



NEW ZEALAND COUNCIL OF TRADE UNIONS  
*Te Kauae Kaimahi*

**Submission of the  
New Zealand Council of Trade Unions  
Te Kauae Kaimahi**

**to the**

**Ministry of Education**

**on the**

**Updating the Education Act 1989**

**P O Box 6645**

**Wellington**

**14 December 2015**

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## 1. Introduction

- 1.1. Thank you for your letter inviting the New Zealand Council of Trade Unions, Te Kauae Kaimahi, (CTU) to make a submission on proposals which would result in changes to the Education Act 1989 (the Act).
- 1.2. This submission is made on behalf of the 31 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 320,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 1.3. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 1.4. The New Zealand Education Institute (NZEI) and the Post Primary Teachers Association (PPTA) are major affiliates of the CTU and both are making substantive responses to the discussion document.
- 1.5. Both NZEI and PPTA have engaged with their membership and through their structures to respond on the detailed and technical aspects of the proposals and the 15 questions in the discussion document.
- 1.6. The processes and mechanisms within unions and within the PPTA and NZEI ensure comprehensive and robust responses to the issues raised in the discussion document and enable the collation of extensive knowledge and insights from the teaching workforce. Particular notice should be given to the union submissions because they are informed by the views of people who have experience and extensive knowledge of the education system. Union structures and processes enable the formation of an organised and collective voice representing tens of thousands of people – many of whom are highly trained professionals.
- 1.7. The CTU's interest in education extends to the teaching workforce but also beyond. With a membership of 320,000 workers the CTU represents working people, virtually all of whom have children, grandchildren and family members who have been, are, or will be in the school system. Schools directly affect union members, families / whanau/ their friends and their communities. The education

and educational opportunities that children and young people receive are fundamental to their future and to their later participation in the workforce.

- 1.8. There is also a wider interest for the CTU in the delivery of education and in the education system. Education is a public good and is of prime importance in society. Education is integral to the ability to fulfil human rights – to the right of every person to learn, to live, achieve, and participate in society.
- 1.9. At a societal level quality education provides people with the knowledge, skills, attitudes and creativity needed to solve problems locally and globally, and is the fundamental basis of a sustainable and democratic society.
- 1.10. This submission responds on the five overall areas of the discussion document: the goals of education; school and kura boards; collaboration; flexibility and innovation; enhancing the performance of schools and use of local education provision.

## **2. Consultation Process**

- 2.1. A consultation period of six weeks on such a significant issue including proposals for change is highly unsatisfactory. The consultation process comes at the busiest and most stressful time of the year for parents, teachers, schools and communities. The timeframes and process for engagement of the community and education sector are inadequate and will significantly limit the extent and depth of responses.
- 2.2. We share the view of our affiliates that there is no good reason for this important process to be rushed and that political expediency should not drive changes to the Act.

## **3. A Purpose Statement**

- 3.1. The proposed updating of the Act draws upon *The Report of the Taskforce on Regulations Affecting School Performance* which recommends that the Act be reviewed with an outcomes-focussed student centred and usable piece of legislation with a clear purpose.<sup>1</sup>

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<sup>1</sup> Considering Education Regulation in New Zealand: Report of the Taskforce on Regulations Affecting School Performance (2014) p, 5.

- 3.2. We support the concept of the Act containing a statement about the purpose of the education system. How this is developed will be critical. Any new statement of purpose in the Act must be developed in consultation with the schooling system. The participation and support of teachers and the school workforce in this process is critical. We note that this is recommended by the Taskforce.
- 3.3. But it is not clear from the discussion document exactly what is proposed: is it a purpose statement or is it the goals for education or is it both? The discussion document refers to the goals of education and what learning should achieve whereas the Taskforce Report refers to the purpose of the education system.
- 3.4. A statement of purpose is different from setting goals. We share and support the views of our affiliates that any review of the Act should take the approach of including a broad purpose of the education system in the Act and not be constrained to identifying narrow learning outcomes. We note that the Taskforce Report recommendation is for a purpose statement that:

*“The Act contain a purpose statement outlining the desired outcomes for the schooling systems:*

*This statement be enduring, inclusive, student centred and embrace a breadth of desired student outcomes*

*This statement be developed in consultation with the schooling sector.<sup>2</sup>*

- 3.5. One of the most important principles in a purpose statement is a commitment to equality of participation in quality education for all children. A commitment to equality of participation means that the most marginalised children and young people have access to an education of the same quality as the least marginalised.
- 3.6. Concepts about the right of children and young people to be taught by well-qualified teachers and learn in safe surroundings with adequate infrastructure, facilities and resources need to be incorporated. They are the basic foundations of a good education system.
- 3.7. The discussion document refers to the process for setting a national priorities statement for learning and education. We share the concerns about setting

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<sup>2</sup>ibid.

priorities that are target driven such as the Better Public Service targets or the health sector targets. The health system has been dominated by a target based approach over the last eight years but there is growing body of international evidence that they are not very effective in improving whole health system performance.

- 3.8. A fixation on targets was found to be at the heart of the Mid Staffordshire Hospital scandal in England which resulted in a public enquiry exposing appalling conditions, inadequacies and failures with tragic results. One of the key issues highlighted in the public enquiry was an overly narrow focus on meeting national access targets and achieving financial balance.<sup>3</sup> These goals were given priority at the expense of the quality and safety of care.
- 3.9. An overemphasis on narrowly defined targets and micro-management at the national level will not foster the ability of the schools and kura to respond to local contexts, support autonomy and solve problems effectively. Targets may not improve the overall performance of the education system.
- 3.10. To overcome the setting of narrow targets, the Act could specify how goals for education are to be developed which should state that they be developed in the education sector, be supported and acceptable to the participants in the system and those that implement them.
- 3.11. The solutions to many of the challenges faced by New Zealand schools and kura are to be found outside of the education sector in the form of adequate income, the reduction of child poverty and access to decent housing.

#### **4. School and Kura Boards**

- 4.1. The discussion document proposes definitions and more clarity in the Act about the role and responsibilities of schools and kura boards and suggests that school and kura board roles and responsibilities will be identified in the Act.
- 4.2. It is difficult to answer this question without knowing what specifically is being proposed. It appears that changes may be proposed in a new Bill, amending the Act, to identify the functions of Boards and outline some roles and responsibilities that this might include. But the discussion document is not specific. It is unclear

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<sup>3</sup> New Zealand Treasury (2014) Report to the Incoming Minister of Health 2014.

what specific changes are proposed: do they include the taskforce recommendations, or just some of them?

- 4.3. There should be clarification about what the exact proposals are and this should be part of the early consultation stage. It is unacceptable for the first real opportunity to submit on these changes to be at the time of a Bill being introduced. By the time legislative proposals are drafted up, it is much hard to engage in discussion and to make charges.
- 4.4. Any identification of roles and responsibilities should ensure that school and kura boards are committed to the principle of equality of participation of quality education. This could be covered in a purpose statement.
- 4.5. Having parents involved in the school/ kura and on boards has brought much closer connections between parents, schools and their communities. But the Government's expectations of schools and kura boards may well have grown beyond what is manageable for some schools. Schools are now responsible for raising student achievement. These increased responsibilities on school and kura boards, as well as having to be attentive to targets and overall performance, raises questions about what are fair and realistic responsibilities on school and kura boards.
- 4.6. We are concerned that more and more responsibility for ensuring that all learners reach their highest possible standard of achievement is being passed on to a voluntary board which does not have the power to make substantive decisions in relation to the resources that they have available to achieve this. The state is ultimately responsible for the education system and the Act should not apportion to school and kura boards responsibility for what they cannot control or does not have the resources to deliver.
- 4.7. The Taskforce Report states that there are issues with the capability of some boards and identifies small schools and those in remote and social economically disadvantaged areas. There are much greater challenges for school and kura boards in lower socio-economic areas. Education policy and support must recognise the needs of schools serving low income communities and that they require additional resourcing and support. Otherwise piling further unrealistic responsibilities onto boards will only exacerbate the disadvantages that children attending these schools already suffer.

- 4.8. We fully understand and share the concerns about the burden of reporting on boards, schools/kura and teachers. There are concerns about the multiple forms of school reporting and reporting to parents/whanau; on National Standards (now a legal requirement) and other forms of reporting including formal face-to-face meetings with parents/whanau and a variety of informal reporting mechanisms.

## **5. Collaboration, Flexibility and Innovation**

- 5.1. The third theme and set of questions in the discussion document asks about structures that enable collaboration, flexibility and innovation and the use of resources to get the best whole-of-community education outcomes.
- 5.2. The concept of legislation being an enabler for schools to work together, and to move away from the competitive education model brought in by the education reform of the 1980s, is welcome. The CTU strongly supports policy changes that achieve more collaboration between schools. This could extend to consolidation of business aspects as this may well reduce some of the administrative focus and enable schools and school boards to spend more time focussing on education issues.
- 5.3. But it is not clear what is meant by updating the Act to require greater flexibility. Does greater flexibility mean removing some of the regulation that is currently in the Act? We have seen evidence of the impact of deregulation in some other sectors of the economy/ labour force with disastrous results. Other than a reference to collective agreements not providing flexibility – a view which we strongly oppose– there was no strong push for increased flexibility coming from the Taskforce on Regulations Affecting School Performance.
- 5.4. And it is unclear whether flexibility will provide answers anyway. The Taskforce Report commented that while there is the ability for schools to use flexibility it is not used e.g. less than one percent of boards has taken advantage of the ability to have a different constitution from the one prescribed by the Act.
- 5.5. ‘Flexibility’ frequently has two sides: it may create insecurity and uncertainty for some who have little control over its effects. What is called inflexibility may well have benefits in providing security which encourages longer term thinking, willingness to undertake professional development and to experiment and innovate, all of which are vital in education. We are long past the time when

'flexibility' could be used as a mantra for change without describing precisely what it means and taking into account all of its potential effects.

- 5.6. We strongly support the concept of Communities of Learning (COL) that enable collaboration as well as giving boards the ability to adopt more collaborative approaches.

## **6. Making Every School and Kura a Great One**

- 6.1. This section of the discussion document asked the question: what additional resources or responses could be used to address problems that arise in schools or kura?
- 6.2. We support the view expressed by our affiliates that the Act does not need to change or include new thresholds or interventions and that the relationship between schools and the Ministry of Education is more important. Most critical for a school/kura is being able to call for and receive assistance when it is struggling.
- 6.3. We note the work that the Ministry of Education is doing to assist schools which cannot afford to pay for statutory interventions and we support the suggestion in the PPTA submission that this could extend to removing the current Act requirements to pay for interventions. Children and students cannot afford to bear the brunt of others' mistakes, mismanagement or unfortunate decision-making.
- 6.4. The NZEI expresses the concern and fear that that the suggested approach of improvement notices is likely to accelerate a spiral of decline and create long term stigma rather than make for improvements. We agree with them.

## **7. Local Education Provision**

- 7.1. There is little support from our affiliates for inserting into the Act a set of principles for opening, merging and closing schools and changes to schooling arrangements.
- 7.2. There are certainly many more considerations/ beyond the three stated in the discussion document: "needs of learners, the best use of schooling and managing the education systems responsibly".<sup>4</sup> Some of the many considerations that need to be taken into account include the effect on other schools, the impact

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<sup>4</sup> Ministry of Education (2015) Have your say about Updating the Education Act 1989 p, 12.



on the local area, the impact on the national network of schools and population projections.

- 7.3. Decisions about school closures/ changes and mergers require analysis and technical breakdown and cannot all be covered by a set of principles. This proposal suggests looking for an easy fix. There is not one.
- 7.4. It is the responsibility of the Ministry of Education to advise the Minister on cases of changes to individual schools.
- 7.5. There may be a case for overarching requirements such as restricting competitive behaviours to uphold the principle of providing equitable participation in quality education for every child.

## **8. Summary**

- 8.1. The CTU is concerned that consultation on such an important piece of legislation as the Education Act 1989 is being rushed. Developing a purpose statement in the Education Act must involve the whole school sector and most critically, the workforce. The essential foundation of the education system must be equality of participation in quality education for all children and young persons.
- 8.2. The state is ultimately responsible for the provision of quality education for all children and young persons. While school and kura boards have pivotal governance functions, responsibilities for education to schools and kura boards should not be a means by which the state hands over and or avoids responsibility for a core public good function.
- 8.3. Greater collaboration between schools is welcome to improve education outcomes for all children and young persons. But the concept of flexibility needs to be approached with caution as all too often greater flexibility brings with it uncertainty and insecurity and is detrimental to the delivery of public services.
- 8.4. There are many considerations to take into account in decisions about managing changes to school arrangements and go beyond a set of principles. Careful analysis and in-depth consideration and consultation is required about any changes affecting children and young persons, their schools, their families and their communities.