does not enable us to take steps towards enhancing resilience in the system and provide any ways to reduce the impact of COVID-19 or other disruptions for the next two years.
16. While option two enables electronic elections by May 2022 (in time for the current gazetted school board election date), it does not allow enough time before the beginning of triennial election processes for consultation on the draft regulations with schools, boards, communities and other key stakeholders.
17. Option three is our recommended option. It delays the triennial elections by four months, to enable time for development and consultation on the draft regulations. Consultation on draft regulations is necessary to ensure that we develop regulations that are fit for

³ For example, expanding the criteria for co-opting board members to reflect Te Tiriti o Waitangi, as well as being inclusive of the LGBTQI+ community.

⁴ These two providers were Canterbury Education Service (CES) together with Electionz.com, as well as EducationPlus Auckland, MySchoolElection.com. 9(2)(g)(i)

purpose and workable for schools and returning officers. A planned delay to help future-proof elections and provide an electronic option is preferable to any future unplanned delays that could be caused by COVID-19.

18. In acknowledgement of the digital divide, all options allow for a mixed model of paper-and-electronic processes. This ensures that all people can participate in school board elections even if they do not have digital access.

There are some risks with delaying school board elections

19. Broadly these risks are:

- a. **The timing of the mid-term elections** - moving the 2022 triennials to September means that the next mid-terms would need to be held in March 2024, with elections processes beginning in December 2023 or January 2024, before schools open and school rolls are finalised. 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED] We will provide you with further advice on this at the end of October.
- b. **Limited ability of school boards to consult their school communities on election decisions** - we have previously indicated we intend to require schools to consult students, staff, whānau and the wider school community on which election process should be used, once more than one option is available. The proposed timeframes are tight, which is likely to result in boards not being able to engage their school communities. A delay to this requirement until the mid-term elections may be required.
- c. **Reduced membership of school boards** - moving the election may see some boards lose members, which could impact boards' ability to function. Elected board members may resign instead of serving an extra four months, while co-opted and appointed board members may reach the end of their term before the election and have to stand down. NZSTA have indicated that they expect board members would be willing to continue in their role until the new election period. Board members whose term of office expires are able to be re-appointed or co-opted if they are willing to continue to serve.
- d. **New guidance and training for school boards** - NZSTA will have a short timeframe to develop new supports and guidance for schools and returning officers who want to adopt electronic elections if cabinet approval is granted. We intend to work closely with NZSTA throughout the process. 9(2)(f)(iv) [REDACTED]
[REDACTED]
- e. **Election delivery and funding implications for NZSTA** – changing the timing of elections will disrupt planning and delivery of them (based on the current timetable), with project staff already hired and communications to all schools due to be sent in the next few weeks. Alongside this, the NZSTA is contracted to provide advice and guidance to boards through to the end of 2022 to support board elections. We have discussed these implications with NZSTA and will work in partnership with them on the funding implications of supporting the introduction of electronic elections (ie providing new training for returning officers and boards). [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- f. **Schools/kura with alternative constitutions** – there are implications for some schools/kura with alternative constitutions. We have yet to undertake a detailed analysis of the impact on these schools/kura as they may be required to amend their constitutions to enable electronic elections. If you agree to this delay, we intend to analyse the impact on these schools/kura.
- g. **Impact on Māori and Pacific communities** – these communities may raise why we have prioritised enabling electronic elections earlier than hui-based elections which we received support for in public consultation earlier this year. We heard in public consultation that enabling hui-based elections requires time for more extensive engagement with these communities on the design of the hui election regulations. We will discuss this further with Te Rūnanga Nui and Ngā Kura a Iwi, and other parties to seek their input.

We need your agreement now because the new dates must be gazetted by 31 October 2021

- 20. When specifying a range of dates during which elections must be held, the Act requires this be done by 31 October the year before the election. We need confirmation of your approval by 27 October to meet this deadline. As noted above, you have already specified dates, but any change to those dates would also need to be gazetted before 31 October.
- 21. If you agree to move the dates of the triennial elections, you will not be able to move them again after 31 October.
- 22. We will not have Cabinet policy approvals when the new dates are Gazetted. Normally, we would not publicly discuss ongoing policy work. However, stakeholders will want to know why the elections have been moved. If you agree to our recommended option of delaying the election, we will develop communications material to support gazetting of a new notice and will work with NZSTA on communications with the sector.

We will provide you with advice to enable electronic elections in regulations by the end of October

- 23. We are currently working through a range of policy issues and the risks identified above so that we can enable electronic school board elections next year.
- 24. The options we are considering to enable electronic elections range from a low level of prescription in the regulations through to accreditation of providers who meet a prescribed set of technical standards. Important considerations include school's current IT security, the capability of users - both voters and administrators, and ensuring due diligence activities can be undertaken if we grant accreditation to particular providers.
- 25. We intend to complete this analysis in the coming month and will provide you with advice including our recommended approach by the end of October 2021.

Table 1: Proposed timeline for new triennial election dates and regulatory changes

Milestones	Timeline
Gazetting of new election dates	By Wednesday 27 October 2021
Report Seeking policy decisions on enabling electronic elections	End of October 2021
Departmental and Ministerial consultation	Thursday 4 November – Wednesday 17 November 2021
SWC	Wednesday 24 November 2021
Cabinet	Monday 6 December 2021

9(2)(f)(iv)

Annexes

Annex 1: Notice for the *New Zealand Gazette*

NOTICE FOR NEW ZEALAND GAZETTE

Change to Range of dates for the 2022 triennial School Board elections.

Under clause 3(4)(a)(i) of Schedule 23 to the Education and Training Act 2020 and section 15 of the Interpretation Act 1999, I hereby change the period specified as the range of dates for the triennial school board elections in 2022 from the period 2 May 2022 until 20 May 2022 to the period from 5 September 2022 until 23 September 2022.

Dated at Wellington this 15th day of October 2021.

Hon Chris Hipkins
Minister of Education



Note: This notice replaces the notice published in the New Zealand Gazette, 22 June 2021, Notice No. 2021-go2479