

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Education and Training Bill – public consultation on second tranche of policy proposals
Date considered 1 May 2019

These documents have been proactively released:

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

Date considered: 1 May 2019

Author: Ministry of Education

Social Wellbeing Committee Minute – SWC-19 MIN-0041

Date considered: 1 May 2019

Author: Cabinet Office

Cabinet Minute – CAB-19-MIN-0203

Date considered: 6 May 2019

Author: Cabinet Office

Material redacted

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>

In Confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

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

Proposal

- 1 This paper seeks approval for public consultation on the second tranche of proposals for the Education and Training Bill. The proposals are set out in the attached discussion documents.

Executive Summary

- 2 The Education and Training Bill holds a s 9(2)(f)(iv) in the 2019 Legislation programme. The Bill will implement the proposed reforms identified through the education work programme. It will also consolidate, restructure and update material from the Education Acts 1989 and 1964 and include amendments in the Vocational Education Legislation Bill. Ultimately my intention is for the Education and Training Bill to replace all former education and training legislation.
- 3 On Wednesday 3 April, the Cabinet Social Wellbeing Committee approved the first tranche of policy for the Bill (SWC-19-MIN-0029 and CAB-MIN-0139).
- 4 This paper seeks approval to consult on the second tranche of proposals. These proposals are intended to:
 - 4.1 update the name of “special schools”, and transfer the Education Act 1964 provisions regarding their establishment and disestablishment into the Bill, with minor updates to remove the redundant terms “class” and “clinic”;
 - 4.2 strengthen the provisions that give children and young people specific rights in relation to accessing free education;
 - 4.3 prohibit, except in limited circumstances, the offshore awarding of the National Certificate of Educational Achievement (NCEA).
- 5 I expect to report the feedback from this consultation to SWC in July, and will seek policy decisions, and approval to issue the second tranche of drafting instructions, at that time.
- 6 Public consultation on the proposals is planned for five weeks from 7 May to 7 June 2019.

Background

- 7 On 25 February 2019, Cabinet agreed that the Education and Training Bill (the Bill) should hold s 9(2)(f)(iv) in the 2019 Legislation Programme (CAB-19-MIN-0049).

- 8 On 3 April 2019, the Cabinet Social Wellbeing Committee agreed to the first tranche of policy proposals and invited the Minister of Education to issue the first tranche of drafting instructions for the Bill (CAB-MIN-0139). The Bill will implement the proposed reforms identified through the education work programme including amendments proposed to the Education Act 1989 (the 1989 Act) via the Vocational Education Legislation Bill, and the Education Act 1964 (the 1964 Act). This Bill will replace all former education and training legislation.
- 9 This paper seeks approval relating to the second tranche of proposals. These proposals (outlined below) relate to issues that have not been consulted on through the various sector reviews.

Comment

Changes for special schools

Establishment and disestablishment

- 10 The changes I am proposing here are aimed at enabling the repeal and replacement of the 1964 Act. They will not affect the existing obligations that apply in relation to the establishment and disestablishment of special schools.
- 11 There are 27 day special schools across New Zealand for students in years 1 to 13. There are also 5 residential special schools and 3 regional health schools. These are all special schools established under the process in the 1964 Act. Residential and day special schools support students with high needs and regional health schools provide teachers for children who are unwell.
- 12 The process for establishing and disestablishing special schools is different to the process for establishing and disestablishing other state and state integrated schools. For special schools the provisions are some of the last remaining provisions in the 1964 Act. In addition to special schools there is reference to any special “class, clinic or service” and their establishment and disestablishment has the same criteria.
- 13 For most State schools establishment and disestablishment provisions are in the 1989 Act. The 1989 Act provisions are highly discretionary, whereas the 1964 Act contain criteria that constitute mandatory relevant considerations for the decision-making Minister.
- 14 Currently, to establish any special school (or class, clinic or service), the Minister must “have regard to the provision of special education in any locality or localities”. Likewise, unless dissatisfied with the way the school is being run, the Minister must only disestablish a special school (or class, clinic or service) if he or she considers that sufficient provision (for the provision of special education) is made by another similarly established special school (class, clinic or service), or by another school or class in, or reasonably near to, the same locality. I do not propose to alter these different decision-making criteria, merely to move them from one Act to another.
- 15 While no changes to the criteria and processes for schools or services are needed, we propose to remove references to clinics and classes, as these references are no longer needed. Ministerially approved clinics and special classes operating in 1999 were disestablished with the implementation of Special Education 2000. Consistent with Tomorrow’s Schools and the policy of mainstreaming, individual boards of trustees can, and do, operate their own special classes according to local need.

- 16 The references to school or service and their establishment and disestablishment with the same criteria will be retained. Special education initiatives including ORS and Resource Teachers: Learning and Behaviour have been established, with ORS categorised as a special service. The removal of the references to clinics and classes will therefore not affect ORS or other special services.

Changing the term “special school” to “specialist school”

- 17 I am also proposing to replace the term “special school” with the term “specialist school” in the legislation. This would align the legislation more closely with current practice which is increasingly focussed on the provision of specialist education through regular schools rather than students only being able to access specialist education through specialist schools. For example, national providers such as Blind and Low Vision Education Network New Zealand, the Deaf Education Centres and the three Regional Health Schools all provide an itinerant specialist service to support students in regular school settings.
- 18 Changing the term “special school” to “specialist school” in the legislation will recognise that these types of schools should be identified by their role in providing specialist education (including learning support and specialist teachers), rather than by labelling the school (and, by implication, the students) as “special”.

Strengthening the right to education

- 19 The 1989 Act provides for specific aspects of a right to education, but there are concerns around whether these aspects go far enough in providing for a right to education. Our international obligations require us to have an enforceable right to education in our domestic legislation.

The right to education

- 20 The right to education is not defined in a single place in New Zealand statute law. Instead, the right to education is diffused throughout the 1989 Act. The two main provisions are sections 3 and 8. Section 3 contains the right to free primary and secondary education. It states that “Except as provided in this Act, every person who is not an international student is entitled to free enrolment and free education at any State school during the period beginning on the person’s fifth birthday and ending on 1 January after the person’s 19th birthday”.
- 21 The right guarantees free enrolment and free education for every person between the ages of 5 and 19. It is limited to ensuring students may be enrolled in school and that they are able to access education at no cost. It does not express a right to attendance although arguably the right to attendance is implied in the Act.
- 22 Section 8 of the 1989 Act affirms that those with special education needs (whether because of disability or otherwise) have the same rights to enrol and receive education at State schools as those who do not have special education needs.
- 23 The Human Rights Commission has stated that it believes the right to education is not explicitly provided for in New Zealand law, despite sections 3 and 8. It does, however, note that elements of the right are reflected in legislation, with education policy and administrative practice further supplementing the realisation of this right.

Potential improvements

- 24 At a minimum, I think it necessary to amend the legislation to clarify that there is a right to attendance. This will remove the anomaly in the 1989 Act where students have a duty to attend school, boards of trustees have a duty to take reasonable steps to ensure they do, and parents can be prosecuted if their children don't attend school, but there is no corresponding express right to attendance.
- 25 To further support and strengthen this right to education, the Learning Support Action Plan provides that the Ministry of Education will work to "build knowledge, understanding and awareness of the rights of children and young people who are disabled or need additional learning support to enrol in and receive an education from their local school".
- 26 The legislation should also be amended to more clearly signpost upfront which provisions give effect to the right to education. This will enable people to more easily identify what their rights are and how to realise them¹.

Purpose of the consultation

- 27 I propose to use the discussion document to find out more about the experiences and views of students, families and whānau, caregivers, schools and other stakeholders before deciding if any of this change should be made to the legislation.
- 28 Schools may be concerned about the workload impacts of a strengthened right to education that would require them to do more to ensure that all students could attend whenever the school is open. They may also be concerned about how this will affect their ability to stand-down, suspend, exclude or expel students. Parents may express views on whether such a strengthened right will give them more confidence in challenging school decisions, particularly where they feel the school has acted unlawfully (for example, in a decision to expel a child). The consultation process will enable us to better understand these impacts for schools before the Government makes a decision about strengthening the right to education.

Prohibiting the offshore awarding of NCEA in most circumstances

- 29 Over recent years, several schools (both State and private) and tertiary education providers (TEPs) have expressed interest in awarding NCEA to students based offshore.
- 30 The Act prevents State schools, apart from correspondence schools, from providing NCEA to students offshore. Te Aho o Te Kura Pounamu (Te Kura) is currently the only correspondence school.
- 31 At present there are no legislative barriers to private schools and TEPs assessing standards which could lead to the award of NCEA to students living offshore, although NZQA is not aware of any private schools or TEPs actually doing so at present.

¹ Under the 1989 Act, the Ministry has enforcement powers relating to some aspects of a person's right to education, including:

- The power for the Secretary to direct a parent of a student who requires special education to be enrolled at a particular State school, special school, special class, or special clinic, or education or help from a special service;
- The power for the Secretary to direct a school to enrol a student or engage specialist help;
- Statutory interventions to address concerns about or risks to the operation of individual schools or to the welfare or educational performance of their students.

- 32 I consider that NCEA should not be awarded offshore. This is because:
- 32.1 NCEA was never developed to be an international qualification with its mix of internal and external assessment linked with teaching and learning of the National Curriculum, which was developed for New Zealand students or those living in New Zealand;
 - 32.2 the widespread awarding of NCEA offshore would present difficulties in moderating and quality assuring the assessment of standards. This would create significant risks to the international reputation and credibility of the NCEA qualifications. While NZQA would seek to manage these risks, this could impact both on New Zealand students with NCEA wishing to study at tertiary level in other countries, and on the desirability of New Zealand as a destination for international secondary students;
 - 32.3 in addition to the practical difficulties with offshore moderation and quality assurance, the need to quality assure NCEA offshore would create significant costs for NZQA, for which it is not currently resourced.
- 33 I am also concerned that enabling private schools to gain income through offshore provision of NCEA could be seen as unfairly advantaging private schools over State schools.
- 34 To address these concerns, I propose amending the 1989 Act to prohibit the awarding of NCEA offshore.
- 35 There should, however, be exceptions to the prohibition to enable the continued awarding of NCEA offshore in the following circumstances:
- 35.1 to allow for the continued awarding of NCEA to domestic students through correspondence school enrolment gateways (currently limited to Te Kura);
 - 35.2 to allow for NCEA qualifications to continue to be awarded in countries, such as the Cook Islands and Niue, where the government has enabled this through government-to-government agreements. This support is enabled under s246A(1)(g) of the 1989 Act, which sets out a function of NZQA as assisting overseas governments and agencies, and I consider that the prohibition should not override this section;
 - 35.3 some TEPs provide unit standards offshore that lead to qualifications other than NCEA, and which can also contribute to NCEA. I do not intend to stop this provision where it is not aimed at NCEA.
- 36 For the proposed prohibition to be effective, it may need to be accompanied by offences or other sanctions. I intend to seek views through the public consultation process on what the appropriate sanctions should be.

Consultation

- 37 The Treasury, Ministry of Social Development, Office for Disability Issues, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Oranga Tamariki - Ministry for Children, Ministry of Justice, Ministry of Business, Innovation and Employment, Ministry of

Foreign Affairs and Trade, New Zealand Police, Education Review Office, Tertiary Education Commission and New Zealand Qualifications Authority were consulted on this paper. The State Services Commission and the Department of the Prime Minister and Cabinet were informed.

Financial Implications

- 38 There are no financial implications.

Human Rights

- 39 All of the proposals appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final determination as to the consistency of these proposals with the New Zealand Bill of Rights Act will only be possible when the Bill has been drafted.

Legislative Implications

- 40 Feedback on these proposals will inform revised proposals that I expect to submit to Cabinet later this year when I will be seeking approval to issue the second tranche of drafting instructions for an Education and Training Bill.
- 41 The Education and Training Bill holds s 9(2)(f)(iv) in the 2019 Legislation Programme.

Regulatory Impact Analysis

- 42 The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this Cabinet paper relating to the establishment and disestablishment of special schools and the name of special schools are exempt from the requirement to provide a Regulatory Impact Assessment. These are technical amendments, which will have no or minor impacts on businesses, individuals or not for profit entities.
- 43 A Regulatory Impact Statement will be prepared and provided when final policy approvals are sought from Cabinet in relation to the other proposals in this paper.

Gender Implications

- 44 There are no gender implications in relation to these proposals.

Disability Perspective

- 45 Strengthening the right to education could make it easier for disabled students to attend school in situations where schools are not providing the support they need to exercise that right. The Ministry will seek advice from the Office for Disability Issues on how best to obtain the views of disabled people and the organisations that represent them during the public consultation process.

Proactive Release

- 46 I intend to proactively release this Cabinet paper subject to redaction as appropriate under the Official Information Act 1982. Redactions will likely include references to the Education and Training Bill's priority in the 2019 Legislation Programme.

Publicity

- 47 The opportunity to comment on the discussion documents will be publicised through the Ministry of Education's website and social media. The Ministry will also contact key stakeholders directly to seek their input.

Recommendations

- 48 The Minister of Education recommends that the Committee:

1 **note** that on 3 April 2019, the Cabinet Social Wellbeing Committee agreed to the first tranche of policy approvals, and to the issuing of related drafting instructions for the Education and Training Bill (the Bill);

2 **note** that the Bill holds s 9(2)(f)(iv) in the 2019 Legislation Programme, and will replace current education and training legislation with a new Education and Training Act;

3 **note** that the second tranche of policy proposals are intended to:

- 3.1 update the name of "special schools", and transfer the Education Act 1964 provisions regarding the establishment and disestablishment of special schools into the new legislation, with minor updates to remove the redundant terms "class" and "clinic";
- 3.2 strengthen the provisions that give children and young people specific rights in relation to accessing free education;
- 3.3 prohibit the awarding of NCEA offshore subject to exceptions to:
 - 3.3.1 allow for the continued awarding of NCEA to domestic students through correspondence school enrolment gateways (currently limited to Te Kura);
 - 3.3.2 allow for NCEA qualifications to continue to be awarded in countries, such as the Cook Islands and Niue, where the government has enabled this through government-to-government agreements;
 - 3.3.3 allow Tertiary Education Providers that provide unit standards offshore that lead to qualifications other than NCEA, and which can also contribute to NCEA, to continue this provision where it is not aimed at NCEA;

4 **note** that the intended period of public consultation will be from 7 May to 7 June 2019 (five weeks);

5 **note** that the Minister of Education intends to seek final policy approvals for these proposals (and approval to issue the second tranche of drafting instructions), from the Cabinet Social and Wellbeing Committee in July 2019;

6 **agree** to the Minister of Education releasing the following documents subject to any minor editorial, formatting and layout changes required:

6.1 Transfer of provisions regarding special schools and renaming of “special schools” (attached at Appendix 1);

6.2 Strengthening the right to education (attached at Appendix 2);

6.3 Prohibiting awarding NCEA offshore (attached at Appendix 3);

7 note that the proposed prohibition of awarding NCEA offshore may be supported by a new offence provision or other sanction to be determined following consideration of feedback from the public consultation process.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



We are seeking your input into proposed transfer of provisions regarding special schools and re-naming of special schools

Background

This consultation is about the proposed transfer of statutory provisions about the establishment and disestablishment of special schools from one Act to another, and about the re-naming of special schools. The changes do not affect the number of special schools or their operation.

The Government intends to replace both the Education Acts 1964 and 1989 with new legislation. In doing so it proposes to transfer the legislative provisions currently contained in the Education Act 1964 for establishing and disestablishing special schools into the new legislation, with minor changes to remove references to some clinics and classes that are no longer used. It is also proposed to change the name “special school” to “specialist school”.

There are 27 day special schools across New Zealand for students in years 1 to 13. There are also 5 residential special schools and 3 regional health schools. All of these special schools are established under the process in the 1964 Act. Residential and day special schools support students with high needs and regional health schools provide teachers for children who are unwell.

Most State schools are established by the Minister under section 146 of the Education Act 1989 and disestablished under section 154 of that Act. There is a different legislative provision for establishing and disestablishing special schools. This is section 98 of the Education Act 1964.

Section 98 of the 1964 Act also refers to the establishment and disestablishment of special classes, clinics and services. There are no longer any special classes or clinics established by the Minister.

The Ongoing Resourcing Scheme (ORS) is treated as a special service under the 1964 Act. ORS provides support for students with the highest level of need for learning support to learn alongside other students at school. Changes are not proposed to the ORS provisions.

Current situation

The process for establishing and disestablishing special schools is different to the process for establishing and disestablishing other state and state integrated schools. For special schools the provisions are some of the last remaining provisions in the 1964 Act.

Currently, to establish any special school (or class, clinic or service), the Minister must “have regard to the provision of special education in any locality or localities”. Likewise, unless dissatisfied with the way the school is being run, the Minister must only disestablish the school (or class, clinic or service) if he or she considers that sufficient provision (for the provision of special education) is made by another similarly established special school (class, clinic or service), or by any other school or class in, or reasonably near to, the same locality. It is not proposed to alter these different decision-making criteria, merely to move them from one Act to another.

Parents can only enrol their child at a special school with the consent of the Secretary under section 9 of the Education Act 1989. They have a right to require the reconsideration of that decision. They may also require reconsideration of a decision to decline ORS funding (as a special service under section 98 of the 1964 Act). These rights are currently in section 10 of the 1989 Act.

Proposals for change

The current legislative provisions about establishing and disestablishing special schools would be transferred into new legislation. The only amendment will be to remove references from the legislation to special classes and clinics established by the Minister as there are no longer any such classes or clinics being established.

The references to school or service and their establishment and disestablishment with the same criteria will be retained. Special education initiatives including ORS and Resource Teachers: Learning and Behaviour have been established, with ORS categorised as a special service.

In addition, the legislation would be amended to replace the term “special school” with the term “specialist school”.

Replacing the term “special school” with the term “specialist school” in the legislation would reflect current practice which is increasingly focussed on the provision of specialist education through regular schools. It would also signal that these types of schools should be identified by their role in providing specialist education (including learning support and specialist teachers) rather than by labelling the school (and, by implication, the students) as “special”.

How to have your say

We are seeking your views on the proposals to transfer the current legislative provisions about establishing and disestablishing special schools into a new Act and to replace the term “special schools” with the term “specialist schools”, before the Government makes a decision about including them in a Bill.

You can email a submission to legislation.consultation@education.govt.nz or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 7 June 2019 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in the wording of proposed new education legislation.

Personal information and confidentiality

Submissions and documents associated with the consultation process meet the definition of official information, and are therefore subject to the Official Information Act 1982.

Further information

If you have any questions about making a submission, or would like more information, please email legislation.consultation@education.govt.nz



Have your say about strengthening the right to education

Background

The right to education is not set out in one place in New Zealand legislation. Instead, aspects of the right are spread throughout the Education Act 1989.

Sections 3 and 8 of the Education Act 1989 are the two main provisions that express this right. Section 3 contains the right to free primary and secondary education. Section 8 guarantees those with special education needs (whether because of disability or otherwise) the same rights as those without special education needs.

The rights in sections 3 and 8 guarantee free enrolment and free education for domestic students between the ages of 5 and 19. There is also a corresponding duty to enrol in a school between the ages of 6 and 16 (section 20), and it is an offence if someone between those ages is not enrolled.

However, the right to education is limited to ensuring that students are enrolled in school and that they are able to access education at no cost. It does not specifically include the right to attendance. This is despite there being a duty to attend school whenever it is open and an obligation on boards of trustees to ensure this occurs (section 25). Parents also commit an offence if their child's attendance is irregular.

The lack of an explicit right to attendance can result in situations where a student is enrolled in a school, but their attendance is restricted. For example, when a student with learning support needs is enrolled in a school, but they are told they can only attend for three days a week when a teacher aide is available.

Current situation

We want to ensure that we are complying with our international obligations to have a right to education in New Zealand. In response to concerns raised about the lack of an explicit right to education, the Ministry of Education is considering how to more explicitly include a right to education in legislation.

The right to education being spread across the Education Act 1989 makes it inaccessible for many people. It may be difficult for people unfamiliar with the law to navigate, to understand what their right to education encompasses and how to uphold that right.

Proposal for change

We are seeking your views on whether the current aspects of a right to education go far enough in ensuring an individual's right to education is upheld.

Changes could make it clearer where in legislation the right to education is contained, and more explicitly include the right to attend school.

Legislation could expand the current right to education to more explicitly include the right to attendance (as well as free enrolment and free education)

Currently the legislation is clear that students have a right to free education and to free enrolment. The legislation could be amended to explicitly include a corresponding right to attend school whenever the school is open.

This would expand the right to education to ensure that students are accessing the education that they are entitled to.

The Ministry of Education could support this right by building knowledge, understanding and awareness of the rights of children and young people who are disabled or need additional learning support to enrol in and receive education from their local school.

Signposting the legislation to make it clearer which provisions give effect to the right to education

To make the right to education clearer for students and their whānau, the right to education in legislation could include a description of the elements of the right to education and references to the provisions of the Act that specifically address those elements. This could include links to a) where the right to education is found and b) where the provisions to enforce that right are found.

This approach alone would not enhance students' right to education. However, it would make the legislation more accessible and show where the legislation addresses the elements of a right to education.

How to have your say

We are seeking your views on the proposed change, before the Government makes a decision on including it in a Bill.

You can email a submission to legislation.consultation@education.govt.nz or write to:

Education Consultation

Ministry of Education

PO Box 1666

Wellington 6140

New Zealand

Submissions close on 7 June 2019 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in the wording of proposed new education legislation.

Personal information and confidentiality

Submissions and documents associated with the consultation process meet the definition of official information, and are therefore subject to the Official Information Act 1982.

Further information

If you have any questions about making a submission, or would like more information, please email

legislation.consultation@education.govt.nz



Have your say about restricting the awarding of NCEA offshore

Background

The National Certificate of Educational Achievement (NCEA) is New Zealand's main national qualification for senior secondary school students.

The Education Act 1989 prevents State and State integrated schools from awarding NCEA offshore. An exception to this is correspondence schools (New Zealand currently has only one established correspondence school, Te Aho o Te Kura Pounamu | the Correspondence School).

Currently, there are no legislative barriers to private schools and tertiary education providers (TEPs) assessing standards which could lead to the award of NCEA to students living offshore. Those private schools or TEPs that wish to assess standards leading to the award of NCEA to students based offshore must have consent to assess from NZQA.

New Zealand also has agreements with the Cook Islands and Niue which enable secondary schools in those countries to award NCEA.

Current situation

There are risks with awarding NCEA offshore:

- NCEA has been developed for a New Zealand context, and is not readily transferable to other educational systems and contexts;
- NCEA is based on standards-based assessment with an increasing proportion of internal assessment. This means high levels of quality assurance and moderation are needed;

- When NCEA is offered offshore, the school or provider's connection with the broader educational system could become more tenuous, creating risks to the quality and consistency of teaching and assessment; and
- The delivery of NCEA offshore can create a risk to New Zealand's educational reputation and perceptions of the quality and robustness of the NCEA qualification, both in New Zealand and offshore.

In response to these concerns, the government is proposing to prohibit the awarding of NCEA offshore.

Proposal for change

It is proposed that the awarding of NCEA offshore would be prohibited through an amendment to the Education Act 1989. This would mean that State and State integrated schools, private schools and tertiary education organisations would not be able to offer NCEA offshore.

Three exceptions would be provided for. First, the awarding of NCEA by correspondence schools to domestic students based offshore will continue. Second, the ability for the Government to make arrangements with other countries, such as the Cook Islands and Niue, for their secondary schools to award NCEA will continue. Third, TEPs that provide unit standards offshore that lead to qualifications other than NCEA, and which can also contribute to NCEA, will be able to continue this provision where it is not aimed at NCEA.

It is proposed that appropriate sanctions be created, such as offences punishable by fines. We are seeking your views on what the sanctions should be and if they include offences, what the maximum fines should be.

We are not aware of any private schools or TEPs currently offering NCEA to students based offshore however, if this is already happening, transition arrangements would be put in place for any students based offshore and currently studying towards an NCEA qualification through private schools or tertiary education providers.

How to have your say

We are seeking your views on the proposed change, before the Government makes a decision on including it in a Bill.

You can email form submission to legislation.consultation@education.govt.nz or write to:

Education Consultation

Ministry of Education

PO Box 1666

Wellington 6140

New Zealand

Submissions close on 7 June 2019 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in the wording of proposed new education legislation.

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Further information

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Cabinet Social Wellbeing 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.

Education and Training Bill: Public Consultation on Second Tranche of Policy Proposals

Portfolio Education

On 1 May 2019, the Cabinet Social Wellbeing Committee (SWC):

- 1 **noted** that on 3 April 2019, SWC agreed to the first tranche of policy approvals, and to the issuing of related drafting instructions, for the Education and Training Bill (the Bill) [SWC-19-MIN-0029];
- 2 **noted** that the Bill holds s 9(2)(f)(iv) [REDACTED] and will replace current education and training legislation with a new Education and Training Act;
- 3 **noted** that the second tranche of policy proposals are intended to:
 - 3.1 update the name of “special schools”, and transfer the Education Act 1964 provisions regarding the establishment and disestablishment of special schools into the new legislation, with minor updates to remove the redundant terms “class” and “clinic”;
 - 3.2 strengthen the provisions that give children and young people specific rights in relation to accessing free education;
 - 3.3 prohibit the awarding of NCEA offshore subject to exceptions to:
 - 3.3.1 allow for the continued awarding of NCEA to domestic students through correspondence school enrolment gateways (currently limited to Te Kura);
 - 3.3.2 allow for NCEA qualifications to continue to be awarded in countries, such as the Cook Islands and Niue, where the government has enabled this through government-to-government agreements;
 - 3.3.3 allow Tertiary Education Providers that provide unit standards offshore that lead to qualifications other than NCEA, and which can also contribute to NCEA, to continue this provision where it is not aimed at NCEA;
- 4 **noted** that the intended period of public consultation will be from 7 May to 7 June 2019 (five weeks);

- 5 **noted** that the Minister of Education intends to seek final policy approvals for these proposals (and approval to issue the second tranche of drafting instructions) from SWC in July 2019;
- 6 **agreed** to the Minister of Education releasing the following documents subject to any minor editorial, formatting and layout changes required:
- 6.1 transfer of provisions regarding special schools and renaming of “special schools” (attached at Appendix 1 to the paper under SWC-19-SUB-0041);
 - 6.2 strengthening the right to education (attached at Appendix 2);
 - 6.3 prohibiting awarding NCEA offshore (attached at Appendix 3);
- 7 **noted** that the proposed prohibition of awarding NCEA offshore may be supported by a new offence provision or other sanction to be determined following consideration of feedback from the public consultation process.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Phil Twyford
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Dr David Clark
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Jenny Salesa
Hon Tracey Martin
Hon Willie Jackson
Hon Aupito William Sio
Hon Julie Anne Genter

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