



Education Review Office
Te Tari Arotake Mātauranga

**GUIDELINES FOR
BOARD ASSURANCE STATEMENT
AND SELF-AUDIT CHECKLISTS**

January 2020

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*Ko te Tamaiti te Pūtake o te Kaupapa
The Child – The Heart of the Matter*

Introduction

The Education Act 1989¹, under section 60A provides the legislative basis for the establishment of four components including the *National Curriculum Statements* and *National Administration Guidelines* that places responsibility on boards of trustees to focus on high quality outcomes for students.

This legal framework provides a baseline for all boards in order to promote high quality outcomes for all students.

*High Quality Evaluation
Contributing to
High Quality Education*

Compliance Issues

Compliance with legal requirements is an integral part of the provision of an environment that supports students' learning.

ERO places reliance on the information given by boards and principals as to whether or not they are taking all reasonable steps to meet their legal obligations.

To assist schools, ERO has developed guidelines for the *Board Assurance Statement* and the *Self-Audit Checklists*² which contain:

- a brief outline of the key legal requirements with which school boards and whanau must comply;
- checklists to be completed by school boards/whanau and principals as part of a self-review process;
- an assurance statement to be signed by the board chairperson and the principal providing evidence of the board's compliance with legal requirements.

The completed checklists and assurance statement are used by ERO to help with the scoping and planning stages of the review. Boards and principals are encouraged to discuss with review officers any questions in the checklists that they are unsure about.

Note: The *Guidelines for the Board Assurance Statement and the Self-Audit Checklists* do not cover every legal requirement with which boards must comply, and include best-practice compliance. *The Guidelines* are not intended to be exhaustive of all relevant legislation and requirements (such as those provided in Ministry of Education Circulars and other documents). Information in the *Guidelines* does not represent the official version of Acts, Regulations and other legal requirements. In any situation

¹ Note the [Education and Training Bill 193-1 \(2019\)](#) – currently before Parliament will repeal this Act (among others) and creates a new Education and Training Act when it is passed into law.

² This is a separate document designed for school boards, Whanau and Te Poumarumarū that can be downloaded from – www.ero.govt.nz

the full legislation should be referred to at - www.legislation.govt.nz

The Self-Audit Checklists are part of the board's self-review process. Boards should seek professional advice especially in the application of the health and safety at work legislation. If any significant issues or risks are identified under any sections of the Self-Audit Checklists, these will be discussed during the review and referred to other agencies as appropriate.

SECTION ONE

Board Administration Compliance Guide

Key Legislation

- Education and Training Bill 2019³
- Crown Entities Act 2004
- Education Act 1989
- Human Rights Act 1993
- Local Government Official Information and Meetings Act 1987 (Part VII)
- Official Information Act 1982
- Privacy Act 1993
- Public Records Act 2005
- State Sector Act 1988
- Education (School Attendance) Regulations 1951
- Health (Immunisation) Regulations 1995
- Copyright Act 1994

Education and Training Bill 2019

The Bill consolidates legislation into a single statute by replacing the Education Acts 1964 and 1989, Parts 7, 7A and 7B of the State Sector Act 1988, and those provisions of the Education (Update) Amendment Act 2017 that are subject to delayed commencement.

Primary and secondary schooling

The Bill clarifies that the right to a free State education includes the right for enrolled students to attend the school in which they are enrolled for all the hours that the school is open for instruction. This will help those students not currently supported by their school to attend full-time, to realise that aspect of their right to education. It will also improve New Zealand's compliance with related international obligations. It will be possible at the request of the parents for a student's parents, the school principal, and the Secretary for Education to agree to vary a student's hours of attendance as part of a non-renewable transition attendance plan of no more than six months duration. This is intended to meet concerns that this change will disadvantage those students whose families consider that their needs are best met by attending school for fewer hours. The transition plan must be considered by all parties involved to be in the child's best interests.

The Bill's structure also locates the different aspects of the right to a free State education, and related board duties and obligations, in one Part of the Bill (Part 3) to make it easier for students and their whānau to understand and realise these rights.

³ [Education and Training Bill 193-1 \(2019\)](#) – creates a new Education and Training Act when it is passed into law.

School governance

Several amendments give effect to the Government's aim of strengthening school governance and improving transparency and accountability. The objectives for school boards of trustees under the 1989 Act have been revised to—

- ensure school governance is underpinned by Te Tiriti o Waitangi and relevant student rights:
- refocus boards on a wider range of objectives so that educational achievement is no longer the only primary objective—the Bill proposes that it is one of four primary objectives:
- make it clear to boards what they have to do in order to meet the revised objectives.

To assist boards in meeting their objectives and carrying out their functions and duties effectively, the Bill enables the Minister to issue a mandatory national code of conduct for boards, backed up with the remedies of censure and removal from the board, where a member repeatedly and or significantly fails to comply with the minimum standards set out in the code of conduct. The code will apply to all board members, but the remedies will not apply to school principals. The code has been made a disallowable instrument to provide for external scrutiny through the Regulations Review Committee. The code's status is also consistent with the approach taken to the Code of Conduct for teachers.

The Bill also introduces a requirement for boards to consult their students (as appropriate), staff and school when making bylaws (**rules**). As well as bringing boards into line with other entities empowered to make bylaws, it will also enable greater staff, student, and community engagement with key governance decisions that may significantly impact them.

Treaty of Waitangi/Te Tiriti o Waitangi

The Bill contains a number of amendments aimed at giving better effect to The Treaty of Waitangi/Te Tiriti o Waitangi (**Te Tiriti**). At the school level, changes to board objectives are the primary means of providing in legislation for boards to give better effect to meeting their obligations under Te Tiriti. Objective 4 requires boards to give effect to Te Tiriti by—

- working to ensure that their 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:
- achieving equitable outcomes for Māori students.

At the system level, the Bill makes it easier for those in the education sector to understand their rights and obligations under Te Tiriti by locating in one place key provisions in the Bill that recognise and respect the Crown's responsibility to give effect to Te Tiriti.

The Bill will also enable the Minister of Education and the Minister for Māori Crown Relations: Te Arawhiti, after consultation with Māori, to jointly issue and publish a statement made and gazetted under the new Education and Training Act to specify what agencies serving the education system must do to give effect to public service objectives expectations in relation to Te Tiriti, with the objective of providing equitable education outcomes for all students. The intention is a formal and

publicly accessible statement that provides greater specificity around what education agencies must do to comply with Te Tiriti.

National Administration Guideline 2

Each board of trustees, with the principal and teaching staff, is required to:

- a. develop a strategic plan which documents how they are giving effect to the National Education Guidelines through their policies, plans and programmes, including those for curriculum, aromatawai and/or assessment and staff professional development;
- b. maintain an on-going programme of self-review in relation to the above policies, plans and programmes, including evaluation of good quality assessment information* on student progress and achievement;
- c. on the basis of good quality assessment information* report to students and their parents on progress and achievement of individual students:
 - i. in plain language, in writing, and at least twice a year; and
 - ii. across The National Curriculum, as expressed in The New Zealand Curriculum 2007 or Te Marautanga o Aotearoa, including in mathematics and literacy, and /or te reo matattini and pāngarau;
- d. on the basis of good quality assessment information*, report to the school's community on the progress and achievement of students as a whole and of groups (identified through National Administration Guideline 1(c) above) including the progress and achievement of Māori students against the plans and targets referred to in NAG 1(e).

* 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.

National Administration Guideline 6

Each board of trustees is also expected to comply with all general legislation concerning requirements such as attendance, the length of the school day and the length of the school year.

National Administration Guideline 7

Each board of trustees is required to complete an annual update of the school charter for each school it administers, and provide the Secretary for Education with a copy of the updated school charter before 1 March of the relevant year.

National Administration Guideline 8

Each board of trustees is required to provide a statement providing an analysis of any variance between the school's performance and the relevant aims, objectives, directions, priorities, or targets set out in the school charter at the same time as the updated school charter provided to the Secretary for Education under NAG 7.

Powers and functions of boards

Clause 4 [Schedule 6, Part 2] - Board is governing body of school

1. A board is the governing body of its school.
2. A board is responsible for the governance of the school, including setting the policies by which the school is to be controlled and managed.
3. Under section 76, the school's principal is the board's chief executive in relation to the school's control and management.

Clause 5 [Schedule 6, Part 2] - Board's objectives in governing school

1. A board's primary objective in governing the school is to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.
2. To meet the primary objective, the board must—
 - a. ensure that the school—
 - i. is a physically and emotionally safe place for all students and staff; and
 - ii. is inclusive of and caters for students with differing needs; and
 - b. have particular regard to any statement of National Education and Learning Priorities issued under section 1A; and
 - c. comply with its obligations under sections 60A (in relation to curriculum statements and national performance measures), 61 (in relation to teaching and learning programmes) and 62 (in relation to monitoring of student performance); and
 - d. if the school is a member of a community of learning that has a community of learning agreement under section 75B, comply with its obligations under that agreement as a member of that community; and
 - e. comply with all of its other obligations under this or any other Act.

Clause 13 [Schedule 6, Part 2] - Board has complete discretion

A board has complete discretion to perform its functions and exercise its powers as it thinks fit, subject to this and any other enactment and the general law of New Zealand.

Section 76 of the Act outlines the principal's role:

1. A school's principal is the board's chief executive in relation to the school's control and management.
2. Except to the extent that any enactment, or the general law of New Zealand, provides otherwise, the principal —
 - a. Shall comply with the board's general policy directions; and
 - b. Subject to paragraph (a) of this subsection, has complete discretion to manage as the principal thinks fit the school's day-to-day administration.

In the event that the principal is absent from duty for any reason, or a vacancy arises for the principal's position, the board has authority under section 771 of the State Sector Act 1988 to direct another staff

member to exercise the powers and duties of the principal during the principal's absence, or while the vacancy continues.

Board constitution

The composition of the board has a bearing on how well it can represent the community and govern the school. School boards of trustees are significantly different from other state governing boards because they are largely composed of trustees elected by the parents of students from the school. This means that there is no guarantee that a school board will always have a range of expertise and experience suitable for administering a school.

Boards may co-opt trustees for their expertise, or to ensure that the board composition reflects the demographic character of the school community.

Part 9 of the Education Act provides for matters relating to boards of trustees of schools. Section 94 sets out the composition of the board – that is the number of elected parent representatives, the principal, staff representative student representative and co-opted/appointed trustees.

Boards may decide to increase or decrease the number of trustees on their board. If they choose to alter the composition of their board then they must follow the procedures for altering their constitution in section 94B.

Boards may co-opt or appoint trustees to reflect the community, provide balance or expertise. The limitations on the co-option or appointment of trustees are set out in section 100. The criteria for selecting co-opted or appointed trustees are provided in section 99.

Sections 96 and 97 provide information on the eligibility of parent, staff and student representatives on a board. Section 103 provides that certain people cannot become trustees. Sections 101, 101A, 101B and 101C provide procedures for the election of trustees, including staggered elections. Section 104 provides information on casual vacancies and section 105 provides information on the filling of casual vacancies.

Section 94A provides that any state integrated school shall have up to four trustees appointed by the school's proprietors.

Boards must comply with section 103A of the Education Act which provides for the disqualification of persons from being trustees on grounds of financial conflicts of interests. Section 103B of the Act requires that before a person is elected, co-opted or appointed as a trustee, the person must confirm to the board that he or she is, to the best of his or her knowledge, eligible to be a trustee, having regard to the grounds of ineligibility in sections 103 and 103A.

Board meetings

The Education Act 1989, Sixth Schedule, Clause 40 sets out:

- when a meeting must be held;
- who may determine the time and place of the board meeting;
- what constitutes a quorum;
- what constitutes a resolution; and
- when trustees who are board staff members should be excluded from a meeting.

The Education Act 1989, Sixth Schedule, Clause 41, provides for appointment of a board chairperson, and states that person must never be the principal, or a staff or student representative.

Board members can make decisions by means of audio, audio and visual, or electronic communication provided that a quorum of members has access to the technology and can simultaneously participate in the meeting.

Local Government Official Information and Meetings Act 1987

Part 7 (sections 46 - 54) of the Local Government Official Information and Meetings Act 1987 contains provisions relating to the conduct of meetings held by boards of trustees.

Section 46 provides that boards must take all reasonable steps to ensure that parents of students enrolled at schools can readily find out within a reasonable time before a board meeting, when and where the meeting will take place.

Section 46A establishes requirements relating to the notification of agendas and associated reports circulated to board members regarding meetings.

Section 47 provides that meetings are to be open to the public and under section 51 the public can inspect or receive copies of the minutes of board meetings.

Whether the public is excluded or not, minutes should be taken as a record of what was discussed at the meeting, who by and when (see NZSTA Trustee Handbook for Boards on minutes including “in committee”).

Boards may exclude the public from meetings by resolution (“go into committee”) in the terms specified in the Act, where there is good reason, as provided in the Act.

Minutes should provide a clear, accurate, stand-alone record of what happened at the meeting and decisions made by the Board. This is particularly important as decisions made by the Board may be subject to the scrutiny of the Ombudsmen and/or the courts.

Section 87A of the Education Act 1989 requires an audit opinion to be given for school boards. As part of this process an auditor can request to see the minutes of board meetings in order to inform their opinion.

Why should minutes be kept? To:

- Comply with the requirements of the Public Records Act 2005 (*refer below*);
- Keep debate in the public arena;
- Facilitate future access to board deliberations;
- Enable reconciliation of differences of opinion arising at any future stage;
- Aid in transparency: Everyone can be aware of what is happening;
- Promote good management;
- Enhance accountability to the public.

Official Information Act 1982

Boards are classified as “organisations” under the First Schedule of the Official Information Act 1982 and must comply with the provisions of the Act. Boards should therefore be familiar with the Act’s requirements regarding availability of information, the processing of requests for official information by the public and the release of information. Sections 4 and 5 of the Act set out the purpose and the principle of availability. Boards should refer directly to the provisions of the Act when a request for information is received, and ensure that each request is handled in accordance with the relevant provisions of the Act.

Privacy Act 1993

Boards must also comply with the Privacy Act 1993 and ensure that personal information is always dealt with in accordance with the principles of this Act. For example, the board should not disclose personal information about anyone during a meeting of the board open to the public without that person's consent.

Terms, holidays and closure of schools

Sections 65A and 65B(1) of the Education Act 1989 require boards to ensure schools are open for instruction during the terms and on the half days prescribed by the Minister of Education. Boards of trustees may now vary their opening hours without approval by the Minister of Education but must consult with parents, staff and the community when doing so, under section 65B of the Education Act 1989.

Section 65C requires boards to close schools on the weekends (unless otherwise provided by the Minister) and the holidays prescribed by the Minister.

Section 65E provides for closure of the school due to emergency situations.

Under section 65DA, the Minister may authorise school boards to operate multiple timetables in appropriate circumstances.

Section 77 of the Education Act 1964 provides that teaching in every state primary school must be entirely secular while the school is open.

Enrolment of students

Section 20 of the Education Act 1989 states that every New Zealand citizen and resident between the ages of 6 and 16 is required to be enrolled at a registered school or community of online learning.

Section 5A of the Act sets out how a State school/State integrated school may adopt or revoke a cohort entry policy. This part of the legislation is proposed to be amended by the current government.

Sections 5 and 6 provide age restrictions on enrolment and exceptions. The provision for enrolment of international students is outlined in sections 4 and 4A of the Act whilst section 4B and 4C establish guidelines for international students' fees.

Section 3 of the Act provides the right to free education and enrolment, and sections 8 and 9 provide for equal rights for students with special educational needs.

The actions of school boards are covered by section 3 of the New Zealand Bill of Rights Act 1990 (NZBORA) as state schools perform a public function, power or duty. This means that section 19(1) of the NZBORA applies to schools.

Section 19(1) of the NZBORA states that everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993. The grounds of discrimination in the Human Rights Act include disability, race, ethnic/national origin, and religious belief.

Keeping attendance records

Section 25 of the Education Act 1989 provides that every board shall take all reasonable steps to ensure that students who are required to attend school do so. Different attendance requirements apply to students participating in secondary-tertiary programmes or attending a school with multiple timetable arrangement.

Principals are required to keep records relating to matters such as enrolment of students (section 77A Education Act 1989). Principals are also responsible for accurate keeping of an admission register and register of daily attendance (Regulation 3 of the Education (School Attendance) Regulations 1951).

National student numbers

Part 30 of the Education Act outlines the legislative requirements that apply to national student numbers to be used by authorised users such as schools and the Ministry of Education for specific purposes. These include sharing information relating to individual students for the purpose of monitoring and ensuring enrolment and attendance.

The Secretary for Education notifies all authorisations and requirements regarding student numbers by *Gazette* notice.

Work experience

Under section 71 of the Education Act 1989 boards may authorise any student to obtain work experience. Section 71(2) provides that no principal, teacher or occupier of a workplace must allow a

student to enter or remain in a workplace to get work experience except in accordance with conditions prescribed by the Minister.

Boards should refer to the conditions prescribed by the Minister by notice in the *Gazette*².

Health immunisation records ⁴

Boards are required to keep immunisation registers, to record for primary school students born after 1 January 1995, matters relating to the Health (Immunisation) Regulations 1995.

Enrolment schemes

Sections 11A to 11PB of the Education Act establish a set of procedures to be followed if a school wants to have an enrolment scheme. Section 11A provides that the enrolment scheme of every state school must, as far as possible, ensure that:

- The scheme does not exclude local students; and
- No more students are excluded from the school than is necessary to avoid overcrowding at the school.

Note: There are special provisions in s 11PB relating to the enrolment schemes for State integrated schools.

Stand-downs, suspensions, exclusions and expulsions

Sections 13 to 18 of the Education Act 1989 provide procedures and requirements relating to stand-downs, suspensions, exclusions and expulsions. Section 13 provides the purpose of the provisions of the Act concerning the standing-down, suspension, exclusion, or expulsion of a student from a state school is to:

- a. "Provide a range of responses for cases of varying degrees of seriousness;
- b. Minimise the disruption to a student's attendance at school and facilitate the return of the student to school when that is appropriate; and
- c. Ensure that individual cases are dealt with in accordance with the principles of natural justice."

The principal and board as appropriate must ensure that the decision to stand down or suspend a student is made in accordance with all the legal requirements.

The processes dealt with in sections 14 to 18 of the Act are—

- a. "Standing-down", which is the process described in sections 14, 17A(1), and 18(1) of the Act;
- b. "Suspension", which is the process described in sections 14(1) and (3), 15(1) to (4), 17(1)(a) and (b), 17(2) to (4), 17A, 17B, 17C, and 18(2) and (3) of the Act;
- c. "Exclusion", which is the process described in sections 15(1)(c), (5), and (6), 16, 17C, 17D(1) and

² NZ Gazette Notice No 158, 2 December 2004 page 3919 - [Work Experience Notice](#) and [Students on Work Experience: A health and safety guide for schools and employers](#)

⁴ [Immunisation Guidelines for Early Childhood Services and ...](#)

(2), and 18(3) of the Act:

- d. "Expulsion", which is the process described in sections 17(1)(c), 17C(2)(b), 17D, and 18(3) of the Act.

Clause 7 of the Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999 provides that every participant in the processes, practices, and procedures dealt with in sections 14 to 18 of the Act and these rules should be guided by the following principles:

- a. The need for every participant to understand the processes, practices, and procedures;
- b. The need for every participant to treat every other participant with respect, which includes recognising and respecting New Zealand's cultural diversity;
- c. The need to recognise the unique position of Māori;
- d. The need for every participant to be guided by the charter of the student's school; and
- e. The need for every participant to recognise that the board has a responsibility to maintain a safe and effective learning environment at the student's school.

Guidance and counselling

Section 77 of the Education Act 1989 provides that the principal of a state school shall take all reasonable steps to ensure that:

- a. students get good guidance and counselling; and
- ab. students in form 1 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave school; and
- b. A student's parents are told of matters that, in the principal's opinion,
 - i. Are preventing or slowing the student's progress through the school; or
 - ii. Are harming the student's relationships with teachers or other students.

Charters

The school charter is an integral part of school self-management because it reflects the mission, aims, objectives, directions and targets of the board that will give effect to the national education guidelines and the board's priorities (subsection 61(2)), and provide a base against which the board's actual performance can later be assessed.

The charter also serves as the undertaking by the Board of Trustees to the Minister of Education. There is no definitive procedure for preparing a charter, and there is no precise format a charter must take. However, subsections 61(3), (4) and (5) do provide that certain information must be included in Charters.

Such information includes:

- a. The aim of developing, for the school, policies and practices that reflect New Zealand's cultural diversity, and the unique position of the Maori culture;
- b. The aim of ensuring all reasonable steps are taken to provide instruction in tikanga Maori (Maori

- culture) and te reo Māori (Māori language) for full-time students whose parents ask for it;
- c. A long-term strategic planning section;
 - d. The board's aims, objectives, directions, priorities in such matters as:
 - i. The board's activities aimed at meeting both general government policy objectives for all schools and specific policy objectives for the school;
 - ii. The management of the school's and board's capability, resources, assets, and liabilities, including its human resources, finances, property, and other ownership matters;
 - iii. Other matters of interest to the public that the Minister may determine.

A school charter must also contain all annual or long-term plans the board is required to have or has prepared for its own purposes or contain a summary of each plan or a reference to it.

The Education Act requires that the charter must be amended as soon as practicable if the board becomes aware that it contains false or misleading information.

Reporting on Student Achievement

Each board of trustees, with the principal and staff is required, on the basis of good quality assessment information report to students and their parents on the achievement of individual students in plain language, in writing, and at least twice a year, and across The National Curriculum, and to the school's community on progress and achievement of students as a whole and of groups, identified through NAG 1(c) including the achievement of Māori students against the plans and targets referred to in NAG 1(e).⁵

Schools' planning and reporting

The Education (Update) Amendment Act 2017 introduced a new planning and reporting framework for State and State integrated schools, due to commence on 1 January 2019. The Education Amendment Act 2018 extends the commencement date out until 1 January 2020.

Moving the commencement date out by 12 months will ensure there is sufficient time to develop the regulations for the new framework, and for schools and kura to successfully implement the new system.

⁵ NAG 2(c) and (d)

Along with delaying the commencement, the Education Amendment Act 2018 includes a number of transition arrangements to ensure the shift to the new framework is straightforward and smooth for schools and kura. From 1 January 2020, a board's 2019 charter will become its transitional strategic plan. How long the transitional strategic plan will remain in place will be determined in regulations. The combined effect of the Education Amendment Act 2018 and the Education Update Act 2017 (which introduced the new framework) will be that, from 1 January 2020, school boards will need to prepare:

- a. a three-year strategic plan which sets out the board's strategy for achieving its objectives (to be submitted to the Secretary for Education for approval every three years)
- b. an annual implementation plan giving effect to the strategic plan which does not need to be submitted to the Secretary, and
- c. an annual report which includes the board's statement of variance and annual financial statements.

This diagram from the MOE website link below, sets out how the new planning and reporting framework fits with strategic education settings, including the objectives of the education system, the Statement of National Education and Learning Priorities (NELP) and the roles and responsibilities of boards of trustees. - [New Planning & Reporting Framework – Strategic Settings](#)

Copyright Act 1994

School boards must comply with the provisions of the Copyright Act 1994. Boards should have guidelines consistent both with the relevant provisions of the Act that do not permit copying of copyright works, and also with the exceptions which apply for educational purposes in certain circumstances and conditions.

Public Records Act 2005

The Public Records Act allows Archives NZ to actively care for documents that are identified as important for New Zealand's history, and covers school records. Schools cannot destroy or dispose of any school records without Archives New Zealand's authorisation.

A School Records Retention/Disposal Information Pack has been approved by the Chief Archivist as the legal document for dealing with the retention and disposal of school records.⁴

⁴ Refer to MOE Circular 2006/19-School Records Retention and Disposal. [School records retention/disposal information pack - Education.govt.nz](#)

Useful Resources

Special Education Policy Guidelines

(www.education.govt.nz)

School Trustees: <http://www.ero.govt.nz/publications/school-trustees-booklet-helping-you-ask-the-right-questions/>

School Evaluation Indicators 2016

<http://www.ero.govt.nz/publications/school-evaluation-indicators/>

Internal evaluation: good practice 2015

<http://www.ero.govt.nz/publications/internal-evaluation-good-practice/>

Effective school evaluation 2015

<http://www.ero.govt.nz/publications/effective-school-evaluation/>

Raising student achievement through targeted actions 2015

<http://www.ero.govt.nz/publications/raising-student-achievement-through-targeted-actions/>

Improving Guidance and Counselling for Students in Secondary Schools 2013

<http://www.ero.govt.nz/publications/improving-guidance-and-counselling-for-students-in-secondary-schools/>

Increasing Educational Achievement in Secondary Schools 2013

<http://www.ero.govt.nz/publications/increasing-educational-achievement-in-secondary-schools/>

Accelerating the Progress of Priority Learners in Primary Schools 2013

<http://www.ero.govt.nz/publications/accelerating-the-progress-of-priority-learners-in-primary-schools/>

Special Education Policy Guidelines

(www.education.govt.nz/ministry-of-education/publications/special-education-publications)

Effective Governance – Working in partnership (MOE 2010)

(www.nzsta.org.nz/media/192048/workinginpartnership-1.pdf)

National Administration Guidelines, and National Education Guidelines

(www.education.govt.nz/ministry-of-education/legislation/nags/)

Trustee Handbook

New Zealand School Trustees Association

(see www.nzsta.org.nz).

Official Information Requests: Guidelines from the Office of the Ombudsmen

(www.ombudsmen.govt.nz).

Privacy Act Fact Sheets: Office of the Privacy Commissioner

(www.privacy.org.nz/news-and-publications?doc_type=1).

Privacy in Schools – A Guide to the Privacy Act for Principals, Teachers, and Board of Trustees
(www.privacy.org.nz)

Human Rights Commission Fact Sheets
(www.hrc.co.nz, and go to resources').

Treaty of Waitangi Resources for Schools
Waitangi Tribunal
(www.waitangi-tribunal.govt.nz/resources/school_info).

Enrolment Schemes – Guidelines for Development and Operation
(www.education.govt.nz/school/running-a-school/setting-up-and-managing-enrolment-schemes-zones/guidelines-for-development-and-operation-of-enrolment-schemes)

Guidelines for Principals and Boards of Trustees on Stand-downs, Suspensions, Exclusions and Expulsions
(www.education.govt.nz/assets/Documents/School/Managing-and-supporting-students/Stand-downs-suspensions-exclusions-and-expulsions-guidelines/SuspensionGoodPracticeWEB.pdf)

Copyright Compliance Guidelines
NZSTA One Stop Shop Copyright Licensing Scheme
(www.nzsta.org.nz).

Effective Governance - Resources for School Boards of Trustees.
Effective Governance – Training for School Board of Trustees.
School Planning and Reporting – Resources for School Boards of Trustees.
(www.education.govt.nz)

Ministry of Education Circulars

1997/24 Register of Daily Attendance of All Students
1999/03 Rules for Enrolment Records and any amendments
2005/17 Crown Entities Act-Governance
2006/07 Conflicts of Interest for School Trustees
2006/19 School Records Retention and Disposal
2007/12 Student Enrolments and any amendments
Annual Reporting Circular

SECTION TWO

Curriculum Compliance Guide

Key Legislation

<h3>Education Act 1989</h3>

National Administration Guideline 1: (content covered in Self-Audit Checklist relating to curriculum)

Introduction

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*.

The key function of the school is to effectively manage the delivery of the curriculum.

The teaching staff and principal monitor, manage, and deliver the curriculum, but the Board of Trustees has the ultimate responsibility for curriculum delivery.

The New Zealand Curriculum 2007 comprises a set of National Curriculum Statements that define the learning principles and achievement aims and objectives that all New Zealand state schools are required to follow. *The New Zealand Curriculum 2007* was published by *Gazette* notice on 29 October 2009,

State schools are required to provide learning and teaching programmes based on **either** the National Curriculum statements in *The New Zealand Curriculum*, **or** the National Curriculum statements in *Te Marautanga o Aotearoa*.

State schools that choose to provide learning and teaching programmes based on *The New Zealand Curriculum*, and those schools that choose to provide learning and teaching programmes based on *Te Marautanga o Aotearoa*.

A board of trustees of a school with a bilingual class or classes where Māori is one of the languages of instruction may develop and implement teaching and learning programmes based on *Te Marautanga o Aotearoa* for those classes and on teaching and learning programmes in *The New Zealand Curriculum* for the rest of the school.

Note: the MOE has informed that a curriculum support guide including resources and tools to support teaching and learning through quality local curriculum design, assessment and aromatawai practices, and reporting to students, parents and whānau will be sent to schools from 28 January 2019 and [available online from 22 January](#). Curriculum guidance coming soon. [Read more...](#)

Key Requirements

The **Education Act 1989**, section 60A provides the legislative basis for the establishment of the National Education Goals, Administration Guidelines, Foundation Curriculum Policy Statements and Curriculum Statements.

The **National Education Goals** establish a common direction for education within New Zealand.

The **National Administration Guidelines** list the requirements that are fundamentally for the benefit of students. They support learning and assist schools to work towards the National Education Goals by encouraging boards and principals to follow sound governance and management practices⁶.

Foundation Curriculum Policy Statements are statements of policy concerning teaching, learning, and assessment that are made for the purposes of underpinning and giving direction to the way in which curriculum and assessment responsibilities are to be managed in schools, and to the national curriculum statements and locally developed curriculum.⁷

The school curriculum consists of the ways in which a school puts into practice policy set out in the National Curriculum Statements. It takes account of local needs, priorities and resources, and is designed in consultation with the school's community.

Health curriculum

Boards of all state schools must, at least once in every 2 years, after consultation with the school community, adopt a statement on the delivery of the health curriculum. Section 60B of the Education Act sets out details of the consultation requirements.⁸

Special education (Learning Support) needs at school

The aim of the Government's special education policy is to improve learning opportunities for all students with special education needs. Students with special education needs include learners with disabilities, learning difficulties, communication or behaviour difficulties, sensory or physical impairments. Special education is about providing these students with the support they need to access learning – whether it is therapy, transport, changes to the learning programme or environment, specific teaching strategies, and/or specialised equipment or materials.

The policy affirms the right of every student to learn in accordance with the principles and values of the National Education Guidelines, which include the National Education Goals, the Foundation Curriculum Policy Statements, the National Curriculum Statements and the National Administration Guidelines, as well as the Special Education Policy Guidelines. The New Zealand Disability Strategy provides a framework for ensuring full participation of students with disabilities.

Boards must ensure all the policies, procedures and practices relating to students with special education needs are in place in the school and are applied without discrimination, that is that they

⁶ Refer to National Administration Guidelines - *New Zealand Gazette Notice* (29 October 2009, page 3810) and any subsequent amendments.

⁷ Ibid page 3811.

⁸ Also refer to MOE website: [Sexuality education: a guide for principals, boards of trustees, and teachers \(2015\), and Sexuality education in secondary schools - information for Boards of Trustees](#) PDF 91 kb

are:

- a. Objective, value diversity and are integrated with the school curriculum;
- b. School's leadership work towards building an inclusive school culture;⁹
- c. Regularly re-evaluated and developed to enhance effectiveness;
- d. Well communicated to all staff and the families, whānau of students and consistently applied;
- e. In compliance with the Education Act 1989 (section 8), the NZ Bill of Rights Act 1990 (section 19), the Human Rights Act 1993 (sections 21)), the National Education Guidelines, and the New Zealand Disability Strategy.

It is important that boards and principals are fully up-to-date with available special education resourcing/support, and how it is allocated and reviewed within the school.

Extract from the NZ Gazette Notice 29 October 2009

National Curriculum: The National Curriculum Statements¹⁰

Pursuant to section 60A of the Education Act 1989 (incorporating all amendments), the Minister of Education hereby publishes in *The New Zealand Curriculum* and *Te Marautanga o Aotearoa*, national curriculum statements for:

The New Zealand Curriculum (2007)	Te Marautanga o Aotearoa
• The Arts	Ngā Toi
• English	Te Reo Māori
• Health and Physical Education	Hauora
• Mathematics and Statistics	Pāngarau
• Science	Pūtaiao
• Social Sciences	Tikanga ā-iwi
• Technology	Hangarau
	Te Reo Pākehā

State schools are to provide learning and teaching programmes based on:

EITHER

The National Curriculum statements in *The New Zealand Curriculum*, except that level 1 and 2 Māori immersion settings that base their learning and teaching programmes on *The New Zealand Curriculum* must also provide learning and teaching programmes based on Te Reo Pākehā

OR

⁹ [Go to the Inclusive Education website](#)

¹⁰ *New Zealand Gazette*, No 157 – 29 October 2009, page 3812.

The National Curriculum statements in *Te Marautanga o Aotearoa*

A board of trustees of a school with a bilingual class or classes where Māori is one of the languages of instruction may develop and implement teaching and learning programmes based on *Te Marautanga o Aotearoa* for those classes and on teaching and learning programmes in *The New Zealand Curriculum* for the rest of the school.

State schools that choose to provide learning and teaching programmes based on *The New Zealand Curriculum* must adopt the foundation curriculum policy statements for *The New Zealand Curriculum*.

State schools that choose to provide learning and teaching programmes based on *Te Marautanga o Aotearoa* must adopt the foundation curriculum policy statements for *Te Marautanga o Aotearoa*.

State schools that choose to provide learning and teaching programmes based on *The New Zealand Curriculum* must do so from commencement date of 2 February 2010.

State schools that choose to provide learning and teaching programmes based on *Te Marautanga o Aotearoa* must do so from commencement date of 1 February 2011.

Useful Resources

Keeping children engaged and achieving through rich curriculum inquiries

The New Zealand Curriculum (revised curriculum effective 2010)

www.education.govt.nz

Te Marautanga o Aotearoa

Te Marautanga o Aotearoa is the Māori medium partner to the New Zealand Curriculum.

[Te Marautanga o Aotearoa](#) (external link)

Success for All – Every School, Every Child

www.education.govt.nz/assets/Documents/School/Inclusive-education/SuccessForAllEnglish.pdf)

Effective Governance – Building Inclusive Schools

www.nzsta.org.nz/media/192053/buildinginclusiveschools_2013-1.pdf

Educationally powerful connections with parents and whānau 2015

<http://www.ero.govt.nz/publications/educationally-powerful-connections-with-parents-and-whanau/>

Inclusive practices for students with special education needs 2015

<http://www.ero.govt.nz/publications/inclusive-practices-for-students-with-special-education-needs-in-schools/>

For information on some of the resources we provide to schools to support learners with diverse needs, please see [here](#).

Including Students with High Needs Primary Schools 2014

<http://www.ero.govt.nz/publications/including-students-with-high-needs-primary-schools/>

Careers education and guidance: Good practice 2014

<http://www.ero.govt.nz/publications/careers-education-and-guidance-good-practice/>

Evaluation at a Glance: Priority Learners in New Zealand Schools 2012

<http://www.ero.govt.nz/publications/evaluation-at-a-glance-priority-learners-in-new-zealand-schools/>

The New Zealand Curriculum Principles: Foundations for Curriculum Decision-Making 2012

<http://www.ero.govt.nz/publications/the-new-zealand-curriculum-principles-foundations-for-curriculum-decision-making/>

Science in The New Zealand Curriculum: Years 5 to 8 2012

<http://www.ero.govt.nz/publications/science-in-the-new-zealand-curriculum-years-5-to-8/>

www.ero.govt.nz/publications/promoting-wellbeing through sexuality education

[Students with learning support needs](#)

SECTION THREE

Health, Safety & Welfare Compliance Guide

Key Legislation

- Building Act 2004
- Education Act 1989
- Employment Relations Act 2000
- Food Act 2014 and Food Regulations 2015
- Hazardous Substances and New Organisms Act 1996
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Harmful Digital Communications Act 2015
- New Zealand Bill of Rights Act 1990
- Privacy Act 1993
- Resource Management Act 1991
- Smoke-Free Environments Act 1990
- State Sector Act 1988
- Children's Act 2014
- Education (Hostels) Regulations 2005
- Regulations made under the Health and Safety at Work Act 2015
- Education (Surrender, Retention, and Search) Rules 2013
- Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015
- Education (Physical Restraint) Rules 2017
- Fire and Emergency New Zealand Act 2017
- Fire Safety, Evacuation Procedures, and Evacuation Schemes Regulations 2018

National Administration Guideline 4:

According to legislation on financial and property matters, each board of trustees is also required in particular to:

- (c) comply with the negotiated conditions of any current asset management agreement, and implement a maintenance programme to ensure that the school's buildings and facilities provide a safe, healthy learning environment for students.

National Administration Guideline 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
- (c) Comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees.

Introduction

The educational and social development of students at school is closely linked to their physical and emotional safety. Students cannot learn effectively if they are physically or verbally abused, victims of violence, racial or sexual harassment, discrimination or bullying, or if their school surroundings are unsafe.

Students learn best in safe and effective learning environments. Research has demonstrated that the quality of school leadership has an impact on student achievement. Between them, the Board of Trustees and the school principal are responsible for school leadership and for the creation of a school climate that supports learning.

Providing a safe physical and emotional environment (including safety on the Internet) for students at school is one of the basic responsibilities of each board of trustees. However, it is also one of the requirements that is most difficult for boards to address, both because there are so many factors that impact on student safety, and because safety issues do not always have clear solutions.

There are various legislative requirements relating to student safety and it is important that all schools familiarise themselves with these requirements and ensure they are appropriately addressed.

National Administration Guideline 5 provides that boards must comply in full with any legislation currently in force or that may be passed to ensure the safety of students and employees. The Ministry of Education advises that to address the requirements of NAG 5, boards should ensure that:

- school policies and/or procedures and practices meet all legislative requirements for health and safety;
- staff and students are aware of and understand these policies and/or procedures;
- school policies and/or procedures on health and safety complement health education programmes for students; and
- health and safety issues are regularly monitored and reported on.

NAG 5 also requires boards to promote healthy food and nutrition for all students.

In 2007 ERO published a national report – *Safe Schools: Strategies to Prevent Bullying* – drawn from reviews of schools over three terms. This report found that most schools acknowledge that bullying is a risk to be managed, and take their responsibilities seriously in seeking to prevent bullying.

Bullying is intimidating behaviour that:

- a. tends to be repeated over time
- b. can be directed at particular students because of characteristics that set them apart such as:
 - i. racist bullying that is usually aimed at minority ethnic groups;
 - ii. bullying of students with special needs;
 - iii. homophobic bullying that is directed at students because of their perceived or actual sexual orientation;
 - iv. sexual harassment that is unwelcome sexual attention that makes the recipient uncomfortable;
- c. can be physical
- d. can be verbal, including text bullying
- e. can be non-verbal, including rude physical gestures and manipulation to exclude or isolate a person.

ERO expects, as a matter of good practice, that each school will have:

- a. acknowledged that bullying behaviour is a risk to be managed;
- b. documented policy/procedures outlining their approaches to preventing bullying and managing bullying behaviour;
- c. carried out anonymous student surveys about student safety at school;
- d. provided training for staff in recognising and responding to bullying;
- e. provided appropriate guidance and counselling for students;
- f. implemented strategies/programmes/interventions to prevent/manage bullying;
- g. ascertained the success of these strategies/programmes/interventions.¹¹

¹¹ For further information refer to *Safe Schools: Strategies to Prevent Bullying* [www.ero.govt.nz.
http://www.education.govt.nz/school/student-support/student-wellbeing/bullying-prevention-and-](http://www.ero.govt.nz/http://www.education.govt.nz/school/student-support/student-wellbeing/bullying-prevention-and-)

In 2015, ERO published a report ¹² about the bullying prevention and response guide. More recently, ERO updated its school trustees' booklet, which includes a section on student wellbeing. It outlines trustees' role in ensuring student wellbeing, and questions to guide internal evaluation of the effectiveness of wellbeing policies, procedures and practices in place.

Boards are required to meet minimum safety standards set out in legislation and conduct regular safety checks to identify and eliminate physical hazards.

The board should implement a maintenance programme to ensure that the school's buildings and facilities provide a safe and healthy learning environment for students.

Under the State Sector Act 1988 boards have a duty to be a good employer and to:

“Ensure that all employees maintain proper standards of integrity, conduct and concern for...the well-being of students attending the institution.” [Section 77A(3)].

Note: Compliance with legislative requirements on its own is not enough. Schools need to take a proactive approach to safety and develop high safety standards and expectations in consultation with parents and the school community. They need to consider the safety implications of all their decisions and continually review the steps they are taking to ensure safety. Principals and teachers play an important role in promoting a safe culture.

Key Requirements

Health and Safety at Work Act 2015 ¹³

Under this Act, the school Board as the person conducting a business or undertaking (PCBU) holds the primary duty of care for, and manages risks to, the health and safety of workers and others arising from the work of the school. The Board will exercise its primary duty of care by ensuring the health and safety of:

- its workers (e.g. teachers, principals, administrators, property managers, volunteer workers etc.) while at school and on excursions and outside the classroom
- other workers who are influenced or directed by the Board
- others (e.g. students/children, parents, members of the public, and visitors to the premises), by ensuring they are not put at risk from work carried out by the school.

Officers are individual members of the board of trustees occupying a position that allows them to *exercise significant influence* over the management of the school, for example the school principal. Their role is to exercise *due diligence*, which means that they must take reasonable steps to ensure that the Board (as the PCBU) meets its health and safety obligations.

What the school board should do to comply with the HSWA

There are a number of things your school should be aware of under the legislation:

[response/;www.wellbeingatschool.org.nz;](https://www.wellbeingatschool.org.nz/response/)

¹² Download the complete report

¹³This Act applies from 4 April 2016. For further information refer:

[health and safety practical guide for boards of trustees and school leaders](#), and [webpace](#)

- familiarise yourself with the key requirements of the legislation
- review your health and safety policies and practices
- identify health and safety risks in your workplace (a workplace includes any place where a worker goes, or is likely to be, while at work) and take all practicable steps to prevent these from causing harm
- make health and safety part of your workplace culture
- visit the MOE's dedicated health and safety webpage: www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/ for guidance and updates

Health and Safety Code of Practice

Under clause 35, Sixth Schedule to the Education Act 1989, the Secretary for Education is able to prescribe terms and conditions, including minimum safety and health requirements under which school boards occupy land and buildings, regardless of whether the Crown owns or leases the land or not. The Ministry of Education has issued the *Health and Safety At Work Act 2015, A practical guide for boards of trustees and school leaders*.¹⁴

Internet safety

For the purposes of NAG 5, boards must provide a safe physical and emotional learning environment. This includes a safe Internet environment.

A safe Internet environment is established in a school through:

- Proper infrastructure of policies, procedures and signed student and staff Use Agreements and Protocols;
- Effective systems maintenance (security, auditing, and possible filtering);
- Effective monitoring; and
- Education programmes for the school community.

All schools that have access to the Internet must have a Code of Conduct or Acceptable Internet Use Policy that sets out clearly what is considered appropriate use of the Internet. Lack of appropriate policies and procedures and effective monitoring can threaten the safety of a school.¹⁵

If a school is developing or updating its policy about the use of mobile phones or other digital devices, you can use OSAG's guidelines: [Digital Technology; Safe and responsible use in schools](#), and [Click here to get more info from the Netsafe website](#).

Children's Act 2014¹⁶

Under the Children's Act 2014, schools boards and kura, have new requirements to put child

¹⁴ [Health and Safety at Work Act 2015: A practical guide for boards of trustees and school leaders](#).

¹⁵ The NetSafe Kit for schools (which builds on the Internet Safety Kit) is considered a 'model of best practice' by the Ministry of Education and is designed as a guide for schools to establish a cyberspace learning environment. See www.netsafe.org.nz for updates to the NetSafe kit.

¹⁶ For more information including [frequently asked questions](#) and a [factsheet](#), see the Children's Action Plan website www.childrensactionplan.govt.nz; and [Children's Act 2014 - a practical guide](#)

protection policies in place. The policies will guide staff to identify and report child abuse and neglect.

There are legal requirements for vetting and screening¹⁷ of all paid staff in the government-funded children's workforce (workers who have regular contact with children as part of their job). These requirements are phased in over several years, with checks for all new core children's workers (including a contractor) from 1 July 2015 before they start work. Children's workers are 'core workers' if they work alone with children or have primary responsibility for, or authority over children.¹⁸

Seclusion and physical restraint

New section 139AB of the Act bans the use of seclusion in schools. Seclusion can be physically and psychologically harmful, and is no longer considered an acceptable behaviour management strategy. Sections 139AC to 139AD create a legal framework for the use of physical restraint in schools. This makes it clear to teachers and authorised staff members how and when they can use physical restraint, and puts safeguards in place to prevent physical restraint being used unreasonably or disproportionately.¹⁹

Education outside the classroom (EOTC)

Boards of trustees are legally responsible for the safety of students, staff and volunteers involved in education outside the classroom. They have legal obligations under general law and under legislation such as the Education Act 1989, the Health and Safety at Work Act 2015 and the Crimes Act 1961.

Where an incident concerning safety occurs during an EOTC activity, a board's legal liability will depend on how well it complied with its legal obligations when the school was planning and implementing the EOTC activity. If the school has planned well and followed accepted best practice guidelines, the board is much less likely to be considered legally liable for any safety incident that arises.²⁰

Food Act 2014/Food Regulations 2015

Under the Act, all schools must ensure the food they sell or serve is safe and suitable to eat. Depending on the type of food service provided, some schools will have additional obligations.²¹

The new food safety laws are being phased in:

- a. New state and state integrated schools opening after 1 March 2016 will need to meet the requirements of the Act/Regulations from the date they open.

¹⁷ Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015

¹⁸ Example: teachers, teacher aides, support staff who have regular contact with children at work.

¹⁹ updated [Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint](#); Download the rules [\[PDF, 847 KB\]](#)

²⁰ Refer to [EOTC Guidelines – Bringing the Curriculum Alive](#)

²¹ Learn more about the new food safety law at Ministry for Primary Industries website (mpi.govt.nz/food-safety/food-act-2014), see *Examples of how the Food Act 2014 applies to education providers Factsheet*. Also refer - [Food safety for Schools and Kura \(Food Act 2014\)](#); <http://www.mpi.govt.nz/food-safety/food-act-2014/transition-timetable/businesses-that-must-register-by-31-march-2017/#earlychildhood>

- b. Existing schools (as at 29 February 2016) have until 31 March 2018 to apply for registration and to get ready to meet the requirements of the Act/Regulations.

Building Act 2004

The Building Act establishes a series of minimum safety standards (building regulations) which must be complied with. The purpose of these regulations is to ensure all buildings and alterations are constructed to a standard that ensures the safety of occupants.

Civil defence

The Ministry of Civil Defence & Emergency Management (MCDEM) has developed a National Civil Defence Emergency Management Plan 2015 and Guide to the National Civil Defence Emergency Management Plan 2015, which supports the Civil Defence Emergency Management Act 2002. These documents will have useful information in developing a policy to respond to emergencies and can be downloaded in PDF format from the MCDEM website (www.civildefence.govt.nz).

The Ministry of Education has developed an Emergency Management Plan template which schools can use to develop their own Emergency Plan. Check end of page using hyperlink [here](#) - [Emergencies and traumatic incidents](#) and [Checking your property after a major incident](#).

Smoke-Free Environments Act 1990

The purpose of this Act is to prevent, so far as is reasonably practicable, the detrimental effects of smoking on the health of any person who does not smoke, or who does not wish to smoke, inside any workplace or in certain public enclosed areas.

Schools are required to have smoke-free buildings and grounds at all times.

The total smoke-free ban includes school grounds during weekend sports games, fund-raising activities, community days or evening classes, as well as when the grounds or buildings are rented out by other groups.

The changes also require that boards display smoke-free notices at every entry gate or building entrance, and that they take all reasonably practicable steps to ensure there is no smoking on their premises.

Human Rights Act 1993

The Human Rights Act is to help ensure that people are treated fairly. It prohibits certain discriminatory practices in relation to the employment and treatment of employees and students.

The grounds of discrimination in section 21 of the Act include religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, sex, employment status, family status, sexual orientation and marital status.

Boards of trustees have obligations to ensure a safe learning environment where students are not subjected to racial or sexual harassment, or discrimination. Under the Human Rights Act, boards can

be liable for harassment and discrimination committed by their employees. Boards can work towards providing a safe physical and emotional learning environment for all by developing prevention of racial or sexual harassment, or discrimination policies and procedures for students and employees.

Section 102 of the Employment Relations Act 2000 provides for personal grievances under that Act. Under section 103 a personal grievance can be for racial or sexual harassment, or discrimination by the employer or a representative of the employer.

Under the Human Rights Act (section 69) and the Employment Relations Act 2000 a board of trustees may be liable for the occurrence of racial or sexual harassment, or discrimination of an employee by a student (see further *Preventing Sexual Harassment in Schools*: Human Rights Commission 1996, and *Racial Harassment in Schools*: Human Rights Commission 2001).

Privacy Act 1993

The Privacy Act is designed to ensure that there are adequate safeguards in the way organisations (including boards of trustees) collect, use, store and disclose information about individual students, employees and job applicants. Section 6 of the Privacy Act sets out 12 information privacy principles that must be followed in relation to matters including:

- Information boards collect, hold and use about employees and job applicants;
- Information boards collect, hold and use about student enrolment, student achievement and other personal matters relating to students such as student behaviour and discipline.

Boards must ensure that they are familiar with the principles of the Privacy Act and that there are policies and procedures in place to ensure personal information is collected, stored, used and disclosed in accordance with those principles.

Section 23 of the Act requires every school to appoint a Privacy Officer who is responsible for ensuring the school complies with the provisions of this Act.

Boards and principals should understand the relationship between the need to protect personal information in terms of the Privacy Act and the requirement placed upon principals in section 77 of the Education Act to take all reasonable steps to ensure that:

- a. “Students get good guidance and counselling; and
- b. A student's parents are told of matters that, in the principal's opinion;
- c. Are preventing or slowing the student's progress through the school; or
- d. Are harming the student's relationships with teachers or other students.”

New Zealand Bill of Rights Act 1990

The New Zealand Bill of Rights Act (NZBORA) provides for the safeguarding of rights in respect of such matters as:

- The right to the observance of the principles of natural justice.
- The right to be secure against unreasonable search or seizure, whether of the person, property, correspondence or otherwise.
- The right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference.

- The right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.
- The right not to be subjected to torture or to cruel, degrading, or disproportionately severe treatment or punishment.
- The right to be free from discrimination.

Searching Students and Confiscation of Property

Provisions²² in the Education Act 1989 create a power for teachers and authorised non-teaching staff to require students to surrender items in their possession or control that are likely to endanger safety or detrimentally affect the learning environment. Items can include information stored in electronic devices. Surrendered items may be retained for a reasonable period or disposed of if appropriate. Teachers and authorised staff may also search clothing and bags or other containers subject to certain restrictions, and must comply with rules and guidelines regarding the surrender and retention of property and searches by schools issued by the Secretary for Education.

Teachers and authorised staff will not be permitted to search a student or to use physical force against a student or require a student to provide a bodily sample or to have a dog for the purpose of exercising a power.

Education (Surrender, Retention and Search) Rules 2013²³

These rules, which came into force on 1 January 2014, are made by the Secretary for Education and set out the practice to be followed by schools in respect of things that are dealt with by schools because they are items that endanger the safety of persons or detrimentally affect the learning environment (items) or because they are computers or electronic devices (devices) on which items are stored. The rules also require records to be made and kept of searches undertaken to locate items that are believed to pose an immediate threat to the physical or emotional safety of persons. The powers to deal with items and devices and to undertake searches are conferred on schools by sections 139AAA and 139AAB of the Education Act 1989 (the **Act**), which also came into force on 1 January 2014.

²² Sections 139AAA to 139AAI Education Act 1989. Also refer to *Guidelines for the surrender and retention of property and searches* (www.minedu.govt.nz)

²³ Also refer to [Digital technology: Safe and responsible use in schools](#) [PDF, 2.5 MB]

Hazardous Substances in school laboratories

The New Zealand Association of Science Educators (NZASE) has developed the Code of Practice for School Exempt Laboratories (the Code). This Code provides guidance on how schools comply with the Hazardous Substances and New Organisms Act and Regulations. The Code includes advice for schools about:

- managing school laboratories
- appointing laboratory managers
- laboratory manager's responsibilities
- skills and knowledge required for laboratory managers and people in charge
- duties of people who are handling hazardous substances
- using hazardous substances in teaching

For further information, refer to the Code.²⁴

Firearms in Schools Guidelines

Current legislation allows firearms in schools under strict conditions. These guidelines are designed to support schools to have the correct policy and processes in place:

[*Firearms in Schools Guidelines and Tool Kit*](#)
[*Quick guide to the Firearms in Schools Guidelines*](#)

Resource Management Act 1991

The purpose of this Act is to promote the sustainable management of natural and physical resources. The provisions of the Act, among other things, promote the health and safety of communities. For example, there are provisions to ensure that activities that may have adverse effects on the environment, are avoided.

School boards that discharge contaminants or use incinerators to dispose of rubbish, should ensure that they comply with local council bylaws.

Hostels and off-site care – responsibilities of boards in state schools

The responsibility of boards to provide a safe physical and emotional environment for the children and young persons in their care includes situations where children and young persons are:

- Attending on-site or off-site courses or trips that are part of a school's educational programme; or
- In residential facilities associated with schools. These may include boarding schools, hostels, homestays, school camps or off-site courses or trips.

²⁴ For more information about the code, go to the [Code of Practice for School Exempt Laboratories \(WorkSafe website\) \(external link\)](#) . [HSNOCOP 15-1: School exempt laboratories \(PDF 556 KB\)](#)

Boards are therefore also required to ensure that in the situations outlined above:

- All children and young persons are treated with respect and dignity and that they have their rights and needs met in a safe environment;
- Staff are aware of the relevant laws and regulations enacted to protect children and young persons from abuse;
- Staff are familiar with ways to prevent, recognise and respond to abuse; and
- Procedures are in place to protect students and staff from unwarranted allegations of abuse.

Education (Hostels) Regulations 2005

The purpose of these regulations is to help ensure the safety of students who board at hostels, prescribe minimum standards for premises and facilities, a code of practice relating to management of hostels, and a complaints procedure.

International students

The Education (Pastoral Care of International Students) Code of Practice 2016 ²⁵ replaced the existing mandatory Code of Practice for the Pastoral Care of International Students on 1 July 2016.

The new Code of Practice means:

- Education providers will be required to achieve 10 outcomes outlined in this new Code of Practice, following prescribed key processes.
- The Code Administrator, the New Zealand Qualifications Authority (NZQA), has new powers to sanction education providers who do not follow the code.

Schools cannot enrol international students without being a signatory to the Code of Practice. Schools with MFAT scholarship recipients or those running their own exchange programmes will need to become signatories to the code.

Boards that are signatories to the Code must ensure they are familiar with, and meet, the requirements of the Code, including the provisions relating to:

Student welfare

- Support services for students
- Information on international students
- Communicating with parents for students under 18 years
- Students with additional needs
- Monitoring attendance to ensure student welfare

Accommodation

- Accommodation Provisions
- Homestays

²⁵ [printable version of the Code of Practice including amendments 2019 \(PDF, 736KB\)](#).

- Boarding Establishments
- Designated caregivers
- Temporary accommodation
- Residential caregivers
- Police vetting of accommodation for students under 18 years

Boards must also ensure students know about and have access to adequate and fair procedures for dealing with grievances. Complaints procedures must be documented and implemented, and information about complaints procedures must be publicly available to international students.

Useful Resources

[Health and safety practical guide for boards of trustees and school leaders](#)

Student Safety in Schools: Recruiting and Managing Staff - January 2014

www.ero.govt.nz

Wellbeing for success: effective practice 2016

<http://www.ero.govt.nz/publications/wellbeing-for-success-effective-practice/>

Wellbeing for success: a resource for schools 2016

<http://www.ero.govt.nz/publications/wellbeing-for-success-a-resource-for-schools/>

Continuity of learning transitions from early childhood services to schools 2015

<http://www.ero.govt.nz/publications/continuity-of-learning-transitions-from-early-childhood-services-to-schools/>

Wellbeing for Children's Success at Primary School 2015

<http://www.ero.govt.nz/publications/wellbeing-for-childrens-success-at-primary-school/>

Wellbeing for Young People's Success at Secondary School 2015

<http://www.ero.govt.nz/publications/wellbeing-for-young-peoples-success-at-secondary-school/>

Bullying Prevention and Response Guide: Schools' Awareness and Use 2015

<http://www.ero.govt.nz/publications/bullying-prevention-and-response-guide-schools-awareness-and-use/>

Improving Guidance and Counselling for Students in Secondary Schools 2013

<http://www.ero.govt.nz/publications/improving-guidance-and-counselling-for-students-in-secondary-schools/>

Schools' Provision for International Students 2013

<http://www.ero.govt.nz/publications/schools-provision-for-international-students/>

Evaluation at a Glance: Transitions from Primary to Secondary School 2012

<http://www.ero.govt.nz/publications/evaluation-at-a-glance-transitions-from-primary-to-secondary-school/>

NZSTA – Guidelines for Boards of Trustees, Health and Safety (www.nzsta.org.nz).

[Bullying prevention and response: A guide for schools](#)

[Safety and Technology Education: A Guidance Manual for New Zealand Schools](#)

[Safe travel for students in receipt of Special Education School Transport Assistance \(SESTA\) - A Good Practice Guide](#)

[Keeping students safe on school buses](#)

[Smokefree policy template for schools](#)

[Digital technology guide for schools](#)

[Worksafe at schools - information and training](#)

[Worksafe at schools - protection of staff, students, visitors and contractors](#)

[Worksafe at schools - toolkit](#)

Health Conditions in Education Settings

www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/health-and-safety-practice-framework-resources/health-conditions-in-education-settings-supporting-children-and-young-people

Children and Young People: Indicators of Wellbeing in New Zealand

Ministry of Social Development, December 2005

www.msd.govt.nz/documents/work-areas/csre/children-young-people-indicators-wellbeing-nz.pdf

ACC Website, especially Child Safety Organisations page (containing links to a wide range of health and safety-related sites)

www.acc.co.nz

Netsafe Kit for Schools and other information on internet safety

www.netsafe.org.nz/schools/schools_kit_2007.aspx

EOTC Guidelines 2016 – Bringing the Curriculum Alive

ACC ThinkSafe Education

Education (Pastoral Care of International Students) Code of Practice 2016 and the International Student Contract Dispute Resolution Scheme 2016.

<http://www.nzqa.govt.nz/providers-partners/education-code-of-practice/>

Accident Compensation Corporation, 2005

www.acc.co.nz go to 'injury prevention' then 'schools'

Guidelines for reporting suspected or actual child abuse and neglect

www.education.govt.nz/assets/Documents/School/Traumatic-incidents-and-emergencies/MoE-STA-CYFProtocolForReportingActualOrSuspectedChildAbuseNov09Amendment-3-2015.pdf

The Reporting process that Police follow for suspected or disclosed child abuse

www.police.govt.nz

New Zealand Fire Service Website: including information on Evacuation Procedures

www.fire.org.nz

Guidelines to the Education (Hostels) Regulations 2005

Ministry of Education, February 2006

www.education.govt.nz/assets/Documents/School/Running-a-school/Hostel-Regulations/HostelGuidelines.pdf

General Information on Internet Safety

www.netsafe.org.nz

Firewise for Schools

www.fire.org.nz/home_kids/campaigns/firewise.htm

Evacuation Scheme Information

<http://evaconline.fire.org.nz>

Pandemic Planning
Ministry of Education

www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/work-place-management/pandemic-planning-kit/pandemic-planning-guide

Sun Safety

www.sunsmartschools.co.nz

[What needs to be notified in the education sector?](#)

Approved by Worksafe NZ, this resource supports the education sector to make decisions on what health and safety events do and do not need to be notified.

[Students on Work Experience: A health and safety guide for schools and employers](#)

Created for schools and employers to support them when students go on work experience, outside of a formal Gateway programme.

[Health and Safety Guidance for School Sport](#)

Created with SportNZ, regional sports co-ordinators and the Secondary School Sports Council.

[Guidance on the Code of Practice for School Exempt Laboratories](#)

New Zealand Association of Science Educators (NZASE) has worked with the Ministry to create this guide to support science educators.

[Well-being webpage](#)

This webpage brings together useful resources from a number of organisations to help schools and ECEs manage a variety of wellbeing issues.

[Download the guidance for New Zealand schools on behaviour management to minimise physical restraint](#)

Ministry of Education Circulars

1999/21 HIV Aids and other blood borne diseases

1997/12 Responsibility of Boards of Trustees for the Personal Safety of Students

SECTION FOUR

Personnel Compliance Guide

Key legislation

- Education Act 1989
- Employment Relations Act 2000 - Collective Employment Agreements (teaching and non-teaching staff)
- Human Rights Act 1993
- Criminal Records (Clean Slate) Act 2004
- Protected Disclosures Act 2000
- State Sector Act 1988
- Teaching Council Rules 2016
- Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015
- Privacy Act 1993

National Administration Guideline 3:

According to the legislation on employment and personnel matters, each board of trustees is required in particular to:

- (a) Develop and implement personnel and industrial policies, within policy and procedural frameworks set by the Government from time to time, which promote high levels of staff performance, use education resources effectively and recognise the needs of the students;
- (b) Be a good employer as defined by the State Sector Act 1988 and comply with the conditions contained in employment contracts applying to teaching and non-teaching staff.

Introduction

One of the key activities for a board is related to the employment of staff. The level of student achievement is often dependent on the quality of staff employed.

The board should take all reasonable steps to provide a safe and positive working environment. It should be satisfied that all members of staff are performing in accordance with their employment agreements.

Under clause 6, Sixth Schedule to the Education Act 1989, a board may in accordance with the State Sector Act 1988, appoint, suspend, or dismiss school staff.

Key Requirements

Children's worker – Safety Checks

Children's worker safety checks became law in the Children's Act 2014 (the CA), and applies to new workers in core children's workforce roles from 1 July 2015.²⁶

Briefly, the following checks must have been completed where the board is seeking to employ or engage as a children's worker²⁷ (including as a contractor) from 1 July 2015 for core children's workforce roles, and from 1 July 2016 for non-core children's workforce roles:

- a. Identity verification - proof people are who they say they are, including previous identities
- b. Information requirement – reliable information about history and behaviour, which may include reference checks, interviews, and Police vetting
- c. Risk assessment – considered judgement based on the information collected
- d. Periodic re-checking – information to be updated and reassessed every three years.

The CA prohibits people with certain child abuse, sexual offending, or violence convictions from working in core worker roles. These are specified in the Act. Anyone convicted of the offences listed in the Act will not be able to work in core worker roles unless they are granted an exemption. The Ministry of Social Development manages applications for exemptions.

State Sector Act 1988²⁸

Section 77A of the State Sector Act 1988 requires that boards of trustees must:

1. operate a personnel policy that complies with the principle of being a good employer; and
 - a. make that policy (including the equal employment opportunities programme) available to its employees; and
 - b. ensure its compliance with that policy (including its equal employment opportunities programme) and report in its annual report (if any) on the extent of its compliance.
2. For the purposes of this section a "good employer" is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring:
 - a. Good and safe working conditions; and
 - b. An equal employment opportunities programme; and
 - c. The impartial selection of suitably qualified persons for appointment; and
 - d. Recognition of:
 - i. The aims and aspirations of the Māori people;
 - ii. The employment requirements of the Māori people; and
 - iii. The need for greater involvement of the Māori people in the Education service.
 - e. Opportunities for the enhancement of the abilities of individual employees; and

²⁶ Refer to footnotes 12 - 14

²⁷ Example: teachers, teacher aides, support staff who have regular contact with children

²⁸ Note: Part 7, 7A and 7B of this Act will be incorporated into the [Education and Training Bill 193-1 \(2019\)](#)

- f. Recognition of the aims and aspirations, and employment requirements, and the cultural differences, of ethnic or minority groups; and
 - g. Recognition of the employment requirements of women; and
 - h. Recognition of the employment requirements of persons with disabilities.
3. In addition to the requirements specified in subsections (1) and (2) of this section, each employer shall ensure that all employees maintain proper standards of integrity, conduct, and concern for-
- a. The public interest; and
 - b. The well-being of students attending the institution.”

Section 77C(1) provides that the chief executive of the Ministry of Education may from time to time, with the agreement of the State Services Commission, prescribe matters that are to be taken into account by employers in assessing the performance of teachers.

Under section 77C, the Secretary for Education has Gazetted requirements for all schools to assess teachers and principals against professional standards.

There are a number of Ministry of Education publications to assist boards in understanding and implementing these requirements (see also useful resources).

Section 77D(5) provides that for the purposes of section 77A an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons.

Section 77F provides that in matters relating to decisions on individual employees (whether matters relating to the appointment, promotion, demotion, transfer, disciplining, or the cessation of the employment of any employee, or other matters) the employer shall act independently.

Section 77G provides that in making an appointment based on merit, boards shall give preference to the person who is best suited to the position.

Section 77H requires boards to advertise vacancies wherever practicable.

Note: Section 77A (1) requires school boards, among other things, to operate a personnel policy that complies with the principle of being a good employer, and report in its annual report on the extent of its compliance.²⁹

The Education Act 1989

The provisions relating to teacher registration and employment are contained in Part 31 of the Education Act (sections 348 - 375). These provisions provide that no school board can permanently appoint to any teaching position any person who does not hold a practising certificate.

²⁹ The annual report must be available to the public on the website maintained by or on behalf of the board under section 87AB of the Education Act 1989.

Police vetting of non-teaching, unregistered employees and contractors³⁰

The board of a state school must obtain a Police vet of every person-:

1. whom the board appoints, or intends to appoint, to a position at the service; and
2. who is to work at the school during normal school hours; and
3. who is not a registered teacher or holder of a LAT.
 - a. The board must apply for a Police vet no later than 2 weeks after the person begins work at the school, and the Police vet must be obtained before the person has, or is likely to have, unsupervised access to students at the school during normal school hours.
 - b. Further Police vets must be obtained on or about the third anniversary of the previous Police vet if the person still works at the school.
4. A Police vet must be obtained of every contractor or the contractor's employee who has, or is likely to have, unsupervised access to students at the school during normal school hours:
 - a. before the person has, or is likely to have unsupervised access to students at the school during normal school hours; and
 - b. if the contractor still works at the school, on or about the third anniversary of the previous Police vet.

In relation to any person who is subject to Police vets, the school board:

1. must ensure that strict confidentiality is observed for Police vets; and
2. must not take adverse action until-
 - a. the person has validated the information contained in the vet; or
 - b. the person has been given a reasonable opportunity to validate the information, but has failed to do so with a reasonable period.

unsupervised access to students, in relation to a school means access to any student on the school's premises that is not access by, or supervised by, or otherwise observed by, or able to be directed (if necessary) by, any 1 or more of the following:

- a registered teacher or holder of a LAT;
- an employee of the school on whom a satisfactory Police vet has been conducted within the last 3 years;
- a parent of the student.

The Protected Disclosures Act 2000

All public sector organisations (including all state schools) must have in operation appropriate internal procedures for receiving and dealing with information about serious wrongdoing.

Internal procedures and adequate information as to how to use the procedures must be published widely in the organisation and must be republished at regular intervals.

³⁰ Note: The following is a summary of sections 78C to 78CD of the Education Act 1989.

Teaching Council Rules 2016 ³¹

Rule 4 - Overview

1. These rules—
 - a. provide preliminary provisions (see this Part); and
 - b. set out how to make a mandatory report or a complaint to the Teaching Council about a teacher (see [Part 2](#)); and
 - c. set out the criteria for reporting serious misconduct (see [Part 3](#)); and
 - d. provide a procedure for the chief executive to deal with reports and complaints about teachers in the first instance (see [Part 4](#)); and
 - e. provide for the practices and procedures of the disciplinary bodies when dealing with reports, complaints, and other matters (see [Parts 5 and 6](#)); and
 - f. provide for the practices and procedures of professional practice evaluators and the Competence Authority when dealing with matters relating to competence (see [Part 7](#)); and
 - (fa) provide for certain applications for teacher registration to be referred to a Registration Panel for determination (see [Part 7A](#)); and
 - g. establish the disciplinary bodies and the Competence Authority and include provisions about their membership and operation, and the membership and operation of the Registration Panel (see [Part 8](#)); and
 - h. provide for procedural requirements for Police vetting of applicants for registration as a teacher or for an authority to teach (see [Part 9](#)); and
 - i. revoke various rules (see [Part 10](#)).
2. This rule is by way of explanation only, and, if any other provision in the Act or rules conflicts with it, the other provision prevails.

Mandatory Reporting

Boards must immediately report to the Teaching Council when the board dismisses a teacher for any reason, or has reason to believe that a teacher has engaged in serious misconduct or has not reached the required level of competence. Boards should refer to sections 392 to 395 of the Education Act 1989, and relevant Rules for details.

Criminal Records (Clean Slate) Act 2004

The Criminal Records (Clean Slate) Act 2004 applies to employment and any other situations where an individual is asked about his/her criminal record. The Act is designed to allow individuals with less serious convictions to put their past behind them. To be eligible under the Act an individual must meet all of the criteria in section 7 of the Act before all of their convictions can be concealed.

Note: These provisions do not affect the requirement by boards to police vet non-teaching, and unregistered employees, contractors and their employees under the Education Act 1989.

³¹ These rules apply from 1 July 2016

Employment Relations Act 2000

The object of the Employment Relations Act 2000 is to build employment relationships through the promotion of mutual trust and confidence in all aspects of the employment environment and employment relationship. The Act requires that employers and employees deal with each other in good faith.

Human Rights Act 1993

The Human Rights Act 1993 protects people from unlawful discrimination. The intention of the Act is to ensure that everybody is treated fairly in key areas of life, including employment.

Discrimination can be direct or indirect. Direct discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances. Indirect discrimination occurs when an action or policy that appears to treat everyone in the same way, actually has a discriminatory effect on a person or group. (Grounds of discrimination are defined in section 21 of the Act.)

The Act uses an expanded definition of 'employment'. It applies to employees, voluntary workers, people seeking work, and contract workers. This means the Act applies to a number of people who are not covered by other employment legislation, such as the Employment Relations Act 2000, which only applies to employees.

The Act covers advertisements, job applicants, employment opportunities and conditions for employees, and how employees leave their employment.

Individual and collective employment agreements

Boards should ensure they are familiar with the terms and conditions of the relevant employment agreement that governs their relationship with employees.

Appraisal of Staff

The Teaching Council requires professional leaders of schools to appraise staff in teaching positions based on the *Standards for the Teaching Profession*³² established and maintained by the Teaching Council for the issue and renewal of practising certificates under Part 31 of the Education Act 1989. The *Standards for the Teaching Profession or Ngā Tikanga Matatika, Ngā Paerewa*. [Māori medium] are made up of six standards that provide holistic descriptions of what high-quality teaching practice looks like.

*Code of Professional Responsibility*³³ applies to all certified teachers and those who have been granted a Limited Authority to Teach, in every role and teaching context. It is a set of aspirations for professional behaviour, and is binding on all teachers who hold a practising certificate and all authorised persons.

³² Standards for the Teaching Profession.-implementation by 1 January 2018

³³ Code of Professional Responsibility and Standards for the Teaching Profession.

Additional remuneration for principals

Section 89 of the Education Act 1989 requires the Secretary for Education to provide a payroll service which Boards must use to pay staff unless the Secretary for Education otherwise authorises. The section also requires boards to keep all records and give the Secretary for Education all information necessary for the purposes of the payroll service.

Boards of trustees are required to obtain the written consent of the Secretary for Education (or the authorised delegate) before agreeing to pay additional remuneration to the principal. The need for consent arises because of requirements in the respective principals' collective and individual employment agreements (under section 75 of the State Sector Act 1988) and section 91F of the Education Act 1989 which prohibits boards paying all or any part of a teacher's salary (which includes the principal) without the Minister of Education's consent.

Useful Resources

Refer to details of appointment processes and templates – NZSTA website – www.nzsta.org.nz and also www.educationalleaders.govt.nz

Ngā Tikanga Matatika, Ngā Paerewa.

Code of Professional Responsibility and Standards for the Teaching Profession.

Current Collective Employment Agreements

www.education.govt.nz

Supporting school improvement through effective teacher appraisal – May 2014

Supporting school improvement through effective principal appraisal – May 2014

www.ero.govt.nz

Student Safety in Schools: Recruiting and Managing Staff 2014

<http://www.ero.govt.nz/publications/student-safety-in-schools-recruiting-and-managing-staff/>

Performance Management Systems

Ministry of Education.

Principal and Teacher Performance Management

www.education.govt.nz

BES (Iterative Best Evidence Synthesis)

www.educationcounts.govt.nz/publications/series/ibes

Quality Teaching for Diverse Students in Schooling Best Evidence Synthesis

www.educationcounts.govt.nz/publications/series/ibes/5959

Towards Full Registration: A Support Kit for Schools

Ministry of Education and Teachers' Council, 2004

<http://www.teacherscouncil.govt.nz/communication/publications/resources0001.stm>

Human Rights Commission Fact Sheets

www.hrc.co.nz and go to 'resources'

RTLB Clusters: Effective Governance, Management and Practice

Sections 3,4,5 Professional Standards.

Department of Labour Website: Employment Fact Sheets

www.dol.govt.nz

State Services Commission Website

www.ssc.govt.nz

Ministry of Education Circulars

2000/23 Employment Relations Act: Implications for Schools

2003/08 Guidelines on the Protected Disclosures Act 2000 (as amended)
2010/09 Changes to Police vetting requirements
2013/27 Principal Concurrence

SECTION FIVE

Financial Compliance Guide

Key legislation

- Crown Entities Act 2004
- Education Act 1989
- Financial Reporting Act 1993
- Public Finance Act 1989

Crown Entities (Financial Powers) Regulations 2005

National Administration Guideline 4:

According to legislation on financial and property matters, each board of trustees is also required in particular to:

- a. Allocate funds to reflect the school's priorities as stated in the charter;
- b. Monitor and control school expenditure, and ensure that annual accounts are prepared and audited as required by the Public Finance Act 1989 and the Education Act 1989;

Introduction

Sound financial management and controls are essential to schools because they provide an effective framework for financial planning and safeguard the use of tax payers' money. They also provide transparency and mechanisms for accountability.

Key Requirements

Section 79 of the Education Act 1989 provides that every year Parliament will grant public money to boards of trustees for the purpose of running schools.

Boards of trustees are responsible for the management of this money and are also publicly accountable for how the money is spent.

Boards are Crown Entities

Clause 26, Part 3, Sixth Schedule of the Education Act 1989 provides that every Board is a Crown Entity for the purposes of section 7 of the Crown Entities Act 2004. Schedule 3 of the Crown Entities Act (which is the same as Schedule 5A of the Education Act 1989) sets out the provisions in the Crown Entities Act that apply to Boards.

Annual financial statements

As Crown entities schools are subject to the requirements of the Education Act 1989, Crown Entities Act 2004 and the Financial Reporting Act 1993, and these Acts define the form and content of the financial statements that schools must present each year.

Section 87(3) of the Education Act requires financial statements to be prepared in accordance with generally accepted accounting practice and audited as required by section 87A of the Act.

Section 87A requires that each board must submit its annual financial statements to the Auditor-General within 90 days after the end of each financial year.

Under section 87C(1) a board must provide its audited annual financial statements to the Secretary of Education no later than 31 May in the year after the previous financial year.

Annual reporting³⁴

Boards are also required to report to the school community on their operations for the year. The annual report provides an opportunity for the school to report to the community – parents, students, and Parliament, and to publicly account for the ways it has used resources provided for the education of its students. The annual report is sent to the Ministry of Education as soon as practicable after the end of each financial year, and in any event no later than a day fixed by the Secretary of Education (section 87).

The annual report must include:

- a. The names of all the board's elected trustees, appointed trustees, and co-opted trustees; and
- b. The date on which each trustee goes out of office; and
- c. The auditor's report in accordance with section 87A;
- ca. A report, presented in the manner required by the Minister by notice in the *Gazette*³⁵, on the total remuneration (including benefits, any compensation, *ex gratia* payments, any other payments, and any other consideration paid or payable in the school principal's capacity as an employee) paid to the principal of the school; and
- d. The total value of any compensation or other benefit paid or payable to persons who ceased to be trustees, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was payable; and
- e. The board's annual financial statements; and
- f. A statement in which schools provide an analysis of any variance between the school's performance and the relevant aims, objectives, directions, priorities, or targets set out in the school charter.

Note: A board is also required under section 77A of the State Sector Act 1989 to report in its annual report on the extent of its compliance with the personnel policy that complies with the principle of being a good employer (including its equal employment opportunities programme).

The legislation also requires that:

³⁴ Ministry of Education: Annual Reporting Circular, and [Download the FISH handbook \[PDF, 1.1 MB\]](#) and any updated version.

³⁵ New Zealand Gazette Notice No. 32, 3 February 2005, page 763.

- Financial statements must be prepared in accordance with section 87(3) of the Education Act 1989;
- The annual financial statements in the annual report must be in the form (if any) determined by the Secretary after consultation with the Auditor-General;³⁶
- Financial statements are sent to the school's auditor on or before 31 March; and that
- Annual reports, including audited financial statements, are sent to the Ministry by May 31.

A board must ensure that its annual report is available to the public on an Internet site maintained by or on behalf of the board (section 87AB).

Bank Accounts

All money received by a school must be paid into the school's bank account. The account must comply with the requirements of section 158 of the Crown Entities Act 2004, for example it must be held at a registered bank or building society that meets a relevant credit-rating test set out in Regulation 7³⁷ or approved by *Gazette* notice issued by the Minister of Finance. An up-to-date register of banks and building societies that meet the minimum requirements set out in the Act and Regulations is maintained on the MOE website.³⁸ School boards must properly authorize withdrawal or payment of money from their bank accounts.

In practice this means that school bank accounts must be in the name of the school only, and no income for the school can be paid directly to a service-provider trust, proprietor's account or the account of any other third party.

Accounting Records

Section 168 of the Crown Entities Act 2004 requires school boards of trustees to ensure that accounting records are kept that:

- Correctly record and explain the transactions of the school; and
- Will at any time enable the financial position of the school to be determined with reasonable accuracy; and
- Will enable the trustees to ensure that the financial statements comply with generally accepted accounting practice; and
- Will enable the financial statements of the school to be readily and properly audited.

Gifts to Boards of Trustees

Clause 33, Part 3, Sixth Schedule to the Education Act 1989 provides that any money or property gifted to a school may be accepted or disclaimed by the board in accordance with section 167 of the Crown Entities Act 2004. This applies to any gift that is received by the board, which may include funding

³⁶ Ministry of Education – Annual Reporting Circular 2018/04 and any updates

³⁷ Crown Entities (Financial Powers) Regulations 2005.

³⁸ www.education.govt.nz/goto/schoolbanks.

scholarships or bursaries, or for other educational purposes. The board must hold the gift for the specific purpose declared by the giver. It is good practice for a school to have a gift policy.³⁹

Investment in securities, borrowing and giving of guarantees

There are also restrictions on investment in securities, borrowing, giving guarantees and indemnities or use of derivatives. If the board wishes to borrow money or give guarantees and indemnities or enter into derivative transactions, it should check compliance with clauses 31 and 32, Part 3, Sixth Schedule to the Education Act 1989, the Crown Entities Act 2004, and the Crown Entities (Financial Powers) Regulations 2005.

Conflicts of Interest

Under section 103A of the Act a trustee may be disqualified from continuing as a board member if they have a financial interest in contracts with the board that total more than \$25,000 in a financial year unless the trustee has declared a conflict of interest, excluded themselves while the board discusses the matter, and the board obtains prior approval from the Secretary for Education.

No compensation for loss of office

Under section 78NA, a trustee is not entitled to any compensation, benefit or other payment when they cease to hold office as a trustee. However, if there is currently a contract or arrangement to receive compensation or other benefit, this continues to apply, but is to be cancelled on the date of reappointment.

Whole of government directions

Boards must comply with any whole of government directions (from the Ministers of State Services and Finance) given under section 107 of the Crown Entities Act (for example a direction that all boards comply with e-government requirements to improve public services). If a board does not comply with a direction, it may be dissolved under s 78(1)(e) of the Act.⁴⁰

Payments by parents of students in state and state-integrated schools

There is no charge for education at state and state-integrated schools for students aged 5-19 years who are domestic students. Proprietors of integrated schools may charge a compulsory levy called “attendance dues” [section 447(2) Education Act ‘89], which is approved by the Minister of Education and published in the New Zealand Gazette.⁴¹

³⁹ see MOE ‘Financial Information for Schools Handbook’ March 2018 and any updates.

⁴⁰ Refer clause 27(2), Part 3 to the Sixth Schedule, Education Act 1989.

⁴¹ Refer to MOE - [Circular 2018/01 - Payments by parents of students in schools and Circular 2018/08 – Attendance Dues Accounts](#) [and any updates]

Useful Resources

Allocating Resources to Improve Education Outcomes

Ministry of Education

<http://www.education.govt.nz/>

[Managing school finances](#)

The handbook provides information to encourage best practice in financial governance, financial management and reporting.

<http://www.education.govt.nz/school/running-a-school/school-finances/>

Funding, Staffing and Allowances Handbook

Ministry of Education

www.education.govt.nz/school/running-a-school/school-finances/financial-information-for-schools/chapter-3-financial-management/chapter-3-4-financial-management-relating-to-employees/3-4-1-funding-staffing-and-allowances-handbook

Model Annual Reports for Schools

Ministry of Education

www.education.govt.nz/school/running-a-school/school-finances/model-annual-report-kiwi-park-school

An Increasing Tightness - Pressure Points for Schools' Financial Management

Cathy Wylie

NZCER 2005

www.nzcer.org.nz/default.php?products_id=1506

How Do Effective Schools Manage Their Finances?

Cathy Wylie and Julian King

NZCER, 2004

www.nzcer.org.nz/default.php?products_id=816

NZSTA Trustee Handbook

see <http://www.nzsta.org.nz/>

Guidelines for Accounting for International Students

Ministry of Education

www.education.govt.nz/school/running-a-school/school-finances

Banking Staffing

Ministry of Education

www.education.govt.nz/school/running-a-school/resourcing/school-staffing/banking-staffing

Ministry of Education Circulars

2018/01 Payments by parents of students in state and state integrated schools.

2002/1 Financial Interests of Trustees

2005/1 Specific Accounting Requirements

2005/7 School Bank Accounts

2005/16 Crown Entities Act- Financial

Payment of ACC Levies and Premiums

SECTION SIX

Asset Management Compliance Guide

Key legislation

- Building Act 2004
- Education Act 1989
- Building (Pools) Amendment Act 2016
- Fire and Emergency New Zealand Act 2017
- Resource Management Act 1991
- Fire and Emergency New Zealand Act 2017
- Fire Safety, Evacuation Procedures, and Evacuation Schemes Regulations 2018
- Prohibition of Gang Insignia in Government Premises Act 2013

National Administration Guideline 4:

- c) *Comply with the negotiated conditions of any current asset management agreement, and implement a maintenance programme to ensure that the school's buildings and facilities provide a safe, healthy learning environment for students.*

Introduction

The land and buildings from which a state non-integrated school operates is owned by the Crown and vested in the Ministry of Education. The board of trustees is responsible for maintaining the land, buildings and other facilities on the school site in good order and repair, thus positively contributing to a safe and healthy learning environment for students.⁴²

The purpose of this section is to focus the board's attention on the provision of a safe and healthy physical environment. This section also covers matters such as the safe evacuation of staff and students from buildings in times of emergency.⁴³

Key Requirements

Education Act 1989

Clause 35, Part 3, Sixth Schedule to the Education Act 1989 provides that the Secretary for Education may specify terms and conditions subject to which boards occupy land and buildings owned by the Crown.

⁴² [State schools property management](#)

⁴³ [Checking your property after a major incident](#)

Such documents include the property occupancy document issued by the Secretary for Education to boards of state (non-integrated) schools.

The Ministry of Education's Property Management Handbook comprehensively explains the responsibilities of boards and the Ministry in caring for school property, and contains useful information, guidelines, and best practice ideas to help boards manage school property.

Ministry of Education: Property Occupancy Document

The terms and conditions for boards of all state schools occupying land and buildings, are specified in the form of a Property Occupancy Document, issued under the Education Act 1989 by the Secretary for Education⁴⁴ to all state schools, as an appendix to the Property Management Handbook available on the Ministry's website.

Clause 5a of the Property Occupancy Document [POD] states that:

The Board is responsible for all maintenance of the property at the school no matter who owns it. The board must maintain the school property in good order and repair at all times and to a standard that meets current trade standards of workmanship, complies with all relevant New Zealand legislation and codes, and all current Ministry design requirements.

Clause 7a of the POD requires boards to engage a project manager to carry out, or review and certify, a condition assessment of the school buildings and facilities before preparing, or reviewing and certifying, a 10-year Property Plan [10YPP]. Boards are responsible for the care of playgrounds and playground equipment. The design and maintenance of play areas and playground surfacing is covered by the joint Australian/New Zealand standards, and also New Zealand standards issued by Standards New Zealand. As these standards are always being refined, boards should check with Standards New Zealand for current guidelines.

The Ministry requires that the design and proposed construction of any playground be approved by a territorial authority building inspector. On completion of the work, the playground must be inspected before a code of compliance is issued.

Use of off-site locations by schools

Section 71A of the Act requires schools to seek the approval of the Minister of Education to use an off-site location or host an off-site location for another school.⁴⁵ This is to formalise arrangements for off-site locations and make it clearer who is responsible for the education, safety and welfare of the students receiving education at the off-site location.

An off-site location is when a school is using premises outside of the school to provide education to one or more students on a long-term or full basis.

Integrated schools

The relationship between integrated schools and the Ministry of Education regarding asset

⁴⁴ Note: the relevant provision is now clause 35, Part 3, Sixth Schedule to the Education Act 1989. [Property Occupancy Document for state \(non-integrated\) schools](#)

⁴⁵ Schools must get approval by 19 May 2018

management is governed by the individual school's integration agreement between the MOE (on behalf of the Minister) and the school's Proprietor.

The Proprietor, as owner of the land and buildings, is responsible for the property and receives Crown funding on a per pupil basis for major capital works and maintenance that is outside the responsibility of the school board. The board receives maintenance funding to cover its responsibilities.⁴⁶

Capital works projects are governed by the Ministry policy "Capital Work Projects at Integrated Schools", which specifies the protocol between the Ministry and the proprietor and sets minimum standards for asset management.

The minimum standards include property being safe, in a fit state of repair, and compliant with all statutory, regulatory, and Ministry design standards. The policy is issued pursuant to section 456(2)(c) of the Education Act 1989. Section 456(2)(d) of that Act allows the Minister of Education to require a proprietor to undertake work to ensure minimum standards are maintained.⁴⁷

Refer to the [maintenance funding](#) and [capital funding](#) provided to integrated schools. [MOE website]

Building Act 2004

The Building Act establishes a series of minimum safety standards (building regulations) that must be complied with. The purpose of these regulations is to ensure all new buildings and alterations are constructed to a standard that ensures the safety of occupants. Section 3 states:

"This Act has the following purposes:

- a. to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings, to ensure that—
 - i. people who use buildings can do so safely and without endangering their health; and
 - ii. buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and
 - iii. people who use a building can escape from the building if it is on fire; and
 - iv. buildings are designed, constructed, and able to be used in ways that promote sustainable development.
- b. to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code."

Sections 117 to 120 of the Building Act require building owners to ensure access, facilities and signage are in place to cater for the needs of disabled staff, children and visitors when constructing a new building or altering any building.

Capital Works/Maintenance [State non-integrated schools]

The POD sets out in clauses 1 and 5 what the Ministry and boards are responsible for in terms of capital works and maintenance.

⁴⁶ [Integrated schools property management](#)

⁴⁷ Note: the Private Schools Integration Act 1975 has been repealed, and relevant provisions incorporated into the Education Act 1989 from 19 May 2017.

Refer to MOEs : [Understanding the difference between capital and maintenance costs \(external link\)](#)

Fire and Emergency New Zealand Act 2017/Fire Safety, Evacuation Procedures and Evacuation Schemes Regulations 2018 ⁴⁸

All schools need to have an evacuation procedure or scheme in place to ensure the safe and efficient evacuation of occupants in a fire emergency. The safe evacuation of persons with disabilities to an external place of safety is a critical requirement. Schools must place signs and notices at appropriate points across the school so that the evacuation procedure is clear.

The requirements are set out in the Fire Safety and Evacuation of Buildings Regulations 2006 and new regulations that came into effect from 1 July 2018.

Schools which have less than 100 students and staff should have a fire safety and evacuation procedure in place. The procedure must include:

- a. a site plan for the whole school showing assembly points outside the building
- b. the escape routes to follow to get to the assembly points
- c. maintenance of the escape routes
- d. the fire alarms signals to be used at the school
- e. details of the firefighting equipment occupants can use.

Schools which have more than 100 students and staff must have a FENZ approved evacuation scheme in place. A school should take time to carefully consider how it will effectively manage an evacuation in a fire emergency, including setting out the specific details for the evacuation of persons with disabilities to an external place of safety. An evacuation scheme must include:

- a. what to do if you discover a fire
- b. what to do if you are alerted to a fire
- c. where the assembly points are and how to get to them
- d. provision for evacuating: members of the public who may be at your school; young children; the elderly, and the sick; students and others with disabilities and residential units.

The regulations require all school staff to be trained to assist others to evacuate in accordance with the evacuation procedure for the school.

Boards of trustees, as occupiers of buildings, are required to prepare an evacuation scheme for the approval of the National Commander. Evacuation drills are required at intervals of not more than six months (Regulation 17(g)(i) and notices are required to be posted in buildings showing how to get out of the building and the evacuation procedure.

Evacuation scheme application forms are available from the local Area Fire Safety Department of the New Zealand Fire Service.

⁴⁸ Note: The *Fire and Emergency New Zealand Act 2017* applies from 1 July 2017 and there will be a transitional period for the current Act/Regulations to continue to apply.

Civil defence

[refer to earlier comments in SECTION THREE under same heading]

Building (Pools) Amendment Act 2016

The above Act came into effect on 1 January 2017 and repealed the Fencing of Swimming Pools Act 1987 and included new pool safety provisions in the Building Act 2004.

The following information is from MOE website:

You must have fences and signage that meet the legal requirements and design standards set out in:

- [Health and Safety at Work Act 2015](#) (Legislation website)
- [Building Act 2004](#) (Legislation website)
- [Building Code \(including the new Clause F9 for pool fencing\)](#) (Building Performance website)
- [NZS 8500:2006 'Safety barriers and fences around swimming pools'](#) (Standards NZ website)
- [NZS 5826:2010 'Pool water quality' — Standards NZ website \(external link\)](#)

Prohibition of Gang Insignia in Government Premises Act 2013

This legislation makes the display of gang insignia on school premises an offence and gives the police powers to arrest or seize people displaying patches on school grounds. Gang insignia means a sign, symbol, or representation commonly displayed to denote membership of, an affiliation with, or support for a gang, not being a tattoo; and includes any item of clothing to which a sign, symbol, or representation is attached.

For more information refer to www.education.govt.nz under Prohibiting gang insignia on school property.

Useful Resources

School Property Guide

Ministry of Education

www.education.govt.nz/school/property/state-schools/funding/school-property-guide-funding

Property Management Handbook and Quick Reference Guide 2007

www.education.govt.nz

Playground Equipment and Surfacing: NZS EN 5828:2004

Standards New Zealand

www.standards.co.nz

Department of Building and Housing Website

www.dbh.govt.nz

Design Standards

Ministry of Education 2008

www.education.govt.nz/school/property/state-schools/design-standards

Design for Access and Mobility: Buildings and Associated Facilities: NZS 4121: 2001

Standards New Zealand

www.standards.co.nz

New Zealand Fire Service Website: including information on Evacuation Procedures

www.fire.org.nz

Undercover Guidelines for Shade Planning and Design

Cancer Society of New Zealand

www.cancernz.org.nz/Uploads/Guidelines_Under_Cover.pdf

Pool Water Quality – Schools: NZS 5826:2000

Standards New Zealand

www.standards.co.nz

School Pools – Board of Trustees Obligations

Poolsafe, Watersafe New Zealand and ACC

www.poolsafe.org.nz and go to 'school pools'

Ministry of Education Circulars

Guidelines on Developing a 10 Year Property Plan.