



10 MAY 2019

Dear [REDACTED]

Thank you for your email of 9 April to the Ministry of Education requesting the following information:

- *"the guidelines which are applied by schools to provide support for students with learning disabilities"*

On 11 April you clarified your request as follows:

- *"the regime which you apply including any tiers which may exist within that system. I do not want the strategies a school may employ, I wish to know how the system actually works and what the school is actually obligated to do? The legislation surrounding this topic is vague at best with very little common law existing to shed light upon the vagueness which exists."*

The link that you have provided me with just gives me helpful tips as to how one could go about teaching those with learning difficulties and does not pertain to the regimes which would exist within a system such as the Ministry of Education to guide how support is provided."

Your request has been considered under the Official Information Act 1982 (the Act).

The New Zealand education system operates in accordance with relevant legislation - which outlines a board of trustee's obligations, and Ministry of Education guidelines, frameworks and resources - which support schools to meet their obligations. An overview of how this works is available on our website:

<http://www.education.govt.nz/school/student-support/special-education/education-disability-legislation/>

New Zealand state, state-integrated and special schools are self-governed by a board. Boards are required to provide appropriate support and learning opportunities to all students. Boards are also required to provide a safe environment for all students.

When a school identifies that a student requires learning support, they must provide support to the student in line with their obligations. Depending on the needs of the students, the school might also access additional learning support from the Resource Teacher: Learning and Behaviour service and/or a service provided or contracted by the Ministry or other agencies.

I am providing a summary of the key parts of the Education Act 1989 and some key points from the latest National Administrative Guidelines (NAG) as **Appendix One**. In this appendix are links to the online version of the Education Act and the NAG on our website for your information.

I am also providing the key pages of our Briefing for Incoming Minister (BIM) on Learning Support as **Appendix Two** to provide you with a summary of how we operate in this area. The full BIM can be downloaded from the following link:

<https://www.education.govt.nz/assets/Documents/Ministry/Publications/Briefings-to-Incoming-Ministers/6-1091846-Annex-1-Learning-Support-BIM.PDF>

An overview of the areas where we can support students in their learning can be found here:

<http://www.education.govt.nz/school/student-support/special-education/>

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 this decision. You can do this by writing to info@ombudsman.parliament.nz or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Katrina Casey
Deputy Secretary
Sector Enablement and Support

Appendix One

Legislation and School Board of Trustee Obligations

Part 9 of the Education Act 1989 (the Act) concerns school boards, including the requirement that all state schools (which includes state-integrated schools) and special institutions must have a board of trustees. Boards of Trustees are self-governing - a school Board is a body corporate (Crown entity) and is accordingly a legal entity separate from its members, office holders, employees, and the Crown. Crown entities are at arm's length from Ministers (and the Ministry), and school boards were created to give greater control to local communities.

Part 2 of Schedule 6 to the Act sets out the powers and functions of school Boards of Trustees, including a board's objectives in governing a school (see clause 5 <http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM187929.html>). The Act is accessible from the New Zealand Legislation website at:

<http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html#DLM18790>

and Schedule 6 is accessible at:

<http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM187901.html>

Part 7 of the Act includes sections for the control and management of state and state-integrated schools, including the Minister of Education's authority to publish curriculum statements and national performance measures. Section 60A(1)(c) makes provision for the Minister to publish national administrative guidelines. The current national administrative guidelines can be found on the Ministry of Education website at:

<https://education.govt.nz/our-work/legislation/nags/>

Of the eight NAGs, NAG 1 specifically refers to students with special needs, and NAG 5 requires boards to provide a safe physical and emotional environment for students (which entails inclusiveness) – see highlighted text below:

The National Administration Guidelines (NAGs)

The revised National Administration Guidelines (NAGs) were updated on 14 December 2017. The NAGs are due to be repealed on the commencement of the new strategic planning and reporting framework on 1 January 2020.

NAG 1

Each board of trustees is required to foster student achievement by providing teaching and learning programmes which incorporate The National Curriculum, as expressed in The New Zealand Curriculum 2007 or Te Marautanga o Aotearoa.

Each board, through the principal and staff, is required to:

- a. develop and implement teaching and learning programmes:
 - i. to provide all students in years 1–10 with opportunities to progress and achieve for success in all areas of The National Curriculum;
 - ii. giving priority to student progress and achievement in literacy and numeracy and/or te reo matatini and pāngarau, especially in years 1–8;

- iii. giving priority to regular quality physical activity that develops movement skills for all students, especially in years 1–6;
- b. through the analysis of good quality assessment information*, evaluate the progress and achievement of students, giving priority first to:
 - i. student progress and achievement in literacy and numeracy and/or te re matatini and pāngarau, especially in years 1–8; and then to:
 - ii. breadth and depth of learning related to the needs, abilities and interests of students, the nature of the school's curriculum, and the scope of The National Curriculum, as expressed in The New Zealand Curriculum 2007 or Te Marautanga o Aotearoa;
- c. through the analysis of good quality assessment information*, identify students and groups of students:
 - i. who are not progressing and/or achieving;
 - ii. who are at risk of not progressing and/or achieving;
 - iii. who have special needs (including gifted and talented students); and
 - iv. aspects of the curriculum which require particular attention;
- d. develop and implement teaching and learning strategies to address the needs of students and aspects of the curriculum identified in (c) above;
- e. in consultation with the school's Māori community, develop and make known to the school's community policies, plans and targets for improving the progress and achievement of Māori students; and
- f. provide appropriate career education and guidance for all students in year 7 and above, with a particular emphasis on specific career guidance for those students who have been identified by the school as being at risk of leaving school unprepared for the transition to the workplace or further education/training.

* Good quality assessment information draws on a range of evidence to evaluate the progress and achievement of students and build a comprehensive picture of student learning across the curriculum.

NAG 5

Each board of trustees is also required to:

- a. provide a safe physical and emotional environment for students;
- b. promote healthy food and nutrition for all students; and
- c. comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees.

Appendix Two

Key Pages from the Learning Support Briefing for Incoming Minister 2017

Inclusive education is where all children and young people are present, participating, learning and achieving

Every child and young person in New Zealand has the right to education. Inclusive education is about giving all children and young people the same opportunity to be present, participate, learn and achieve, regardless of their individual needs or differences.

The right to an inclusive education is grounded in the Education Act 1989 (the Act), enshrined in the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Convention on the Rights of the Child, and reinforced by the New Zealand Disability Strategy.

At an inclusive early learning service or school, every child and young person is welcome and able to take part in all aspects of life at their school or early learning service. Their identities, languages, abilities and talents are recognised and affirmed, and their learning needs are addressed.

Inclusive education benefits all children and young people. It ensures that early learning services and schools are supportive and engaging places, and that teachers respond flexibly to the diversity of children and young people's needs.

Enabling and strengthening inclusive education

Achieving a fully inclusive education system means supporting presence, participation, learning and achievement to enable all children and young people to reach their potential in education.

A key to addressing these concerns and strengthening inclusive education is the provision of learning support. Learning support is the additional support provided by early learning services, schools, the Ministry of Education (the Ministry) and a range of other organisations to strengthen teaching and learning for all learners. This includes the provision of targeted and specialist support to enable some children and young people to be included in early learning services and schools.

At a system level we need to ensure that a continuum of learning support is available to help all children and young people make meaningful progress regardless of the challenges they face. This often involves providing advice, training and guidance to the adults around the child, including teachers, support workers, parents, caregivers and whānau.

A 'tiered' framework for learning support

Learning support is conceptualised in three tiers that reflect the varying needs of children and young people, and of early learning services and schools in supporting them. The tiered framework has universal support at the base through to targeted and intensive/specialist support.

Tier One - Universal learning support

Schools receive a range of universal learning supports designed to develop their inclusive practice capability and ability to provide positive learning environments. For most children and young people, their needs are fully met within their early learning service or classroom through responsive and flexible teaching, and a positive environment.

The Education Council's Code of Practice and Teaching Standards are clear that all teachers are expected to create learning environments that are safe, welcoming, caring and respectful. They are expected to provide learning opportunities where every learner can participate and achieve, have high expectations for all learners, accept and value every learner's diversity and uniqueness, and affirm Māori learners as tangata whenua and actively support their educational aspirations.

Tier Two - Targeted learning support

For a proportion of children and young people, or groups of children and young people, targeted learning support is needed to enable them to be present, to participate, learn and achieve. For example, the provision of braille reading materials for blind students.

Targeted learning support meets children's needs through early identification and intervention, and a child-centred response that takes into account the full range of support options available.

Tier Three - Intensive, individualised learning support

For a small proportion of students, their disability, disadvantage, behaviour or progress needs are complex and require intensive, individualised or specialist interventions and supports.

Learning Support is provided to an estimated 8-10% of young New Zealanders

In New Zealand, an estimated 80,000 to 100,000 children and young people in early learning services and schools receive some form of additional targeted or intensive/specialist learning support each year. This equates to around 8% to 10% of children and young people in early learning services and schools.

The Ministry of Education fund schools, early learning services and other providers to deliver learning supports and services

Around two-thirds of government funding for learning support is administered by schools, early learning services and other providers. This funding is used in two main ways. The first is to deliver Tier One services and supports that are designed to build the capability of early learning services and schools to strengthen inclusion and meet the learning needs of children and young people. The second is to provide Tier Two and Three targeted or intensive/specialist interventions to individuals and small groups of children and young people with additional learning needs. Some of the key funding and support for schools is explained below. Appendix 1 has more information on the different types of learning support provided/funded by the Ministry within each tier of support.

Enabling locally-responsive learning support

Alongside other operational funding, all schools also receive a **Special Education Grant (SEG)**, based on their student role and decile, to support children and young people with learning needs. The SEG is designed to give schools flexibility over how they meet the learning needs of their children and young people. They can use it in a variety of ways including buying resources or materials, accessing relevant training for teachers, or providing extra specialist services or additional teacher or teacher aide time.

Other support available for schools and their students is the national school-based **Resource Teacher: Learning and Behaviour (RTLB)** service. This supports the achievement of students in Years 1-10 who have learning and/or behaviour difficulties. These specialist resource teachers (RTLB) work within Tiers One and Two.

There are over 960 FTTE RTLB nationally, working together with classroom teachers and schools to provide support that may go beyond the individual student and also benefit the teacher, whole class, groups of students and/or the whole school. RTLB have a particular focus on supporting Māori students, Pasifika students and children and young people moving into State care.

The Ministry directly provides a wide range of learning support

We provide a wide range of services and supports to meet differing learning needs at each tier of learning support. The remaining approximately one third of learning support funding is administered by the Ministry for specialist services that are mostly provided to individual students. These will be those few students with higher needs who need more intensive, individualised specialist support who need more help and support than the early learning service or school can provide.

To deliver learning support, we employ over 900 front-line practitioners in our regional offices with a wide range of learning support expertise. This includes psychologists, speech-language therapists, advisers on deaf children, occupational therapists, physiotherapists, special education advisers, kaitakawaenga (working alongside our other specialists and whānau to support Māori tamariki), school wide practitioners and early intervention teachers. It also includes around 140 education, behaviour and communication support workers to work alongside our staff and teachers.