

Submission to the Education and Workforce Committee on the:

Education and Training (System Reform) Amendment Bill

Submitted by the New Zealand Council of Trade Unions Te Kauae Kaimahi

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This submission is made on behalf of the 32 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (NZCTU). With over 340,000 union members, the NZCTU is one of the largest democratic organisations in New Zealand.

The NZCTU 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 (NZCTU), which represents approximately 60,000 Māori workers.

Introduction

1. The NZCTU welcomes the opportunity to submit on the Education and Training (System Reform) Amendment Bill.
2. The NZCTU strongly opposes the Bill. The Education and Workforce Committee should recommend it is withdrawn from the House.
3. Two elements of the Bill are particularly concerning. First, it gives the Minister of Education the power to unilaterally make changes to the curriculum, and how it is taught. Second, it moves many of the professional functions of the Teaching Council to the Ministry of Education, which will in practice further increase the influence of the Minister. Together, these changes constitute an unacceptable politicisation of the education system and an unacceptable diminishment of the professional autonomy of teachers. This threatens constant upheaval in the sector as the curriculum becomes a political football. This is not in the interests of students, teachers, or wider New Zealand society.
4. We note that, as with many other legislative changes made by this government, there has been no prior warning or consultation with stakeholders about this Bill, especially with the teaching workforce. This is reflected in the legislative amendments, many of which are strongly opposed by education unions and organisations.
5. We also note that a Bill of this significance should not be consulted on over a relatively short timeframe during the holiday period. The consultation timeline is open from late November until mid-January. In practice, this will mean that many people who would want to submit will find themselves unable to do so or will have to work over the holiday period to do so. The NZCTU rejects the cynicism of such an approach and calls on the government to do better.
6. We endorse the submissions of our affiliated unions, notably the NZEI and PPTA, which represent tens of thousands of teachers across the country who will be affected by this Bill. It is critical the select committee listens to the concerns raised by these teachers. They are the experts in their field, and they are clearly telling the government that this Bill will be detrimental to the education system and the teaching profession.
7. Below we comment on the following aspects of the Bill:
 - The concentration of power in the hands of the Minister of Education to unilaterally change the curriculum.

- The changes to the functions of the Teaching Council.
- The concept of “state schools of serious concern”.
- The further development of charter school provisions.

Curriculum statements

8. The NZCTU opposes the changes that will allow the Minister of Education to unilaterally set curriculum statements.
9. The current section 90 enables the Minister to provide appropriate broad expectations about what will be covered in the curriculum, the types of skills students should develop, and the level of knowledge that should be achieved. This leaves the profession with the necessary scope and flexibility to determine how to achieve those broad goals in different educational contexts. This strikes an appropriate balance between democratic and professional (expert) determination of the curriculum and how to achieve it.
10. Clause 9 upends this balance. It enables the Minister – who doesn’t necessarily come from an education background or have particular expertise in this area – not only to influence the direction of the curriculum but to prescribe what is taught and how it is taught. This increases the risk that the curriculum will develop in a way that is divorced from professional best practice and from the on-the-ground reality of the classroom, which can vary enormously from school to school given the different socio-economic and cultural contexts of different communities around the country.
11. This change also greatly increases the risk that the curriculum is politicised. Politicisation of education is undesirable because it, among other things, increases the likelihood of large and regular changes to the curriculum. This kind of instability is not good for students or teachers. Additionally, by reducing the ability of teachers to exercise their professional judgement and creativity, such politicisation is likely to undermine the quality of education over time. This is not in the best interests of students.
12. We note there appears not to be a regulatory impact statement for this change, which is a significant oversight given this is one of the most substantive changes the Bill makes.
13. We also note that this move to concentrate power in the hands of a Minister has been a concerning trend throughout these last two years, which constitutes a slow erosion of democratic norms in our political system.
14. The current balance needs to be maintained. This balance enables the Minister to engage in direction setting while teachers are able to bring their considerable expertise and creativity to bear in designing and updating the curriculum. The ideal we should be striving for is a relatively stable curriculum that has widespread buy in from the teaching profession and the wider community. This Bill takes us in the opposite direction.

Teaching Council functions

15. The NZCTU strongly opposes the changes this Bill makes to the Teaching Council's functions. These changes also constitute an unacceptable politicisation of the education system. The Bill achieves this in two ways: (1) reducing the level of professional representation on the Teaching Council's governing board and (2) stripping the Teaching Council of key regulatory functions.
16. Clause 33 significantly changes the composition of the Teaching Council by increasing the proportion of Ministerial appointees to those elected from the teaching body. The proportion of Ministerial appointees is currently 46% but will change to between 57–67% under the amended legislation. The changes in clause 33 also remove principals from the Teaching Council. This change clearly reduces the ability of the education workforce to have a voice in the regulation of the education profession.
17. Clause 36 amends the functions and powers of the Teaching Council, stripping the council of the critical functions of setting criteria for teacher registration, establishing and maintaining standards for teaching qualifications and ongoing practice, and establishing and maintaining a code of conduct for teachers. These functions are transferred to the Ministry of Education, which is accountable primarily to the Minister of Education.
18. As with the changes to the composition of the council, this change reduces the ability of teachers to effectively have a voice in the regulation of their profession. It is critical that this voice is maintained to ensure that workforce regulation is actually fit for purpose – i.e., that it reflects the reality that teachers encounter in and beyond the classroom, including the changing educational needs of students.
19. In combination with the reweighting of the Teaching Council to have a majority of Ministerial appointees, the reallocation of Teaching Council functions to the Ministry of Education effectively concentrates power in the hands of the Minister. This further increases the risk of the politicisation of education and therefore more regular upheaval in the sector.
20. Judging from the regulatory impact statement, these changes are being justified on the basis that the current workforce regulation model for teachers is leading to variable and inequitable education outcomes. However, there is little in the way of evidence to back this up. Our view is that the main drivers of education outcomes are socio-economic issues, such as high rates of poverty in many communities, intergenerational disadvantage, rising inequality, and the disruptive impact of new technologies. It is readily observable that students from higher-income households and communities tend to do better than those coming from disadvantaged households and communities. If government is serious about improving educational outcomes, it should put its efforts into addressing these fundamental drivers of variable and inequitable educational outcomes.

'State schools of serious concern'

21. Clause 17 introduces a new concept, that of 'State schools of serious concern'. It will enable the Chief Review Officer to notify the Secretary and Minister of Education that it believes a state school to be of 'serious concern'. The CRO will then need to provide a written report outlining their concerns, which the Secretary must then respond to, outlining actions to be taken in relation to the school.
22. It is concerning to the NZCTU that no definition is provided as to what would constitute a school of 'serious concern', nor what the criteria would be to form the judgement that a school is of 'serious concern'. It is also concerning that there appears to be no regulatory impact statement for this amendment. Nor is there any explanation provided in the explanatory note for the Bill as to what this amendment is trying to achieve.
23. What this amendment does appear to do is open up further avenues for the forced conversion of a state school to a charter school, which we find unacceptable.

Charter schools

24. The NZCTU opposes the expansion of the charter school model, via the enabling in clause 20 and elsewhere of multi-school contracts. The NZCTU's opposition to the charter school model is outlined in our submission on that legislation in 2024.¹ We are further concerned by this change given that it raises the risk of large, franchise-type systems to be established, which would further take schools away from communities.
25. We also note the inconsistency of allowing multi-school contracts for sponsors of charter schools with the change made in 2024 that prevents teachers at charter schools from being covered by multi-employer collective agreements (a change the NZCTU was deeply opposed to). We encourage the Committee to consider the justification for this inconsistency.
26. The NZCTU supports legislating a clear model by which a charter school can be reconverted back into a state school. However, we are not satisfied by the process outlined in clause 25 of this Bill. The process for reconversion of a charter school back to a state school is asymmetrical with the process for conversion of a state school into a charter school. This asymmetry unjustifiably favours the continuance of a charter school once it has been converted.
27. There are several issues here. First, and most concerning from our perspective, there is no guarantee of continuity of employment for staff at a charter school that is being reconverted to a state school. This is asymmetrical with the reverse process, whereby the continuity of employment of staff at a converted state school is protected (see Schedule 1, s 119). (There are problems with the transfer of employment from state schools to charter schools that we address in our submission from 2024.) In instances where a charter school is reconverted to a state school, staff will have to reapply for their positions. This opens staff up to a potentially prolonged period of employment insecurity that is wholly avoidable. Additionally, in cases

¹ [NZCTU](#), 'Submission on the Education and Training Amendment Bill', 25 July 2024.

where a charter school is reconverted back to a state school because of funding concerns, there is a risk that staff are left short of redundancy and holiday pay. If the Bill proceeds, it is critical that these transition arrangements are strengthened to ensure that continuity of employment for teachers is protected.

28. Second, new section 212ZEA sets out that, when notice is given by a sponsor of a charter school that it will terminate its contract, priority is given to finding another holder for the contract. Only in cases where another suitable sponsor cannot be found is the school reconverted back to a state school. Our view is that the default setting should be that the charter school is reconverted back to a state school. The NZCTU's opposition to the charter school model notwithstanding, the justification for converting a state school to a charter school in the first place rests with the specific case proposed by a sponsor and their supporters (in the community or government). If this original sponsor terminates their contract, then the justification for conversion is no longer valid.
29. Third, an application for approval to convert a state school to a charter school can be made by only 1 member of the community with the support of the proposed sponsor, or by the Minister's direction. By contrast, there remains no avenue for communities or the Minister to apply for a charter school to be reconverted back to a state school.

Conclusion

30. The NZCTU reiterates its strong opposition to this Bill. It marks a further attempt by the current government to politicise the education system and to strip teachers of their ability to exercise professional autonomy, which is important in supporting a robust and effective education system.
31. The NZCTU urges the Education and Workforce Committee to recommend this Bill is withdrawn.

For further information, please contact

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