

# Departmental Disclosure Statement

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Education and Training Amendment Bill (No 3)
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Education.

The Ministry of Education certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

08 March 2023

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## Part One: General Policy Statement

The Education and Training Act 2020 (the Act) establishes and regulates an education system that:

- provides New Zealanders with the skills, knowledge and capabilities that they need to fully participate in the labour market and their communities;
- supports their health, safety and well-being;
- assures the quality of the education provided; and
- honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

The Act was enacted in August 2020 and repealed and replaced previous education and training legislation with a simpler and more user-friendly legislative framework.

The purpose of the Bill is to make amendments across a range of matters in the Act to give effect to new policy decisions and to make other minor and technical changes.

The Bill amends the Act to:

### *Establish a governance framework for Wānanga*

- establish a framework for Wānanga that better recognises the mana and rangatiratanga of Wānanga, and the unique role the Wānanga play in the tertiary education system. The Bill does this by enabling existing Wānanga by Order in Council to either reconstitute themselves as a Crown Entity Wānanga, with bespoke purpose, functions and governance arrangements; or convert to a non-Crown Entity Wānanga (that is primarily accountable to iwi, hapū or another Māori organisation while retaining some accountability to the Crown, and has a bespoke purpose, functions and governance arrangements).
- clearly articulate the characteristics that define Wānanga collectively, set out Wānanga disestablishment provisions, and provide for new accountability and monitoring arrangements for non-Crown Entity Wānanga. The Bill also provides for appropriate transition arrangements.

### *Changes to school board ineligibility criteria*

- supplement the current school board ineligibility criteria with the standards set out for core children's workers in the Children's Act so that those convicted of a specified offence in Schedule 2 of that Act are ineligible to serve on a school board unless an exemption has been approved by the Secretary for Education, who has to be satisfied that the person would not pose an undue risk to the safety of children.
- enable the Secretary for Education to conduct audits on school board members to determine whether they meet eligibility requirements.
- permit the Secretary to obtain any relevant information to enable the Secretary to conduct the audit. A refusal to provide the relevant information and permissions necessary for such a check would result in the board member's removal from office.

### *Early childhood education equity index data*

- permit the Ministry of Education to access early childhood education (ECE) service-level data from Statistic NZ's integrated data infrastructure (IDI) to develop an Equity Index based on accurate socio-economic information. This addresses an issue where the Data and Statistics Act 2022 restricts the Ministry from disclosing data related to private organisations such as ECE services. This information is required to implement the new equity index for ECE services.

### *Changes to school board election processes*

- update the provisions relating to school board elections to ensure elections better meet the needs of their school communities and support increased participation, including:

moving the timing of mid-term elections from March 2024 back to their usual timing in November 2023 to support efficient election processes.

updating the criteria for co-opting and appointing board members to reflect today's school communities, by adding the genders, sexualities and sexes of the school's students and of the school community; and disabled students at the school and the school's disability community.

removing the requirement that prevents schools from filling a student representative position if one is not elected at the annual election. This ensures that schools have the chance to fill the vacancy and do not have to carry the vacancy for 12 months until the next election.

### *Separating Kura Kaupapa Māori and Designated Character Schools establishment provisions.*

- amend the establishment provisions for Kura Kaupapa Māori, which have been treated as designated character schools under section 204 of the Act since 2017, prior to which they were a distinct type of State school with separate establishment provisions. Classifying Kura Kaupapa Māori as designated character schools fails to reflect the status of Kura Kaupapa Māori consistently with other provisions throughout the Act, and this amendment restores them to their previous position.

### *Ensuring employers assess Police vets for non-teaching employees and contractors*

- ensure employers of licenced early childhood services and schools consider Police vets for non-teaching employees and contractors and assess any risk to the safety of children before those employees and contractors begin work or have unsupervised access to children.

### *Five-year term appointments for the chief executive of Te Aho o Te Kura Pounamu*

- restrict the appointment of the chief executive for Te Aho o Te Kura Pounamu (Te Kura) to a term of up to five years with the ability to reappoint for further terms. As Te Kura is more similar in scale of operation and revenue to a tertiary institution than to a State school, stronger accountability levers should be applied.

*University annual reports to publish Vice Chancellor and employee remuneration of \$100,000 and above*

- require university annual reports to include information about employee, former employee, and vice chancellor remuneration of \$100,000 per annum and above. This will be reported in brackets of \$10,000 and excludes high compensation and other benefits, which should be reported separately.
- This would improve transparency by making the data readily available to the public by universities. This will make university remuneration reporting consistent with those of Crown entities, including Te Pūkenga, schools, and companies, which are required to publish remuneration information in their annual reports.

*Te Pūkenga – New Zealand Institute of Skills and Technology term of office*

- ensure that governing council members of Te Pūkenga – New Zealand Institute of Skills and Technology can remain in their positions until they are either reappointed or replaced.
- This aligns the term of office provisions for Te Pūkenga with other Crown entities such as universities and ensures that if there is a lag between the term of one council member ending and another beginning, the council will still have a quorum to make decisions.

The Bill also makes a number of minor and technical amendments to strengthen the governance and management of the education system.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>Yes</b>
<p>A number of reports have informed the Wānanga framework proposals in the Bill, these are:</p> <ul style="list-style-type: none"><li>• The Wananga Capital Establishment Report – WAI 718. Waitangi Tribunal Report 1999 - <a href="https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68595986/Wai718.pdf">https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68595986/Wai718.pdf</a></li><li>• The Report on the Aotearoa Institute Claim Concerning Te Wānanga o Aotearoa – WAI 1298. Waitangi Tribunal Report 2005 - <a href="https://waitangitribunal.govt.nz/assets/WT-Report-on-the-Aotearoa-Institute-claim-concerning-Te-Wananga-o-Aotearoa.pdf">https://waitangitribunal.govt.nz/assets/WT-Report-on-the-Aotearoa-Institute-claim-concerning-Te-Wananga-o-Aotearoa.pdf</a></li></ul> <p>Work on the ECE Equity Index is part of action 2.1 of the <a href="#">Early Learning Action Plan He Taonga te Tamaiti</a>, which is to “review equity and targeted funding to ensure that they best support children to benefit from access to high quality early learning experiences”. Consultation on the draft Action Plan showed a high degree of public support (97 percent) for this action.</p>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>No</b>
<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>No</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>Yes</b>
<p>The following Regulatory Impact statements were provided to inform the policy decisions for this Bill:</p> <ul style="list-style-type: none"><li>• ‘Legislative proposal for establishing a new framework for constituting Wānanga’ Ministry of Education. Issue date: 6 Dec 2022</li><li>• ‘Strengthening School Board Member Eligibility Requirements’ Ministry of Education. Issue date: 8 Dec 2022</li><li>• ‘New Equity Index for Early Childhood Education: Access to data’ Ministry of Education. Issue date 08 February 2023</li></ul> <p>All RIA can be found here: <a href="https://www.education.govt.nz/our-work/legislation/#current">https://www.education.govt.nz/our-work/legislation/#current</a></p>	
<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>No</b>
<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>No</b>

## Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>No</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>Yes</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>No</b>

The key proposals which included regulatory impact statements and analysis of the costs and benefits are set out below. Ministry officials and the Treasury RIA team consider that the other proposals included in the Bill are minor and technical in nature and therefore did not require regulatory impact assessment.

### **Proposal to establish a governance framework for Wānanga**

While the lack of quantitative data was a limitation, costs and benefits were measured using qualitative data collected during the 6-week public consultation. Benefits include greater recognition of the rangatiratanga and mana of individual Wānanga through allowing them greater individual choice over their administrative and accountability settings, protection of te reo and mātauranga Māori as taonga, and strengthening of the Māori-Crown partnership. The benefits to te reo and mātauranga Māori are strengthened by ensuring an accessible pipeline for Māori Medium / Kaupapa Māori learners, clearer pathways for organisations wanting to become or establish Wānanga, and increased normalisation and provision of te reo and mātauranga Māori, contributing to broader Government goals about Māori language and culture revitalisation.

A key cost would eventuate only if Wānanga take the Entity B pathway (becoming a non-Crown entity Tertiary Education Institution that is primarily accountable to iwi, hapū or another Māori organisation, while retaining some accountability to the Crown) and it is not expected that all Wānanga would choose this pathway. This potential cost would be considered in a future Regulatory Impact Statement for an Order in Council and would be a cost to the Crown, through non-cash accounting impacts on the Crown's balance sheet associated with a Wānanga becoming re-established as a new statutory entity. This would be approximately \$62.3 million in the case of Te Wānanga o Raukawa (which has indicated Entity B is its pathway) and approximately \$182 million for all three Wānanga if all three were to choose this pathway.

### **Proposals relating to school board eligibility requirements**

This proposal would be more reflective of the school governance role of board members and the school board objectives of ensuring the emotional and physical wellbeing of students and staff. This would also align better with the standards for teachers and core children's workers. Based on analysis of conviction data from the Ministry of Justice, the proportion of people who will no longer be automatically eligible to be a school board member is likely to be less than 5% of the population as approximately 5% of people had been in prison by the age of 35. Ministry of Justice data also suggests approximately 12% of Māori and 6% of Pacific people had been in prison by the age of 35. While not all imprisonment convictions will result in ineligibility, data suggests that a greater proportion of Māori than other ethnic groups will likely no longer be automatically eligible to become school board members. For Pacific men, there is also a slight disproportionate impact. However, this option partially mitigates for this by giving the opportunity for an individual to be granted an exemption and become eligible even if convicted of a specified offence.

The proposals to enable audits allow for an administratively feasible way for the school community to be more confident that candidates and non-elected board members are being honest. It discourages individuals from falsely claiming eligibility, and it applies to both elected and selected/co-opted/appointed members, including elections that do not go to a vote. While it adds some administrative burden to the Ministry to conduct these audits, the quantity of audits can be scaled according to what the Ministry deems as necessary to increase confidence in compliance with eligibility requirements and feasibility.

On balance, the benefits of reflecting the role of board members regarding student safety more accurately and helping to create a safer school environment for students and staff outweighs the detriments of having tighter requirements.

#### **Proposal on data access to enable the Equity Index for Early Childhood Services**

There are no direct cost impacts to the Ministry, ECE services or other stakeholders of the Ministry obtaining access to this data and an Equity Index for the purposes of calculating the allocation of equity funding to services. This would be inter-agency Government process that mirrors the current decile-based processes for determining socio-economic disadvantage.

Indirectly, a new equity index would result in a redistribution of public funding, towards those services enrolling children with the lowest socio-economic background. This may result in reduced equity funding for some ECE services and increased funding for others compared to their current funding levels. The differences in funding are unable to be estimated until the Ministry obtains access to the socio-economic data, which would then enable the redistributive effects of the new model to be calculated for each ECE service.

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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Officials have determined that the policies to be given effect by this Bill are consistent with New Zealand's international obligations.

The proposal to establish a governance framework for Wānanga is consistent with the articles 3 and 4 of the United Nations Declaration of the Rights of Indigenous Peoples which outlines indigenous people's right to self-determination and autonomy or self-government in matters relating to their internal and local affairs. Enabling Wānanga to be primarily accountable to iwi, hapū and other Māori organisations will give Māori more autonomy in relation to education of te ao Māori and Mātauranga Māori.

Article 3 of the United Nations Convention on the Rights of the Child states that all actions concerning children should have the best interests of the child as a primary consideration. This obligation is given effect to by proposals to require employers to assess police vets for non-teaching employees and contractors and supplementing the school board eligibility criteria with children's worker standards as these changes further ensure the safety of the child and put their interests as a primary consideration.

### Consistency with the Government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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This information is provided in Appendix One.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>Yes</b>
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The Ministry of Justice was consulted about all proposals in this Bill. The Bill Cabinet paper was also provided to the Ministry of Justice Bill of Rights Act (BORA) vetting team for analysis.

Advice provided to the Attorney-General by the Ministry of Justice is expected to be available on the Ministry of Justice's website at: <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-ofrights>

### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>No</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>No</b>
<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>Yes</b>
The Ministry of Justice was consulted about all proposals in this Bill. The Bill has also been provided to the Ministry of Justice Bill of Rights Act vetting team as part of the BORA vet advice.	

### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>Yes</b>
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The Bill will create/amend provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information in the following ways:

- Permitting the Ministry of Education to access information at an ECE service level from Statistics NZ to enable the Equity Index for ECE services. Statistics New Zealand would not provide any data to the Ministry about individual children or families. The new Equity Index is calculated inside Statistics NZ's Integrated Data Infrastructure (IDI) using individual-level socio-economic indicators. Results are aggregated to a service-level to assign an index number that represents the socio-economic status of all the children that attended a service. This would allow the Ministry to continue to develop a more accurate and nuanced Equity Index for ECE. The Ministry must adhere to Statistics NZ's 'Five Safes' and 'Nga Tikanga Paihere' frameworks to manage safe access to the information about New Zealand people, households, and businesses contained within the IDI.
- Requiring university and Wānanga annual reports to include information about employee, former employee, and vice chancellor remuneration of \$100,000 per annum and above. However, as the remuneration information is reported in bands and names are not attached to the reported information, a specific individual's remuneration will not be identified.
- Enabling the Secretary for Education to conduct audits on school board members to determine whether they meet eligibility requirements and requiring that board members permit the Secretary to obtain any relevant information to enable the Secretary to conduct the audit. This includes (but is not limited to) an insolvency check, a criminal record check, and details of their financial affairs as far as they include any contracting with the board.
- The Ministry has an existing process in place, working with the NZSTA, for collecting school board membership information. Currently, the Ministry collects information on the name, gender and ethnicity of board members as well as membership type (e.g., elected parent representative, staff representative, co-opted member etc.). The Ministry does not collect specific information on why a board member has been co-opted. The changes to the board member co-option criteria are intended to use inclusive language in the provision and do not set a requirement for the collection of additional personal information.

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>Yes</b>
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The Office of the Privacy Commissioner has been consulted on the following proposals included in the Bill:

- Moving the next mid-term school board election back to November 2023
- Expand and modernise the language in the Board co-option criteria to better reflect school communities
- Enabling schools to fill a student representative vacancy that occurs at a September election, before the next September election
- Ensuring that licensed early childhood services and schools assess Police vets for non-teaching employees and contractors for risks to the safety of children before they begin work or have unsupervised access to children
- Permitting the Ministry of Education to access information at an ECE service level from Statistics NZ to enable the Equity Index for ECE services

The Office of the Privacy Commissioner commented on the following proposals:

- **ECE equity index access to data** - While the proposal does stipulate that socio-economic data will be “grouped at the level of a service or services”, the Office of the Privacy Commissioner considers it needs to be more explicit that the data will be confidentialised and anonymised before it is shared. This was also a comment provided by Statistics NZ. To address this, the provision in the Bill includes strengthened privacy and security provision which will strengthen Statistics NZ’s existing safeguards to maintain data security and privacy for individuals.
- **Modernising the Board co-option criteria** – this type of information about an individual can be highly sensitive. The Ministry will need to consider whether this change to more collection of sensitive, personal information and how any collection will comply with the Privacy Act – how this information can be kept safe and that the information is only retained for a reasonable period of time. The changes to the co-option criteria are intended to use inclusive language in the provision and do not set a requirement for the collection of additional personal information.
- **Considering Police vets for employees** – the Ministry will need to undertake detailed analysis on what a risk assessment following receipt of a police vet entails, including assessing privacy impacts. The Ministry will undertake a Privacy Impact Assessment to help inform operational guidance to assist employers to undertake risk assessment.

The publication of the new ECE Equity Index will also need to be worked through carefully with Statistics NZ and the Office of the Privacy Commissioner. The Ministry will work to ensure compliance with the Privacy Act 2020, alongside the assessment and mitigation of any broader privacy risks. The Ministry will work through any additional safeguards required with Statistics New Zealand and the Office of the Privacy Commissioner.

## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	Yes
<p><b>Consultation on establishing a Wānanga sector framework</b></p> <p>Public consultation was conducted for the Wānanga sector framework from 20 September to 28 October 2022. Almost 1,200 people or organisations participated in the consultation process including 540 people attending ten hui across the country and 646 people submitting their views through an online survey or a written submission. The vast majority (96%) of submitters were staff, learners, hapū, iwi, or communities associated with each of the three existing Wānanga.</p> <p>Submissions were overwhelmingly (&gt;95%) in support of changing the administrative and accountability settings for Wānanga in line with Option 2 – the enabling sector framework. Across the board, submitters acknowledged the problem definition, or aspects of it, and acknowledged Option 2 as a viable way to address those issues. Wānanga and their communities had varying opinions on which sub-option was preferred, though a clear majority supported having availability of options and greater choice, agency, and autonomy through the existence of an enabling framework.</p> <p>Of the few submitters who did not support the proposals (or components of them), key themes emerged. These included concerns that the proposals didn't go far enough in terms of separation from the Crown; that the Crown could not be trusted to fully enact or follow through on the proposed changes; and that changes may disadvantage Wānanga within the international higher education context. No additional options were raised by submitters during the consultation.</p> <p><b>Consultation on school board election framework</b></p> <p>In May 2021, the Ministry of Education sought public feedback on a range of potential changes to improve the school board election framework. One of the suggested proposals was to update the criteria for co-opting and appointing board members, to better reflect the diversity of school communities. The majority of submissions were supportive of the proposal to update the co-option criteria.</p>	
<p><b>Consultation on school board ineligibility proposals</b></p> <p>The Ministry of Education consulted publicly on whether current board eligibility standards are fit for purpose from 17 October to 21 November 2022 and received 429 survey responses. A majority of respondents (53%) stated that eligibility requirements should be amended. They primarily called for some specified convictions (especially crimes against children, violent crimes or sexual assault) to lead to permanent ineligibility.</p> <p><b>Consultation on University annual reports to publish Vice Chancellor and employee remuneration of \$100,000 and above</b></p> <p>The Ministry of Education consulted publicly on whether universities should report high employee remuneration via their annual reports rather than directly to the Public Service Commission. Five submitters commented on the proposal. Three submitters (New Zealand Union of Students' Associations (NZUSA), the Tertiary Education Union (TEU), and Tertiary Institutes Allied Staff Association (TIASA)) supported the change and two submitters (Massey University and Te Pūkai Tara - Universities New Zealand (UNZ)) noted that the proposal was workable. Massey University noted that the information is already collated and submitted to the Commission; there are no additional costs resulting from the proposed legislation change; and the proposal is consistent with the Companies Act 1993 and the reporting of other public entities. UNZ noted that the change is seen as inevitable, and the sector will make it work.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>Yes</b>
<p>The proposal to establish an enabling framework for the Wānanga sector was designed alongside the Wānanga sector to ensure its workability and supports their aspirations. Cabinet agreed to share an exposure draft of the Education and Training Amendment Bill with the Wānanga ahead of the Bill being introduced in the House, so they have the ability to provide input into the provisions. While there were no trials or simulations carried out in this work, working in conjunction with Wānanga on this proposal has provided an opportunity to make sure it is fit for purpose.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	No
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	No
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	No
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	No
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	No

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	No
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	Yes
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#### Changes to school board ineligibility criteria

This proposal amends the eligibility requirements for school board members. It supplements the existing ineligibility criteria with the standards set out for core children's workers in section 38(1) and the specified offences in Schedule 2 of the Children's Act. All those convicted of an offence set out in Schedule 2 of the Children's Act will be ineligible to serve on a board unless an exemption has been approved by the Secretary of Education. This exemption provision means that a decision-making power is created to allow the Secretary of Education to make a determination on whether a person who falls under the new ineligibility criterion should be eligible to serve as a school board member.

## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>No</b>
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>Yes</b>
<p>The Bill creates separate powers to make Orders in Council for -</p> <ul style="list-style-type: none"><li>• Reconstituting an existing Wānanga that is a Crown entity and providing for new governance arrangements;</li><li>• Converting an existing Wānanga that is a Crown entity to a Wānanga that is not a Crown entity and providing for new governance, administration and accountability arrangements;</li><li>• Establishing new Wānanga that are Crown entities and providing for their governance arrangements;</li><li>• Establishing new Wānanga that are not Crown entities and providing for their governance, administration and accountability arrangements; and</li><li>• Disestablishing Wānanga and providing for the distribution of their assets and liabilities.</li></ul> <p>The use of an Order in Council to establish a substantial new statutory body (non-CE Wānanga) and provide for many of the key administrative, accountability and governance arrangements is unusual - although not unprecedented as this has been done previously to establish Workforce Development Councils.</p>	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>No</b>
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## Appendix One: Further Information Relating to Part Three

### Consistency with the Government's Treaty of Waitangi obligations – question 3.2

Officials have considered the impact of all policies in this Bill on the rights and interests of iwi/Māori, and the Crown's obligations under the Te Tiriti o Waitangi/Treaty of Waitangi. Proposals were assessed against the three articles of the Treaty and its principles: Kāwanatanga/government, rangatiratanga/chieftainship, and Oritetanga/equity. Additionally, the Ministry consulted on all proposals with Te Arawhiti – Māori/Crown Relations - and Te Puni Kōkiri. Treaty of Waitangi implications have been set out in the following Social Wellbeing Cabinet papers:

- Tranche One: The Education and Miscellaneous Matters Amendment Bill – policy approvals (tranche one). Paragraph 28 (SWC-22-MIN-0138 refers).
- Tranche Two: The Education and Miscellaneous Matter Amendment Bill – policy approvals (tranche two). Paragraphs 35-36 (SWC-22-MIN-0169 refers).
- Tranche Three: 'Changes to Education Legislation: a new framework for Wānanga and improving governance and administration of the education system – policy approvals. Appendix 4 (SWC-22-MIN-0247 refers).

The key proposals which impact the rights and interests of iwi/Māori are set out below.

#### **Establishing a governance framework for Wānanga**

The Wānanga sector framework's potential impacts on the Treaty of Waitangi were assessed against the three articles of te Tiriti/the Treaty and its principles, with particular focus on the changing role of Government and Iwi/Hapū/Māori organisations and how that impacts rangatiratanga and the Crown's kāwanatanga obligations. This assessment is included in appendix 4 of 'Tranche Three: *Changes to Education Legislation: a new framework for Wānanga and improving governance and administration of the education system – policy approvals.*' Cabinet paper (SWC-22-MIN-0247 refers). Officials engaged extensively with Wānanga and their respective iwi, hapū, and communities to understand their needs and aspirations and worked together with them to develop these proposals. Officials also engaged with the Government Treaty Provisions Oversight Group (TPOG) on whether a purpose statement that articulates the objective of the enabling Wānanga sector framework to give effect to te Tiriti/the Treaty was appropriate. The TPOG were supportive of this.

#### **Eligibility requirements for school board members**

This proposal was assessed against the article and principles of te Tiriti/the Treaty in the 'Tranche Three: *Changes to Education Legislation: a new framework for Wānanga and improving governance and administration of the education system – policy approvals* (SWC-22-MIN-0247 refers). The proposed tightening of ineligibility criteria to serve on a school board reflects the kāwanatanga role in protecting the health and safety of children, including Māori children.

#### **Separating Kura Kaupapa Māori (KKM) establishment provisions from designated character schools (DCS)**

This proposal was assessed against the article and principles of te Tiriti/The Treaty in 'Tranche Three: *Changes to Education Legislation: a new framework for Wānanga and improving governance and administration of the education system – policy approvals* (SWC-22-MIN-0247 refers) Cabinet paper. TRN raised concerns with the existing provisions in their Tomorrow's Schools review submission, as well as in an urgent claim to the Waitangi Tribunal in October 2021, that the 2017 policy changes that grouped KKM together with DCS were discriminatory and diminished the mana of KKM in the Act. Classifying KKM as a DCS fails to reflect the status of KKM consistently with other provisions through the Act, and this amendment restores them to their previous position.

### **Equity Index for Early Childhood Services – data access**

The Ministry has considered the proposal against Statistics NZ Nga Tikanga Paihere and considers that it meets Te Tiriti/The Treaty requirements.

The provision of socio-economic data at service-level, aggregated across multiple variables, enables funding to be better directed to ECE services in line with the socio-economic status of the children enrolled at each service, including where there is a higher proportion of Māori attendees. The use of this data has been consulted on as part of work on the new Equity Index for ECE and will continue to be developed in consultation with ECE sector representatives. At present, kōhanga reo data is not included in the IDI, and would only be added with their agreement.