



Briefing Note: Schools donations legislation

To:	Hon Chris Hipkins, Minister of Education		
Date:	10 May 2019	Priority:	High
Security Level:	Budget Sensitive	METIS No:	1185499
Drafter:	Georgie Handley Alice Sowry	DDIs:	s 9(2)(a)
Key contact and number:	Ben O'Meara 463 8704 / 021 241 3779	Round robin:	No
Messaging seen by Communications team:	No		

Purpose of paper

This paper seeks any feedback you have on the draft Cabinet Legislation Committee paper and the associated draft Bill relating to implementation of the Government's donations policy (the Education (Solicited Voluntary Payments from Parents) Amendment Bill).

Summary

- On 1 May 2019 Cabinet Social Wellbeing Committee agreed to amend the Education Act 1989 (the Act) to provide for conditional grants to boards and enable the Minister of Education to recover funding paid to schools in lieu of parental donations where school boards do not comply with the conditions for that funding.
- The attached draft Bill and Draft Cabinet Legislation Committee paper have been drafted to implement these Cabinet decisions.
- We are seeking any feedback you have on the draft Bill and Cabinet paper so that we can finalise them for you to approve. For the Bill to be introduced on 30 May (Budget Day), the paper will need to be submitted to Cabinet Office by 16 May for consideration by Cabinet Legislation Committee on 21 May.

Proactive Release Recommendation

Agree that this Briefing will not be proactively released until after the Bill is introduced.

Agree / Disagree



Dr Andrea Schöllmann
Deputy Secretary
Education System Policy

10/05/2019



Hon Chris Hipkins
Minister of Education

15/5/19

Background

1. The Government has made a commitment to pay State and State-integrated school boards of trustees \$150 per student per year if they agree not to ask parents for donations. This scheme is an important element in removing financial barriers to accessing education in New Zealand. All decile 1-7 schools can opt in to the scheme if they agree to abide by the conditions set by the Minister of Education.
2. Funding of \$265.573 million over four years is included in Budget 2019 for the school donations scheme.

Proposals in the Bill

3. The Bill creates a new category of discretionary grants that sit alongside the existing grants and supplementary grants. The Minister can make a discretionary grant to a school in lieu of that school soliciting payments (including donations) from parents. The Bill states that a discretionary grant:
 - a. **must** be made subject to the condition that a board does not seek or receive any solicited voluntary payment from parents of students enrolled at any school the board governs;
 - b. **may** be made subject to any further conditions that the Minister determines.
4. Funds can be recovered from boards who breach the conditions of a discretionary grant by reducing a future grant to the school, rather than requiring the school to refund money to the Ministry of Education.
5. The Bill as currently drafted does not prevent unsolicited gifts or schools from recovering compulsory payments for extracurricular activities where it is entitled to do so. It does prevent soliciting all forms of payment rather than purely donations to avoid easy workarounds (for example framing requests for funding as koha). ✓

Next steps

6. We will incorporate any changes you wish to make and provide a final Cabinet paper and Bill for your approval.
7. In order for the Bill to be introduced on 30 May (Budget Day), the paper will need to be submitted to Cabinet Office by 16 May for consideration by Cabinet Legislation Committee on 21 May.

Annexes

- Annex 1: Cabinet Legislation Committee Paper Education (Solicited Voluntary Payment from Parents) Amendment Bill: Approval for Introduction
- Annex 2: PCO Education (Solicited Voluntary Payment from Parents) Amendment Bill

IN CONFIDENCE

**Education (Solicited Voluntary Payments from Parents)
Amendment Bill**

Government Bill

Explanatory note

General policy statement

[GPS to be supplied via or from the Ministry of Education. GPS will need to explain that the Government's school donations policy is to be implemented via discretionary grants for boards, provided for through this Bill.]

Departmental disclosure statement

The Ministry of Education is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link] (if it has been provided for publication).

Regulatory impact assessment

A regulatory impact assessment is not required for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Amendment Act will come into force on the day after the date of Royal assent.

Clause 3 indicates that the principal Act amended is the Education Act 1989.

Part 1

Main amendment

Clause 4 inserts new sections 79A and 79B, about discretionary grants for boards.

New section 79A enables the Minister, in or for a financial year, to make discretionary grants to boards out of public money appropriated by Parliament for the purpose. *New section 79A* requires the Minister to determine the amount of each discretionary grant. In doing so, the Minister must take no account of foreign students (other than students exempted under section 4A(1)) enrolled or likely to be enrolled at any school or institution administered by the board concerned.

A discretionary grant must be made subject to the condition that a Board that receives it does not seek or receive any solicited voluntary payment from parents (as defined in *new section 79A(7)*). A discretionary grant may also be made subject to other conditions (except the condition that it will be used for the purposes set out in the grant) determined by the Minister. A board that receives a discretionary grant is required by *new section 79A* to take all reasonable steps to ensure that all conditions of the grant are complied with.

Discretionary grants therefore supplement, and differ from, these 2 existing kinds of grants under section 79 (which section 79(1) requires the Minister to determine):

- grants, which are used for schools' operational funding (*see also* sections 4B(4) to (6), 78E(3), and 91K);
- supplementary grants, which are paid subject to the condition that they will be used for the purposes set out in those grants, and which, under section 79(3), must be used, by the boards that receive them, for those purposes only.

(This Bill also does not affect grants under section 35N for private schools, or grants under section 81A for correspondence schools.)

New section 79B is about non-compliance with earlier discretionary grants. *New section 79B* applies when the Minister is determining, for the purposes of section 79 or *new section 79A*, the amount of any grant, supplementary grant, or discretionary grant payable to a board in respect of a school in or for a financial year. *New section 79B*—

- requires the Minister to have regard to the extent to which the board has, in any 1 or more earlier financial years, in respect of the school, failed to comply with all or any conditions of a discretionary grant paid to the board in respect of the school in those 1 or more earlier financial years; and
- permits the Minister, after consulting the board, to determine for the grant, supplementary grant, or discretionary grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been.

Part 2**Consequential amendments**

Clause 5 makes consequential amendments to make clear that section 79(1)—

- is about grants and supplementary grants for boards; and
- is subject to section 79(2) and (3) and *new section 79B* (inserted by *clause 4*).

Hon Chris Hipkins

Education (Solicited Voluntary Payments from Parents) Amendment Bill

Government Bill

Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1

Part 1

Main amendment

4 New sections 79A and 79B inserted	2
79A Discretionary grants for boards	2
79B Effect of non-compliance with earlier discretionary grants	2

Part 2

Consequential amendments

5 Section 79 amended (Grants for boards)	3
--	---

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Education (Solicited Voluntary Payments from Parents) Amendment Act **2019**.
- 2 Commencement**
This Act comes into force on the day after the date of Royal assent.
- 3 Principal Act**
This Act amends the Education Act 1989 (the **principal Act**).

Part 1

Main amendment

4 New sections 79A and 79B inserted

After section 79, insert:

79A Discretionary grants for boards

- (1) The Minister may, in or for a financial year, make discretionary grants to boards out of public money appropriated by Parliament for the purpose.
- (2) **Subsection (1)** is subject to **subsections (3) to (7) and section 79B**.
- (3) The Minister must determine the amount of each discretionary grant made under **subsection (1)**.
- (4) In determining the amount of a discretionary grant, the Minister must take no account of foreign students (other than students exempted under section 4A(1)) enrolled or likely to be enrolled at any school or institution administered by the board concerned.
- (5) A discretionary grant made under **subsection (1)**—
 - (a) must be made subject to the condition that a Board that receives it does not seek or receive any solicited voluntary payment from parents; and
 - (b) may also be made subject to other conditions (except a condition that it will be used for the purposes set out in the grant) determined by the Minister.
- (6) A board that receives a discretionary grant must take all reasonable steps to ensure that all conditions of the grant are complied with.
- (7) In this section,—

parent, in relation to any student, means a person who is the student's mother, father, or guardian

solicited voluntary payment from parents, for a Board, means a payment that is—
 - (a) to be made or made by or of behalf of a parent, or parents, of any student, or students, enrolled at any school the Board governs; and
 - (b) a payment that the parent, or that those parents, have no legal obligation to make; and
 - (c) sought in any way, directly or indirectly, from that parent or those parents, by or on behalf of the Board.

79B Effect of non-compliance with earlier discretionary grants

In determining for the purposes of section 79 or **79A** the amount of any grant, supplementary grant, or discretionary grant payable to a board in respect of a school in or for a financial year, the Minister—

- (a) must have regard to the extent to which the board has, in any 1 or more earlier financial years, in respect of the school, failed to comply with all or any conditions of a discretionary grant paid to the board in respect of the school in or for those 1 or more earlier financial years; and
- (b) may, after consulting the board, determine for the grant, supplementary grant, or discretionary grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been.

Part 2

Consequential amendments

5 Section 79 amended (Grants for boards)

- (1) In the heading to section 79, after “Grants”, insert “and supplementary grants”.
- (2) In section 79(1), replace “Subject to subsection (2), in each” with “In or for a”.
- (3) After section 79(1), insert:
 - (1A) Subsection (1) is subject to subsections (2) and (3) and **section 79B**.