

# Short-Form Supplementary Departmental Disclosure Statement

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Education and Training Amendment Bill (No 2)

A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Education and Training Amendment Bill (No 2) dated 18 March 2025, which can be found at this link: <https://disclosure.legislation.govt.nz/bill/government/2025/140>

This supplementary disclosure statement was prepared by the Ministry of Education.

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

24 October 2025

## Significant Legislative Features

### Offences, penalties and court jurisdictions

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| <b>1. Do the proposed amendments create, amend, or remove:</b>   |           |
| <b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?</b> | <b>NO</b> |
| <b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>  | <b>NO</b> |
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| <b>1.1. Was the Ministry of Justice consulted about these provisions?</b> | <b>NO</b> |
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### Privacy issues

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| <b>2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?</b> | <b>NO</b> |
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| <b>2.1. Was the Privacy Commissioner consulted about these provisions?</b>  | <b>NO</b> |
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### Compulsory acquisition of private property

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| <b>3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?</b> | <b>NO</b> |
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### Charges in the nature of a tax

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| <b>4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?</b> | <b>NO</b> |
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### Retrospective effect

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| <b>5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?</b> | <b>NO</b> |
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### Strict liability or reversal of the burden of proof for offences

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| <b>6. Do the proposed amendments:</b>   |           |
| <b>(a) create or amend a strict or absolute liability offence?</b>  | <b>NO</b> |
| <b>(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?</b> | <b>NO</b> |

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| <b>6. Do the proposed amendments:</b> |  |
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### Civil or criminal immunity

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| <b>7. Do the proposed amendments create or amend a civil or criminal immunity for any person?</b> | <b>NO</b> |
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### Significant decision-making powers

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| <b>8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b> | <b>YES</b> |
| See full response provided in appendix at page 4.  |            |

### Powers to make delegated legislation

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| <b>9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b> | <b>NO</b> |
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| <b>10. Do the proposed amendments create or amend any other powers to make delegated legislation?</b> | <b>NO</b> |
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### Any other unusual provisions or features

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| <b>11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?</b> | <b>NO</b> |
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## Appendix: Further Information Relating to Significant Legislative Features

### Significant decision-making powers – question 8

#### Summary of changes

Section 127 of the Education and Training Act 2020 (the Act) provides for the objectives of boards in governing schools. Section 127(1)(d) currently requires boards to give effect to Te Tiriti o Waitangi / The Treaty of Waitangi (Te Tiriti / The Treaty), including by:

- i. working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and
- ii. taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and
- iii. achieving equitable outcomes for Māori students.

The Education and Training Amendment Bill (No 2) proposes to make educational achievement the paramount objective for school boards, with all other objectives becoming supporting objectives. The Bill also makes changes to the sub-paragraphs of section 127(1)(d) of the Act, which is section 127(2)(e) of the Bill, including removing the term “local curriculum” and re-ordering of the sub-paragraphs so that achieving equitable outcomes for Māori students is at the top of the list.

This amendment paper proposes to remove the proposed supporting objective for school boards to give effect to Te Tiriti / The Treaty and change the sub-paragraphs in new section 127(1)(e) of the Bill into the following new supporting objectives that specify that when meeting the proposed paramount objective, a school board must ensure that it:

- seeks to achieve equitable outcomes for Māori students; and
- takes all reasonable steps to provide for students to be taught, and to learn, in te reo Māori on request of their parents or immediate caregivers; and
- takes reasonable steps to ensure that the policies and practices for the school reflect New Zealand’s cultural diversity.

#### Removal of explicit obligation to give effect to Te Tiriti o Waitangi / The Treaty of Waitangi

The current explicit obligation on school boards to give effect to Te Tiriti o Waitangi / The Treaty of Waitangi was established in 2020 in response to the Tomorrow’s Schools Taskforce Review. The Taskforce found that inequitable achievement of Māori students in English medium schools was an ongoing concern and that the education system, including school boards, have a direct role in contributing to meeting the Crown’s Tiriti / Treaty obligation in supporting Māori educational interests. The 2020 change responded to a body of evidence that shows that within school factors including teacher expectations, culturally responsive pedagogy, and culturally responsive learning environments have a significant impact on Māori learner success. However, these factors alone are not sufficient for educational success. The evidence is clear that there are multiple factors that support improved student outcomes including a clear, knowledge-rich curriculum and consistent, high-quality teaching.

The proposal to remove the explicit Tiriti / Treaty obligation on school boards could reduce the Crown’s ability to support Māori educational success in accordance with its obligations under article three of Te Tiriti / The Treaty.

The Crown has a positive duty to act in good faith, fairly, reasonably and honourably towards Māori in accordance with the Tiriti / Treaty principle of partnership. Māori education stakeholders, including whānau Māori and Māori members of the public have not been engaged with prior to policy decisions and consultation has not taken place as part of this legislative process. This is likely to have adverse effects on the Māori-Crown relationship.

It is the Government’s intent to remove the explicit obligation to give effect to Te Tiriti / The Treaty from school boards, in recognition that schools are not part of the core Crown and boards are elected by the community. It is important to note that the Crown acknowledges and maintains its commitment to Tiriti / Treaty obligations in respect of the schooling system, as set

out in sections 4(d), 32(h), and 32(i) of the Act. These provisions, as purpose statements, will continue to aid in the interpretation of relevant statutory powers and functions exercised under the Act rather than being a discrete and free-standing legal obligation to give effect to Te Tiriti / The Treaty. The Crown may give effect to its Tiriti / Treaty obligations relating to education through a range of measures. For example, the Minister of Education can issue curriculum statements, which school boards must implement. The current New Zealand Curriculum provides specific guidance for schools on teaching Te Tiriti / The Treaty.

### **Changes to the sub-paragraphs in section 127(1)(d) of the Act**

The proposed change to school boards' obligation regarding the provision of teaching and learning in te reo Māori could reduce the Crown's ability to meet its obligations to actively protect and promote te reo Māori as a taonga of iwi and Māori<sup>1</sup>. The new provisions ensure that teaching and learning is available in te reo Māori on request, however, the accountability shifts from the education system to parents and caregivers. The proposed amendments could also reduce school boards' focus on providing teaching and learning that reflects tikanga Māori, mātauranga Māori, and te ao Māori and may have a direct impact on Māori students, including their educational progress and achievement. The proposed new supporting objectives will require schools' policies and practices to reflect New Zealand's cultural diversity, which could include te ao Māori. This general provision on cultural diversity may not reflect the Crown's specific obligations towards Māori under Te Tiriti / The Treaty. However, under the proposed amendments, a school board must still ensure it seeks to achieve equitable outcomes for Māori students. School boards would determine how to meet this obligation and may choose to incorporate tikanga and mātauranga Māori as part of their approach. These proposals do not change the provision of Kura Kaupapa Māori and designated character schools which are regulated under other parts of the Education and Training Act 2020.

### **Removal of section 133 of the Act**

This proposal changes the obligation on a school board from taking "all reasonable steps" to "reasonable steps" to ensure that the policies and practices for the school reflect New Zealand's cultural diversity. The proposal softens what boards may be expected to do to meet this requirement, but it is not a removal of the obligation itself. This requirement is proposed to be added to the list of the proposed supporting objectives in section 127 of the Act, which means section 133 essentially becomes redundant and is no longer required.

### **Consequential amendments for planning and reporting regulations**

Consequential amendments are proposed to the Education (School Planning and Reporting) Regulations 2023 to give effect to the substantive changes proposed in the amendment paper, set out above. Regulation 7(1)(f), which provides for school boards' strategic plans to include how they will give effect to Te Tiriti / The Treaty, will be replaced with the new requirements proposed for section 127(2)(e). Regulations 9(1)(g) and 10(1)(b) of the Regulations require school boards to specify how they are meeting their obligation to give effect to Te Tiriti / The Treaty in their Annual Implementation Plans and Annual Reports. These regulations would no longer be required, as the substantive proposal removes the Tiriti / Treaty obligation on school boards. Minor changes are also proposed to regulation 9(2) which provides that specified kura boards are exempt from regulation 9(1)(g). The exemption provision will be removed as it becomes redundant once regulation 9(1)(g) is removed. The requirement for specified kura boards to include a general description of how the kaupapa of the kura reflects Te Tiriti / The Treaty will remain.

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<sup>1</sup> Māori Language Act 2016, section 6(2)