



Briefing Note: Options for progressing religious instruction within the Education and Training Bill

To:	Hon Chris Hipkins, Minister of Education		
Date:	14 August 2019	Priority:	Medium
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Paper

This paper provides a draft Cabinet paper on options for progressing changes to religious instruction in schools within the Education and Training Bill for your feedback.

Proactive release

Agree that this Briefing will be proactively released once the Education and Training Bill has been introduced.

Agree / Disagree



Dr Andrea Schöllmann
Deputy Secretary
Education System Policy

14/08/2019



Hon Chris Hipkins
Minister of Education

15/8/19

Background

1. At the agency meeting on 29 July, you asked the Ministry to draft a Cabinet paper with three options for progressing changes to religious instruction provisions in the Education Act 1964 within the Education and Training Bill. These options are:
 - a. carrying across the current provisions;
 - b. amending the provisions to remove the statutory authority which enables boards to close at any time of day to allow religious instruction under some conditions; or
 - c. repealing the current RI&O provisions, carrying over the requirement that teaching in primary schools be secular while the school is open for instruction.
2. Attached as Annex one is a draft Cabinet paper, for your feedback. This Cabinet paper is based on your three options. It also incorporates our advice that at a minimum, we should change the law to require students who wish to attend religious instruction to "opt-in."
3. We have also included two further changes that would address complexities and tensions within the current legal framework for your consideration. One of these changes would mean that all State schools are regulated the same way on religious instruction and observances. The other change would exempt certain activities from being considered religious observances so that the diverse identities, languages and cultures of children and young people can be celebrated.

At a minimum, we should change the law to require students who wish to attend religious instruction to "opt-in."

4. We have included an explicit shift to an "opt-in" process within options one and two. This would reduce the risk that schools would apply the law in ways that are inconsistent with the NZBORA. This change would not be relevant if Cabinet chose to repeal the RI&O provisions altogether (option 3).
5. Boards of Trustees are applying the Education Act 1964 in ways which may not comply with the NZBORA. This is because school boards presume that religious instruction held on an "opt-out" basis meets their legal obligations. In practice this is leading to some children being placed in religious instruction sessions without the full and informed consent of parents and caregivers, who:
 - a. are not always made aware of the religious instruction sessions occurring, or the need to write to the principal for their child to be excused; or
 - b. are not always made aware of the true nature of religious instruction sessions (i.e. that the school is closed while religious instruction occurs; that religious instruction is separate from the school's education programme or the New Zealand Curriculum; that religious instruction is led by volunteers who are not school staff; and that their child's participation is optional); or
 - c. may feel coerced into allowing their child to attend religious instruction sessions because of social pressure, a fear of being treated differently as a result of not attending, and/ or a desire to keep their religious belief or non-belief private.
6. To meet both Education Act 1964 and human rights law requirements under the current regulatory framework, schools must have full information about which parents want to exercise the right for their child to be excused from religious instruction, and which parents want their child to take part in religious instruction. This requires all parents to

make their wishes known in writing. It is unlikely schools running either an explicit "opt-out" or "opt-in" policy are meeting all of their obligations.

7. Explicitly requiring "opt-in process" would have less administrative burden, as only some parents would need to return forms. This approach would be consistent with other school activities that require parental permission, such as field trips and school camps, which are part of the New Zealand curriculum.

Additional changes to address complexities and tensions within the current framework

8. During consultation on the draft guidelines on religious instruction, a total of 100 submissions were received. A detailed summary of submissions was included as part of the Cabinet paper publishing finalised guidelines on religious instruction (METIS 1174689 refers).
9. Consultation raised a number of complexities with the current legal framework which make it confusing for boards, and parents and caregivers to understand their rights and responsibilities.
10. To address the issues raised, we could make clarifying changes under any of the options to:
 - a. extend the provision that teaching must be secular to cover secondary schools; and
 - b. ensure diverse identities, languages and cultures can be celebrated as part of school life by specifically exempting from being religious observances:
 - i. the singing of the national anthem;
 - ii. celebrations of cultural or religious events which have religious elements; and
 - iii. religious songs or readings used as part of the neutral teaching of the New Zealand Curriculum and Te Marautanga o Aotearoa.
11. We have included potential text within the Cabinet paper on these options.

Next steps

12. Following your feedback on the draft Cabinet paper, we will revise it for departmental and Ministerial consultation. We are anticipating that the paper could be considered by the Cabinet Social Wellbeing Committee on Wednesday 11 September 2019. This timeline will enable any agreed changes to the religious instruction provisions to be included within the Education and Training Bill.

Annexes

- Annex 1: Cabinet paper - Options for progressing religious instruction within the Education and Training Bill