



Education Report: Education and Training Bill – public consultation on second tranche of policy proposals

To:	Hon Chris Hipkins, Minister of Education		
Date:	4 March 2019	Priority:	Medium
Security Level:	In Confidence	METIS No:	1179786
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Messaging seen by Communications team:	No		

Purpose of report

This paper asks you to approve the attached draft Cabinet paper and discussion documents for matters to be included in the *Education and Training Bill* for departmental consultation.

Summary

1. A draft Cabinet paper seeking approval for public consultation on the second tranche of policy proposals for the Education and Training Bill is attached (Annex 1). If you agree, we will release this paper for departmental consultation.
2. We have also attached to the Cabinet paper three draft consultation documents on these proposals for your approval. The consultation documents cover: the establishment and disestablishment of special schools (Appendix 1), school donation scheme funding (Appendix 2), and an enforceable right to education (Appendix 3).
3. We propose to provide you with a revised draft Cabinet paper and consultation documents by 18 March for consultation with other Ministers. We are aiming to have a final paper ready for you to lodge for consideration at the Cabinet Social Wellbeing Committee (SWC) on 10 April 2019.
4. Subject to Cabinet approval, consultation will take place between 16 April and 14 May (four weeks).
5. We propose that you give SWC feedback from this consultation in late June and seek policy decisions, and approval to issue the second tranche of drafting instructions, at that time.

Recommended Actions

The Ministry of Education recommends you:

- a. **agree** that the Ministry can release the attached draft Cabinet paper on consultation for the second tranche of policy proposals for the E&T Bill for departmental consultation

Agree / Disagree

- b. **agree** that the Ministry should propose replacing the term "special school" with "specialist school" in the legislation and that we should amend the consultation document attached to the Cabinet paper accordingly

Agree / Disagree

- c. **agree** that the Ministry can release the attached associated consultation documents for departmental consultation

Agree / Disagree

Proactive Release Recommendation

- d. **agree** that this Education Report will be proactively released once any Cabinet decisions have been made.

Agree / Disagree

Dr Andrea Schöllmann
Deputy Secretary
Education System Policy

04/03/2019

Hon Chris Hipkins
Minister of Education

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Background

1. You have already approved a draft Cabinet paper regarding the first tranche of policy decisions for the Education and Training Bill (Education Report METIS 1175118 refers).
2. The proposals in the attached Cabinet paper and discussion documents form the second tranche of policy required for the Bill. They require public consultation as they relate to matters not consulted on through the various sector reviews, and the policy changes are more significant than those provided for in the first tranche of proposals.

Tranche two consultation proposals

Establishment and disestablishment of special schools

3. These proposals are for technical amendments aimed at repealing and replacing the 1964 Act. All non-integrated, non-designated character state schools would be established and disestablished under the same legislative provisions. There would no longer be a separate legislative provision covering the establishment and disestablishment of special schools, and the test for disestablishment would be updated.
4. We are also considering whether we should take this opportunity to consult on replacing the term "special school" with "specialist school". Some schools already call themselves "specialist schools"; for example, Ruru Specialist School, Arohanui School and Specialist Outreach Service, and Kea Street Specialist School.
5. A change in the legislation could signal that all of these types of schools should be identified by their role in providing specialist education (including learning support specialists and specialist teachers) rather than by labelling the school (and, by implication, the students) as "special". We also understand that a significant portion of the disability sector is opposed to the term "special school".
6. If you would like us to consult on this change in terminology, we will revise the Cabinet paper and related consultation document prior to beginning departmental consultation on the draft paper.

School donations scheme funding

7. This proposal relates to the proposed voluntary donations scheme under which participating boards of trustees would receive annual funding of \$150 per student, instead of requesting donations. Proposed amendments would enable the Ministry to recover donations scheme funding paid to a school that did not comply with the conditions for participating in the scheme.
8. The Cabinet paper refers to the related Budget bid to provide Ministers with context but explains that, because the consultation will start before final Budget decisions, the consultation material is focussed on what the potential policy change could be and highlights that this is explorative only at this time.

Enforceable right to education

9. These proposals are aimed at strengthening the provisions in the 1989 Act that give children and young people specific rights in relation to accessing free education, and strengthening related enforcement powers. Proposed amendments would:
 - a. Clarify that there is a right of attendance;
 - b. Give the Secretary for Education enforcement powers to direct enrolment and direct attendance;
 - c. Make it clearer in the legislation which provisions give effect to the right to education. This will make it easier for people to understand what their rights are and how to realise those rights.
10. While the discussion document is limited to the above proposals, the Cabinet paper includes examples from other jurisdictions where it is unlawful to interfere with a person's right to education and strong sanctions apply. For example, in Saskatchewan, Canada a person (including a teacher or trustee) can be disqualified from office if they breach an individual's right to education.
11. We are not proposing to consult on options at this more extreme end of the regulatory interventions continuum at this time, but consider it important to provide Ministers with context that includes how other jurisdictions give effect to the right to education.

Offshore provision of the National Certificate of Educational Achievement

12. We are consulting the New Zealand Qualifications Authority on options for addressing concerns around the offshore provision of the National Certificate of Educational Achievement. We expect to seek your agreement to add related proposals to the Tranche two public consultation process. We will update you by the end of this week.

Next steps

13. We will incorporate any feedback you provide into revised versions of the Cabinet paper and discussion documents for a round of departmental consultation from 11-15 March.
14. We will then provide you with a revised draft Cabinet paper and consultation documents by 18 March for consultation with other Ministers. We are aiming to have a final paper ready for you to lodge for consideration at the Cabinet Social Wellbeing Committee (SWC) on 10 April and confirmation by Cabinet on 15 April.
15. The Cabinet paper provides for public consultation to take place between 16 April and 14 May.

Annexes

Annex 1: Draft Cabinet paper seeking approval for public consultation on the second tranche of policy proposals for the Education and Training Bill; plus the following Appendices to the Cabinet paper:

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| Appendix 1: | Draft consultation document: The establishment and disestablishment of special schools |
| Appendix 2: | Draft consultation document: School donation scheme funding |
| Appendix 3: | Draft consultation document: Enforceable right to education |