




**SENT BY EMAIL (4 November 2022)**

Tēnā koe 

Thank you for your email of 6 October 2022 to the Ministry of Education requesting the following information:

1. *Where in the Education Act, or elsewhere, are the current provisions for prosecution of Truancy?*
2. *If the provisions of the 1964 Act have been superseded, what advice was given to government ministers about the reversal of the burden of proof?*
3. *You have recently advised that the Ministry has not initiated any prosecution over the last 10 years. How many recommendations to prosecute, if any, has the ministry declined during that period? If there are not complete records, have any such recommendations been declined? And if so why?*

Your request has been considered under the Official Information Act 1982 (the Act). Responses to your individual questions are set out below.

1. The current provisions for prosecution of truancy are found under section 244 of the Education and Training Act 2020, Offence relating to irregular attendance:  
[https://www.legislation.govt.nz/act/public/2020/0038/latest/LMS176221.html?search=ts%40bill%40regulation%40deemedreg\\_Education+and+Training+ resel 25 a&p=1](https://www.legislation.govt.nz/act/public/2020/0038/latest/LMS176221.html?search=ts%40bill%40regulation%40deemedreg_Education+and+Training+ resel 25 a&p=1)
2. The irregular attendance provisions of the 1964 Act were replaced by those of the 1989 Act, which in turn are now in the Education and Training Act 2020. The burden of proof being placed on parents in relation to these types of prosecution has been a feature of New Zealand's compulsory education system since 1877. Any advice from that timeframe is refused under section 18(e) of the Act, as the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.  
  
Section 247 of the Education and Training Act 2020 outlines burden of proof on parents, as set out in the legislation here: [Education and Training Act 2020 No 38 \(as at 01 September 2022\), Public Act 247 Burden of proof on parents – New Zealand Legislation](#)
3. The Ministry does not recommend non-attendance prosecutions. The Ministry's responsibility is to provide advice to schools regarding prosecutions and provide guidance where required. The Ministry also informs applicants about legal fees for reimbursements.

Please note, the Ministry now proactively publishes OIA responses on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review our decision on your request, in accordance with section 28 of the Act. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or to Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā,

Enquiries National

Sent by email