



NZSTA
e tipu e rea

THE EDUCATION AND TRAINING ACT 2020
AN OVERVIEW OF CHANGES
FOR SCHOOL BOARDS

THE EDUCATION & TRAINING ACT 2020

OVERVIEW OF CHANGES

Background

In 2019, the Education and Training Bill was introduced to establish and regulate our education system to provide New Zealanders with lifelong learning opportunities so that they engage fully in society.

The Bill was passed, and the new Education and Training Act came into effect in August 2020.

The Act is the biggest rewrite of education legislation in decades!

The Act implements a range of changes that are intended to strengthen school governance and refocus schools on what matters most for learners and their whānau, as well as to encourage the more active involvement of students, parents, families and whānau in education decisions affecting them.

Much of its content gives effect to the Government's plans to transform the education system, following the Kōrero Mātauranga | Education Conversation and the Tomorrow's Schools Taskforce report.

The Act repeals and replaces all major existing education and training legislation. It is intended to be simpler, more user-friendly, and less prescriptive than the previous legislative framework.

How does the Act affect school boards?

The key changes that school boards need to be aware of can be grouped into the following categories:

1. Language changes
2. Administrative changes
3. System wide changes
4. Changes for New Zealand schools
5. Planning and reporting for school boards

In this document, we will introduce you to the key changes you need to be aware of under each category and point you in the right direction to find out more.

Please note that whilst some of the changes came into effect immediately, others will be progressively implemented up until January 2023.

THE EDUCATION & TRAINING ACT 2020

OVERVIEW OF CHANGES

The Education and Training Act 2020

Language changes

- New terminology for boards and their members
- Renaming “special schools” to be “specialist schools”

Administrative changes

- New structure that follows the journey of students through education
- Moves some provisions into regulations
- Moves other provisions into schedules with sunset clauses
- Transfers parts of existing legislation into the new Act

System wide changes

- Education and learning objectives
- National Education Learning Priorities (NELP)
- Te Tiriti o Waitangi – national level commitments
- New powers for the Secretary for Education
- Offshore provision of NCEA
- Expansion of ERO power to request information

Changes for NZ Schools

- Right to attend school fulltime
- Welbeing transitional plans
- New complaint and dispute resolution panels
- Teaching Council renewal of practising certificates
- Teaching Council no longer audit teacher performance appraisals
- Strengthening the Teaching Council’s governance arrangements
- Updating the physical restraint framework
- School principal appointment criteria
- Amending school board objectives
- School boards to give effect to Te Tiriti o Waitangi
- Code of conduct for board members
- Board consultation on rules/bylaws
- Updating school board elections
- Religious education to become opt-in
- Development and consultation on school enrolment schemes
- Grand-parenting enrolment arrangements
- The Correspondance School governance arrangements

Planning and reporting for school boards

- New planning and reporting regulations

THE EDUCATION & TRAINING ACT 2020

LANGUAGE CHANGES

New terminology for boards and their members

When re-writing the Act, the Government took the opportunity to change and simplify some of the language used.

For school boards, this means the following terms have changed

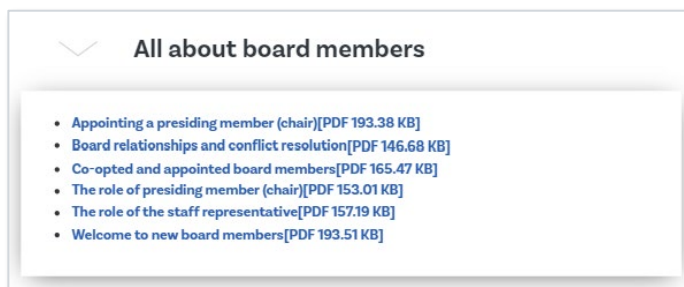
- Board of Trustees is now simply **School Board** e.g., Kiwipark School Board
- The role of Board Chair (BC) is now the role of **Presiding Member (PM)**
- Trustees are now **Board Members** and then further defined by who they are representing e.g., Parent Representative, Staff Representative, Student Representative etc.

NZSTA Support

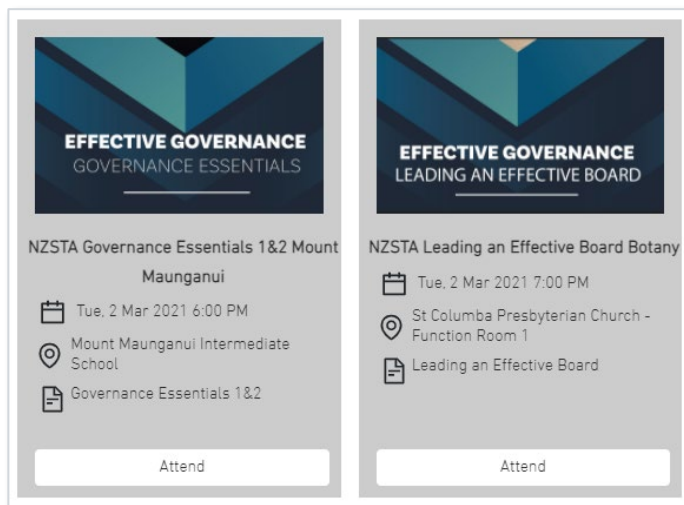
Check out our suite of governance support resources relating to board members and our upcoming board member events.

For more information, refer to

[Governance support resources – All about board members section](#)



[NZSTA Knowledge Hub – Events and Workshops, Board member events section](#)



Renaming “special schools” to be “specialist schools”

Renaming “special schools” as “specialist schools” seeks to more accurately reflect the role and importance of these schools in our education system.

This reflects the shift in focus from the school itself to the specialist nature of the services provided to support students with learning support needs and disabilities.

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ADMINISTRATIVE CHANGES

New Structure

The Education and Training Act 2020:

- Introduces a new structure that follows the journey of students through education, starting with early learning, moving to schooling and then tertiary and vocational training,
- Moves some prescriptive detail directly into regulations (so these provisions will not be found in the Act),
- Moves other detailed provisions into Schedules at the end of the Act, with “sunset clauses”, meaning that they will expire after a set period of time and new regulations will need to be developed to replace them, and
- Retains large parts of the existing education legislation, which were transferred into the Act unchanged.

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SYSTEM WIDE CHANGES

Education and learning objectives for early childhood education, primary education, and secondary education

The Act sets the same education and learning objectives for early childhood education, primary education, and secondary education:

- To help each child and young person attain their educational potential; and
- To promote the development, in each child and young person, of the following abilities and attributes:
 - resilience, determination, confidence, and creative and critical thinking;
 - good social skills and the ability to form good relationships;
 - participation in community life and fulfilment of civic and social responsibilities;
 - preparedness for work; and
- To instill in each child and young person, an appreciation of the importance of
 - the inclusion of different groups and persons with different personal characteristics
 - diversity, cultural knowledge, identity, and the different official languages:
 - Te Tiriti o Waitangi and te reo Māori

National Education Learning Priorities (NELP)

The Act allows the Minister to issue a statement of national education and learning priorities (NELP) for early learning childhood, primary and secondary education.


A Statement of NELP was issued in November 2020.

It is consistent with the education and learning objectives set out in the Education and Training Act 2020 providing boards with a set of priorities which every school in the state education sector will be working towards achieving for a period of five years (unless withdrawn earlier).

The priorities are:

- Learners at the centre
- Barrier free access
- Quality teaching and leadership
- Future of learning and work
- World class inclusive public education

For more information, refer to

 [Governance support resources – Statement of National Education Learning Priorities](#)



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SYSTEM WIDE CHANGES

Te Tiriti o Waitangi – national level commitments

The Act makes it easy for those in the education sector to understand their rights and obligations under Te Tiriti o Waitangi by locating in one place the key provisions in the Act that recognise and respect the Crown's responsibility to give effect to Te Tiriti.

The Act also enables the Ministers of Education and Māori-Crown relations: Te Arawhiti, after consultation with Māori, to jointly issue a statement specifying what education agencies must do to give effect to public service objectives that relate to Te Tiriti o Waitangi.

New powers for the Secretary for Education when a state of emergency, transition period or epidemic notice is in place

The Act gives the Secretary for Education the ability to direct education entities to comply with a requirement:

- To open or close for attendance or instruction (whether physically or otherwise),
- To operate, control or manage the entity,
- To provide instruction in any specified ways, such as through distance learning, and
- To set any restrictions on attendance with regard to health and safety requirements, in future national or local emergencies or during an epidemic.

The Secretary was temporarily given these powers to respond to COVID-19.

The Act gives the Secretary the same powers to respond to future emergencies, but only when a national or local emergency or transition period is declared, or an epidemic notice is in force.

The Act also enables the Secretary to direct a board to reopen a school that has been closed due to an emergency, when the Secretary considers that the closure is no longer justified.

Offshore provision of National Certificate of Education Achievement (NCEA)

To ensure the integrity of NCEA, the Act prohibits the provision of NCEA offshore, except in certain circumstances, and makes it an offence to breach the prohibition.

However, because of COVID-19, the Act also includes a temporary provision to allow New Zealand schools to provide distance education and NCEA to their students based offshore until 31 December 2022, where those students have been enrolled with the school during 2020.

Expansion of ERO power to request information

The Act clarifies that the Chief Review Officer can request any information that is reasonably necessary or desirable from an applicable organisation or person, such as an early childhood provider or school, for the purposes of carrying out their functions.

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CHANGES FOR NZ SCHOOLS

Right to attend school fulltime

The Act explicitly states the right of all enrolled students to attend school whenever the school is open. Some students and their parents and whānau have found that schools only allow them to attend part time.

The Act clarifies that all students, including students with learning support needs and disabilities, have the right to attend school for all of the hours that the school is open for instruction.

The Act also locates the different aspects of the right to a free State education together in Part 3 to make it easier to find and understand these rights.

Wellbeing transitional plan to vary attendance hours where in a student's best interests

The Act enables a student's parents to request and agree with the principal and the Secretary for Education to vary hours as part of a wellbeing transitional plan where the particular needs of the student require this.

The plan must be considered by all parties involved to be in the child's best interests. The plan may be renewed once, upon the request of the parents with the agreement of the principal and the Secretary.

New complaint and dispute resolution panels

There is a lack of a free and accessible complaint and dispute resolution process in the current State compulsory schooling system. Currently, if a domestic primary or secondary school student and their whānau are unhappy with a board decision, they can seek a review by the Ombudsman or a judicial review in the High Court.

These pathways are not particularly accessible, judicial review in particular be intimidating and expensive. The Act enables the establishment of new local complaint and dispute resolution panels to hear serious disputes where these cannot be resolved at the school level.

The panels will have mediation, recommendation, and decision-making functions, and will hear disputes relating to:

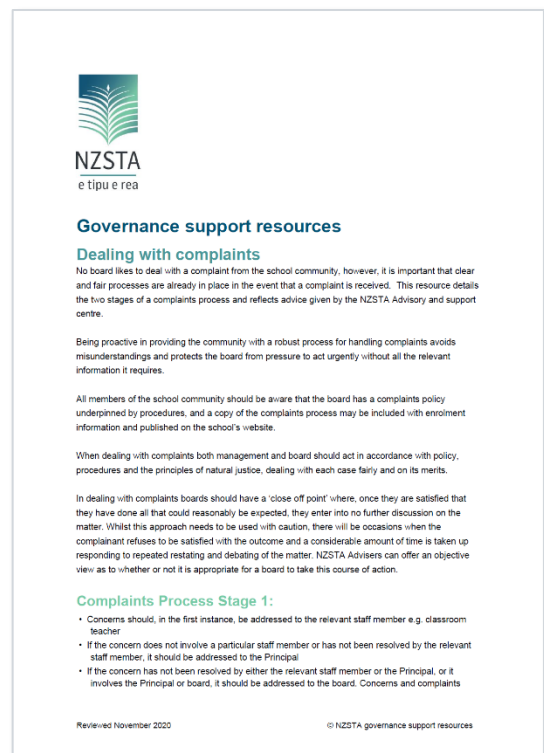
- Rights to education (including enrolment and attendance).
- Stand-downs, suspensions, exclusions, and expulsions.
- Learning support, racism, and other types of discrimination.
- Physical and emotional safety; and
- Physical restraint on a student by a teacher or other authorised employee.

The date for establishing panels has not yet been set. The panels will be established by regulations, which will also provide additional detail about panel processes and procedures.

The Ministry will consult publicly as these regulations are developed and also prepare material, such as guidance and communications material, to provide additional information to principals, boards, students and their whānau.

For more information on complaints, refer to:

 [Governance support resources – Dealing with complaints](#)



THE EDUCATION & TRAINING ACT 2020

CHANGES FOR NZ SCHOOLS

Enabling the Teaching Council to renew practising certificates

The Act enables the Teaching Council to renew practising certificates for teachers who cannot demonstrate satisfactory teaching experience in the five years prior to their application if they agree to a refresh process. The refresh process has to be approved by the Teaching Council to ensure the teacher's knowledge and practice is up to date.

Removing requirement for Teaching Council to audit teacher performance appraisals

The Government, PPTA and NZEI, along with NZSTA and the Teaching Council, agreed to remove the requirement for teacher performance appraisals. Therefore, the requirement for the appraisals to be audited by the Teaching Council is no longer needed and has been removed from the Act.

Strengthening the Teaching Council's Governance Arrangements

The Minister for Education can now appoint a deputy chairperson to the Teaching Council.

Updating the physical restraint framework

Teachers have raised concerns that the existing framework is confusing and makes them feel unable to intervene in potentially harmful situations. The changes make it clear that physical restraint can be used, as a last resort, to keep people safe from harm. Seclusion remains prohibited.

School principal appointment criteria

The principal role is demanding, complex and critical to the success of a school and the educational outcomes of the learners/ākonga within that school.

Despite this, under the previous legislation there were no mandatory requirements for any particular skills, knowledge, attitudes, or experience to be considered that could support a Board's appointment of a principal. The only legal requirement for appointment as a principal was being a registered teacher who holds a current practising certificate.

The Act enables new eligibility criteria for appointment as a school principal in State and State-integrated schools to be set by the Minister of Education (or delegated authority). The new criteria will assist in ensuring consistency in the skills, competencies, knowledge, and expertise of principals. The criteria are intended to:

- Ensure the consistency of skills, competencies, knowledge, and expertise of applicants.
- Support better understanding of the background and experience needed for school leadership among persons aspiring to the role of a principal as part of their future career.
- Provide confidence to boards in making appointments; and
- Signal the importance of the role of principals across the wider school system.

Before issuing any criteria, the Minister must make reasonable efforts to consult with children, young people, and their parents, whānau and communities, with a range of relevant national bodies, such as teachers, parents, and Māori education organisations, and with national bodies with a particular role in respect of the character of character schools.

Section 618 enables school boards to develop additional criteria relating to the appointment of principals, as long as these are consistent with the criteria issued by the Minister. During development of any additional criteria, the Board must consult its school community.

The new criteria will be applied to all principal appointments made in State and State-integrated schools. The criteria will not be applied to current principals who remain in their current role. They will, over time, be offered opportunities to upskill and develop where needed, to meet the same criteria as those appointed under the new eligibility criteria.

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CHANGES FOR NZ SCHOOLS

Amending school board objectives

The Act revises the objectives for school boards to:

- Ensure school governance is underpinned by Te Tiriti o Waitangi and relevant student rights, and
- Refocus boards on a wider range of objectives so that educational achievement is no longer the only primary objective.
- It is instead one of four primary objectives, alongside objectives for schools to ensure the physical and emotional safety of students and staff, that they are inclusive and cater for students with differing needs and that they give effect to Te Tiriti o Waitangi.

These changes are intended to strengthen school governance and refocus schools on what matters most for learners and their whānau.

The four objectives are:

1. Every student is able to attain their highest possible standard in educational achievement.
2. The school is a physically and emotionally safe place for all students and staff and gives effect to relevant student rights and takes all reasonable steps to eliminate racism, stigma, bullying, and any other forms of discrimination within the school.
3. The school is inclusive and caters for students with differing needs.
4. The school gives effect to Te Tiriti o Waitangi by:
 - Working to ensure that its plans, policies, and local curriculum reflect local tikanga māori, mātauranga māori and te ao māori
 - Taking all reasonable steps to make instruction available in te reo māori and tikanga māori; and
 - Achieving equitable outcomes for māori students.

School boards to give effect to Te Tiriti o Waitangi

The new objective relating to Te Tiriti o Waitangi will:

- Emphasise the importance of local history and practices.
- Challenge boards to improve the teaching of te reo māori and tikanga māori.
- Contribute to meeting the crown's duty to actively protect tino rangatiratanga rights; and
- Make a significant contribution to achieving the crown's strategy for māori language revitalisation 2018 – 2023 – maihi karauna.

The Government is taking practical steps to support the growth of te reo Māori capability in the education workforce through initiatives such as Te Ahu o te Reo Māori. This will help schools provide te reo Māori lessons.

Ministry staff will provide boards with advice on how they can initiate conversations with their local communities to ensure their plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori and te ao Māori.

NZSTA is also running a series of workshops for board members in 2021 (Te Tiriti o Waitangi - School Board Responsibilities as a Crown Entity).

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CHANGES FOR NZ SCHOOLS

Code of conduct for school board members

Prior to the Act, school boards were the only Crown entity governing body for which the individual and collective duties of members were not set out in either Education legislation or the Crown Entities Act 2004.

The only guidance as to the responsibilities of board members was the NZSTA Voluntary Code of Conduct.

The Act enables the Minister of Education to issue a mandatory national code of conduct for board members.

This will set minimum standards of behaviour, address concerns of self-interest and bring boards into line with other education sector governing bodies. Individual school boards can decide to expand the minimum standards to reflect local expectations.

The code of conduct will give board members a common basis to work from, encourage the development of good practice over time, and provide for more transparent accountability.

There are penalties for failing to comply with the code of conduct.

The board may censure a board member, and the Minister may remove a member for a significant or persistent breach of the code.

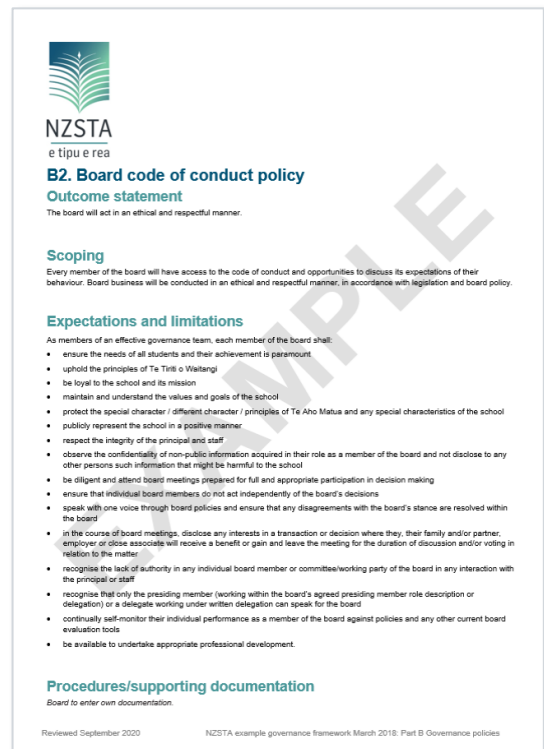
These sanctions do not apply to a principal. Principals are required on the board as part of their employment obligations so issues relating to Principals can be addressed through employment mechanisms.

The mandatory national code of conduct for board members had not yet been enacted.

In the meantime, you can continue to use our NZSTA Code of conduct policy.

For more information, refer to:

 [Governance support resources – Board code of conduct policy](#)



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CHANGES FOR NZ SCHOOLS

Requiring boards to consult on rules/bylaws

Boards can make rules (also known as bylaws) to govern their school. These rules are given the status of law. Under the 1989 Act, there was no requirement on boards to consult before they made rules, which was inconsistent with the obligation to consult imposed on entities with comparable ability to make rules/bylaws.

The new Act requires that boards must consult their students (where appropriate), staff and school communities when making school rules/bylaws.

As well as bringing boards into line with other entities empowered to make bylaws, the new requirement enables greater staff, student, and community engagement with key governance decisions that may significantly impact them. The school community includes:

- The parents and whānau of students enrolled at the school
- The Māori community associated with the school
- The proprietors if a state integrated school
- Key community groups or representatives
- Any other group of people that would be significantly impacted by decisions made by the board

This new requirement took effect upon enactment of the Act and is in force now, the Ministry of Education is currently developing some guidance for school boards.

Updating school board elections

The Act provides the Minister of Education with the option of directing the Secretary for Education to appoint a commissioner when a board election is declared invalid (to govern the school until a new board takes office).

This is in addition to the Minister's current power to reinstate the previous board in the same circumstances.

It also removes the requirement that casual vacancies be advertised in a local newspaper as this is an outdated practice that is no longer reflective of modern communications preferences and may no longer represent the best way of reaching the school community and other relevant parties.

Instead, the Act provides that a board must notify its school community and the wider local community of the vacancy in the manner that best meets the needs of the school community and the wider community.

For more information, refer to

[Governance support resources - Elections, casual vacancies, succession planning section](#)

Elections, casual vacancies, succession planning

- [A guide to board structure\[PDF 233.63 KB\]](#)
- [Casual vacancies flowchart\[PDF 127.51 KB\]](#)
- [Casual vacancies for elected board members\[PDF 174.06 KB\]](#)
- [Casual vacancy for staff representative\[PDF 101.97 KB\]](#)
- [Changing the number of parents representatives\[PDF 132.26 KB\]](#)
- [Staggered \(mid-term\) elections\[PDF 106.88 KB\]](#)
- [Student elections\[PDF 131.49 KB\]](#)
- [Succession planning\[PDF 141.96 KB\]](#)

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CHANGES FOR NZ SCHOOLS

Religious instruction to become opt-in

The Act requires state primary and intermediate boards that choose to close their school to allow religious instruction to have signed consent from a parent or caregiver placing a child in religious instruction.

This requires processes to be explicitly “opt in”.

The previous legislation required any parent or guardian of the pupil to make his or her wishes known in writing to the principal of the school if they do not wish to take part in religious instruction or observance. This was an “opt-out” process.

However, the New Zealand Bill of Rights Act 1990 (NZBORA) and the Human Rights Act 1993 give all people in New Zealand the right to be free from discrimination based on their religious or non-religious beliefs.

Boards will still need to comply with both of these Acts when offering religious instruction.

Development and consultation on school enrolment schemes

Under previous legislation, Boards were responsible for the development and consultation on the creation or modification of enrolment schemes. This was a significant and time-consuming obligation on Boards.

It was also possible for schools to develop a zone based on areas from which they most wished to take students.

For example, they could design zones that include high socio-economic neighbourhoods and exclude closer, more disadvantaged, neighbourhoods. This could detrimentally affect students that are already at a disadvantage.

The new Act transfers responsibility for the development of, and consultation on, enrolment schemes from school boards to the Ministry of Education.

The Ministry will administer each school’s enrolment scheme from a regional perspective, based on community need.

The Ministry will be required to consult a school’s board and take reasonable steps to understand the views of the school’s community when developing a proposed enrolment scheme.

Once a proposed scheme is developed, the Secretary must consult a range of people and organisations and take all reasonable steps to discover and consider their views before the scheme is finalised.

Grand-parenting arrangements provide for the siblings of current students to retain the right to enrol at the school when a new home zone or amendment is implemented, provided they live in the old home zone.

Grand-parenting arrangements provide for the siblings of current students to retain the right to enrol at the school when a new home zone or amendment is implemented, provided they live in the old home zone.

Grand-parenting provisions will be used at the Secretary’s discretion when an enrolment scheme is established or when an existing enrolment scheme’s home zone is amended.

Te Aho o Te Kura Pounamu, the Correspondence School, (Te Kura) Governance Arrangements

The Bill requires the Minister of Education to appoint a staff member to be a representative on the Board of Te Kura.

THE EDUCATION & TRAINING ACT 2020

PLANNING AND REPORTING CHANGES

Planning and Reporting for School Boards


The Act also incorporates provisions relating to planning and reporting that were introduced by the Education (Update) Amendment Act 2017. The new framework will completely come into effect no later than 1 January 2023.

This will give sufficient time for a new set of regulations to be developed that will outline the process, content, form and timelines for planning and reporting.

Ministry consultation on new planning and reporting regulations is scheduled for 2022. The regulations will provide more detailed guidance for boards about what is required with the new framework.

Existing planning and reporting requirements will continue until the new framework comes into effect.

For more information, refer to

 [Governance support resources – Planning and reporting changes for school boards](#)



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Governance support resources

Planning and reporting changes for school boards

The Education and Training Act 2020 (the Act) incorporates a new planning and reporting framework for school boards that will come into effect on 1 January 2023. The Act also has provisions that guide boards through the transition from the current framework. (The "new" framework does not come as a complete surprise for boards; it was in fact introduced into the Education Act in 2017 and first planned to come into effect in 2019).

For now, and until 2023, the board's key planning and reporting documents: charter, including strategic plan, annual plan and analysis of variance stay in place during the years of 2021 and 2022. Boards need to align their charter towards the new framework over this time. This is because in 2023, boards will no longer review their charter annually, and the board's 2022 charter becomes its first or transitional strategic plan. This stays in place until boards are required to submit their first 3-year strategic plan under the new framework.

Once the framework is in place, other changes for boards mean they must consult on their draft strategic plan with their school communities and others, including their staff and (where appropriate) their students, and while they will still need to approve an "annual implementation plan", they will no longer need to send this to the Ministry of Education.

Boards will continue to prepare an annual report, including annual financial report and "statement of variance", submit that to the Ministry, and publish it on their website. Boards will also be required to publish their strategic and annual implementation plans on their website.

Ministry consultation on new planning and reporting regulations is scheduled for 2022. The regulations will provide more detailed guidance or boards about what is required with the new framework.

Why the planning and reporting changes

Planning and reporting are the main ways that boards and their schools, kura and communities of learning | kōhiri ako implement the Government's objectives for education specified in the Act, and achieve better education and learning outcomes for their students and ākonga.

The planning and reporting changes are to make requirements less complex and detailed for boards, particularly by changing the requirement for boards to submit to the Ministry an annually updated charter and annual plan. Having to submit a 3-year strategic plan instead, will also encourage boards to take a long-term view with planning for their schools. This is the most effective way to achieve targeted goals. The changes also intend parents and whānau to receive more useful information on the school's aims and progress towards achieving them.

The changes link boards' long-term strategic planning to targeted goals around lifting student achievement, by ensuring boards focus on their primary objectives, and pay particular regard to the first National Statement of Education and Learning Priorities (NELP) announced in November 2020. It is also intended that boards ensure the NELP is embedded in their school's curriculum, teaching and learning programmes, and in the school's monitoring and reporting on students' progress.

What boards need to do now

The new planning and reporting framework has been signaled since 2017. Already, many boards take a long-term strategic approach to their planning. They also have well established processes for consulting with their school.

November 2020

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ADVICE AND SUPPORT

New Zealand School Trustees Association

Te Whakaroputanga Kaitiaki Kura o Aotearoa

NZSTA Advisory and Support Centre, Governance

govadvice@nzsta.org.nz

NZSTA Advisory and Support Centre, Employment

eradvice@nzsta.org.nz

NZSTA Professional Development

pdadvice@nzsta.org.nz

NZSTA Governance Framework

www.nzsta.org.nz/governance-framework-2018

Trustee election website

www.trustee-election.co.nz

Ministry of Education

Te Tāhuhu o te Mātauranga

www.education.govt.nz

Te Kete Ipurangi (TKI)

www.tki.org.nz

Education Review Office

Te Tara Arotake Matāuranga

www.ero.govt.nz

Education and Training Act 2020

<http://www.legislation.govt.nz/act/public/2020/0038/latest/LMS170676.html>