

Cabinet Paper material Proactive release

Minister & portfolio	Hon David Seymour Associate Minister of Education
Name of package	School attendance: Amending principals' exemptions and removing walking distance exemptions
Date considered	25 August 2025
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These documents have been proactively released:

School attendance: Amending principals' exemptions and removing walking distance exemptions

Date considered: 25 August 2025

Author: Office of the Associate Minister of Education

Cabinet Social Outcomes Committee Minute SOU-25-MIN-0108

Date considered: 20 August 2025

Author: Committee Secretary

Cabinet Minute CAB-25-MIN-0288

Date considered: 25 August 2025

Author: Secretary for the Cabinet

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

Office of the Associate Minister of Education

Social Outcomes Committee

School attendance: Amending principals' exemptions and removing walking distance exemptions

Proposal

- 1 This paper seeks agreement to legislative change proposals to be progressed in the Education and Training (System Reform 9(2)(f) Amendment Bill (ERB1), and approval to issue drafting instructions. 9(2)(f)(iv)

Relation to government priorities

- 2 This paper aligns with Government priorities by progressing work to support the Government's target for 80 percent of students being present for more than 90 percent of the term by 2030. It also supports the Government's achievement target as regular attendance supports student achievement.

Executive Summary

- 3 Cabinet agreed in September 2024 [SOU-24-MIN-0111] to receive advice on possible amendments to the legislative exemptions to school attendance in quarter 3 2025. This paper proposes the amendment of section 45 and removal of section 44 of the Education and Training Act (2020; the Act). Currently, these sections enable exemptions for absence. This paper also proposes new rule making powers be added to the Act, enabling the Secretary for Education (the Secretary) to develop rules that specify when the exemptions can be used and what evidence is required.

Background

Absence from school continues to be a complex and persistent issue, and I am leading the attendance action plan to respond to this

- 4 School absence continues to be a persistent issue for New Zealand. While I am pleased to see the figures improving from the 2022 low (see *Figure 1*), there is still much to do in getting at least 80% of our students back to regular attendance¹ by 2030.

Figure 1. Regular Attendance rates compared between Term 1 2019 and Term 1 2025.

Yearly Term 1 Regular Attendance (%) ^{2,3}	2019	2020	2021	2022	2023	2024	2025
	73.1	67.9	66.3	46.5	59.0	61.4	65.9

¹ Regular attendance is defined as attending school 90% of the time.

² <https://www.educationcounts.govt.nz/statistics/attendance>

³ Section 36(3)(b) of the Act states a learner is counted as fully present if they attend school for 4 hours per day.

- 5 My Attendance Action Plan has been developed to respond to this issue, and in the last 12 months I have taken a series of papers through Cabinet to progress this. One of these papers, considered by Cabinet in late June this year, provided a report back on actions in the plan [CAB-25-MIN-0208 refers]. The Attendance Action Plan takes a multi-faceted approach to reducing the high rates of non-attendance in the schooling system, with the aim of returning students to regular attendance.
- 6 The plan includes several legislative and regulatory changes, which will build towards a strengthened systemwide view that every absence matters. As part of this, I directed the Ministry of Education (the Ministry) to review the exemptions for absence that are currently enabled by the Act, with the aim of tightening when and how these are applied. Cabinet has previously noted that I intended to report back with advice on possible amendments to the legislative exemptions to attendance in quarter 3 2025 [SOU-24-MIN-0111].

Schools have a key role in ensuring students attend regularly, however there is significant variation in how exemptions for non-attendance are currently used

- 7 Schools have a key role in ensuring students attend school, and they are required to do so under section 36 of the Act. However, non-attendance continues to be a concern, and reports from the Education Review Office (ERO) suggest that some schools aren't effectively, or consistently, responding to non-attendance.
- 8 The Government has made attendance a key priority with an ambitious target of 80 percent of students being present for more than 90 percent of the term by 2030. To achieve this target, and tackle the attendance crisis, we need schools to be following a more consistent approach in their responses to absence.

Section 45 and 44 of the Act enable exemptions for non-attendance, but these are not currently being used effectively

- 9 Section 36 of the Act requires students of compulsory schooling age to attend school whenever it is open and places an obligation on school boards to take all reasonable steps to ensure students attend. Section 244 of the Act provides that parents commit an offence⁴ if their child, while enrolled at a registered school, does not attend in accordance with section 36. Sections 45 and 44 of the Act relate to a principal's current ability to exempt a student from attendance for no more than 5 days (section 45), and the Secretary for Education's ability to exempt students from the requirement to attend school based on walking distance from the school or some other reason (section 44). This means they exempt parents from being held liable for an offence from their children not attending school.

Section 45 gives principals' discretion to exempt a student from attendance for no more than 5 school days

- 10 Section 45 of the Act gives principals the ability to exempt students from the attendance requirements for a period of no more than 5 days if the principal thinks the reason for absence is justified. This five-day exemption was originally intended to be

⁴ As per section 244, a person who commits an offence relating to irregular attendance is liable on conviction to a fine not exceeding \$30 for every school day on which the offence occurs.

used in exceptional situations where there was not an existing exemption but has more recently become a catch-all for all exemptions to attendance.

- 11 Previous versions of the Act enabled an exemption when a student was unable to attend school due to one of a list of specified reasons, or where there was 'other sufficient cause'. More recently, this was amended to become section 45, which does not specify reasons for exemption but enabled an exemption whenever the principal considered the reason for absence was justified.
- 12 As the number of situations section 45 applies to has broadened so has the use of principal's discretion, meaning this section is no longer supporting effective responses to absence. At present, this provision undermines the need for clear consistent expectations about the limited circumstances when it is okay to be absent from school. Recent research from ERO highlights the importance of parental attitudes to attendance. ERO's 2022 attendance report found that many parents and students do not understand the importance of going to school. The report found that four in 10 parents (41 percent) are comfortable with their child missing a week or more of school a term, or almost a year of their schooling by the time they are 16. This year ERO will identify whether parent and student attitudes towards attendance have changed, and what is most critical in shifting them.

Section 44 enables exemption from attendance based on walking distance from a school or 'any other reason', however this is no longer used

- 13 Section 44 enables the Secretary to exempt a student (partially or entirely) from attending school if the walking distance between the student's residence and school exceeds a certain distance. This exemption has existed in one form or another since the Education Act 1877. However, it is now rarely used and does not reflect the modern education context where transport options are more varied and where students in remote areas have access to distance learning through Te Aho o Te Kura Pounamu (Te Kura).
- 14 Alongside the exemptions for walking distance, section 44 also enables the Secretary to exempt students from school attendance if the Secretary is satisfied that it is "sensible to exempt the student for some other reason" (s44(1)(c)). The exemption is by parent application and can be for no more than seven days. Like the walking distance exemption, it has rarely been used.

I propose amending section 45, to tighten how exemptions for absence are used, and removing section 44

- 15 After exploring a range of options for how exemptions can be improved to better support effective responses to absence, I propose that the best course of action is to amend section 45 of the Act to enable the Secretary to make rules that specify under what conditions an exemption for absence can be used, and to repeal section 44.

I am proposing to amend section 45 to tighten up the grounds for being exempted from attendance

- 16 I recommend amending section 45 so that it provides for principals to be able to exempt attendance only on the grounds provided in rules made by the Secretary.

- 17 This would include creating a new rule making power that would enable the Secretary to create rules that prescribe the grounds on which a principal may give an attendance exemption (e.g., sickness, injury, bereavement, weather and other natural events). Rules would also prescribe the types of evidence the principal must receive to authorise an exemption (e.g., a medical certificate for absence for illness beyond a certain number of days). This will ensure that the exemptions are being used consistently, for genuine reasons, and sends a clear message that every absence from school matters.
- 18 This would tighten what is currently in place. It removes the discretion aspect of the current section 45, enabling principals to only be able to exempt absence in prescribed situations. It also provides the opportunity to prescribe the evidence required to establish that a ground for exemption has been met before an exemption may be made.
- 19 Once this is embedded in all schools, we should see more consistent and transparent responses to absence compared to the extremely broad nature of judgement that section 45 currently allows. The use of justified absences in the current system can mask underlying patterns of absence. Using justified absences may also mask barriers to attendance that could otherwise be resolved.
- 20 Pending your agreement to this proposal, I will report back to Cabinet with options for rules which prescribe the grounds for exemption later in 2025.

I am proposing to remove section 44 from the Act

- 21 Section 44 is rarely used and does not fit with the modern education context. I am therefore seeking agreement to repeal section 44 from the Act. Given that this section is now rarely used, its removal is sensible and unlikely to have an impact.
- 22 Ministry officials have assessed that any potential impact on demand for school transport due to section 44 being removed will be low. This is because the numbers of walking distance exemptions issued have been very low and the last known exemption was issued in 2021 for one year.

The repeal of section 44 will also necessitate the repeal of section 46

- 23 Section 46 enables the Secretary to require the enrolment of children, either subject to an exemption under section 44 or who have been excluded from school, at a distance school.
- 24 Section 82(1) already contains a standalone power for the Secretary to direct enrolment at a distance school, so if section 44 is repealed then there is no further need for section 46. While section 46 refers to enrolment and is technically out of scope of attendance, I am proposing its repeal alongside section 44 as it will become redundant because of the proposed changes.

Commencement date for changes to attendance exemptions and supporting rules

- 25 Following Cabinet agreement with the proposals, the changes to the attendance exemptions will come into effect alongside the supporting rules in Term 1, 2027. The

delayed commencement date enables the Ministry to consult with the sector on the development of the rules to support the amended exemption power in section 45.

Cost-of-living Implications

- 26 There are potential cost-of-living implications associated with the changes proposed. As the rules that will support the exemptions may require medical certificates for absences over a certain period, this may create an additional cost for families. This will be considered during development of the rules.

Financial Implications

- 27 There are no financial implications associated with the changes proposed.

Legislative Implications

- 28 Subject to Cabinet approval, the legislative amendments needed to implement these changes to the Act are to be progressed in ERB1. 9(2)(f)(iv)

Impact Analysis

Regulatory Impact Statement

- 29 A Regulatory Impact Statement (RIS) has been completed and is attached Annex 1.
- 30 The Ministry of Education's RIA QA panel considered this statement and assessed it as failing to meet the Cabinet's quality assurance criteria for impact analysis. This assessment corresponds to the limited evidence available to support robust analysis of the impacts, cost and benefits of the proposed options, and lack of consultation on the proposals imposed by the timeframe. Given these constraints the panel consider that insufficient information and analysis has been provided to support decisions.

Climate Implications of Policy Assessment

- 31 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Population Implications

- 32 Low rates of regular school attendance is a problem across all population groups. However, some groups are overrepresented in the data and this has significant implications for their future employment and wellbeing.
- 33 Māori students are over-represented in irregular attendance figures⁵. In Term One 2019, 60.0 percent of Māori students attended school regularly compared to 73.1 percent of students overall. Since 2023, Term One regular attendance for Māori students has increased by 7.2 percent to now sit at 51.3 percent. Māori students

⁵ Students attending school regularly - Term 1 2025 Report. MoE Education Counts.

attending Māori medium schools attend less regularly than their peers in English medium schools; however, achievement is higher in Māori medium schools.

- 34 Pacific students are also over-represented in irregular attendance and the rate of decline since 2019 is greater than that of students overall. Between 2019 (63.0 percent) and 2024 (50.1 percent) regular attendance declined by 12.9 percent. However, Term One 2025 data shows Pacific students at 55.1 percent regular attendance. An improvement of 5 percent from Term One 2024.
- 35 Due to Māori and Pacific students being overrepresented in this data, changes to the way exemptions are given for school absence may impact Māori and Pacific families and whānau if the rules do not consider cultural and other reasons that can lead to genuine absence.
- 36 I will be engaging on my proposed rules with peak bodies and schools including those with large representation of Māori and Pasifika students, and representing kaupapa Māori learning settings, to inform the final approach.
- 37 There is also a clear correlation between socio-economic barriers and attendance.
- 38 Disabled students and children are particularly vulnerable to exclusion and many face systemic barriers to attendance despite wanting to attend school. Engagement on the proposed rules to support exemptions will ensure that the needs of these groups are considered and that the rules do not risk further excluding them from education.

Human Rights

- 39 There are no human rights implications associated with this paper.

Use of external Resources

- 40 No contracted resource has contributed to the development of this paper.

Consultation

- 41 Departmental and Ministerial consultation occurred concurrently from Friday 1 August until Friday 8 August 2025. Agencies consulted included Education Review Office, the Department of Prime Minister and Cabinet, Ministry of Social Development, New Zealand Police, Oranga Tamariki - Ministry for Children, Whaikaha – Ministry of Disabled People, and the Treasury.

Communications

- 42 The Ministry of Education will communicate changes to the sector once the amendments come into force.

Proactive Release

- 43 I intend to release the material within this Cabinet paper within 30 days of Cabinet decisions, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

I recommend that the Committee:

- 1 note that in September 2024, Cabinet agreed to receive advice on possible amendments to the legislative exemptions to school attendance in quarter 3 2025 [SOU-24-MIN-0111];
- 2 note section 45 of the Act *Exemption of a student from attendance for period of no more than 5 days* is no longer fit for purpose and has become a catch-all for all exemptions to attendance;
- 3 note section 44 of the Act *Exemption from attendance because of walking distance to school or some other reason* is now rarely used and does not reflect the modern education context;
- 4 note section 46 of the Act *Secretary may require enrolment of certain children at distance school* will become redundant if section 44 is removed;
- 5 agree to amend the Education and Training Act 2020 to:
 - 5.1 amend section 45 so that it provides for principals only being able to exempt a student from attending school in accordance with grounds prescribed in rules made by the Secretary;
 - 5.2 repeal section 44;
 - 5.3 repeal section 46; and
 - 5.4 empower the Secretary to make rules which specify the requirements that must be met before a principal may exempt a student from attendance including an ability to prescribe the:
 - 5.4.1 grounds on which a principal may grant an exemption from attendance; and
 - 5.4.2 types of evidence a principal must receive before granting an exemption from attendance; and
 - 5.4.3 duration of any exemption a principal may grant.
- 6 note that these proposals will be given effect through the Education and Training (System Reform 9(2)(f)) Amendment Bill 9(2)(f)(iv)
- 7 note that the proposed changes to the attendance exemptions will come into effect alongside the supporting rules in Term 1, 2027.

Legislative drafting

- 8 invite the Associate Minister of Education to issue drafting instructions to give effect to the decisions in these recommendations.

- 9 authorise the Associate Minister of Education to make decisions on any issues of detail that may arise during the drafting process, subject to the decisions being consistent with the policy decisions in this paper.
- 10 note that how the bill is drafted is subject to Parliamentary Counsel's discretion as to how best to express these policy decisions in legislation.

[Authorised for lodgement]

Hon David Seymour

Associate Minister of Education

Annexes

The following are annexed to this paper:

Annex 1: Regulatory Impact Statement

Proactively Released



Cabinet Social Outcomes Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

School Attendance: Amending Principals' Exemptions and Removing Walking Distance Exemptions

Portfolio Associate Education

On 20 August 2025, the Cabinet Social Outcomes Committee (SOU):

Background

- 1 **noted** that in September 2024, SOU noted that the Associate Minister of Education (the Associate Minister) intends to report back with advice on possible amendments to the legislative exemptions and exceptions to school attendance in quarter three of 2025 [SOU-24-MIN-0111];
- 2 **noted** that section 44 of the Education and Training Act 2020 (the Act), 'Exemption from attendance because of walking distance to school or some other reason', is now rarely used and does not reflect the modern education context;
- 3 **noted** that section 45 of the Act, 'Exemption of a student from attendance for period of no more than 5 days', is no longer fit for purpose and has become a catch-all for all exemptions to attendance;
- 4 **noted** that section 46 of the Act, 'Secretary may require enrolment of certain children at distance school', will become redundant if section 44 is removed;
- 5 **agreed** to update the Act to:
 - 5.1 amend section 45 so that it provides for principals only being able to exempt a student from attending school in accordance with grounds prescribed in rules made by the Secretary of Education;
 - 5.2 repeal section 44;
 - 5.3 repeal section 46; and
 - 5.4 empower the Secretary of Education to make rules which specify the requirements that must be met before a principal may exempt a student from attendance, including an ability to prescribe the:
 - 5.4.1 grounds on which a principal may grant an exemption from attendance;

5.4.2 types of evidence a principal must receive before granting an exemption from attendance;

5.4.3 duration of any exemption a principal may grant;

6 **noted** that the above decisions will be given effect through the Education and Training (System Reform 9(2)(f) Amendment Bill, 9(2)(f)(iv)

7 **noted** that the changes to the attendance exemptions will come into effect alongside the supporting rules in Term 1, 2027;

Legislative drafting

8 **invited** the Associate Minister to issue drafting instructions to give effect to the above decisions;

9 **authorised** the Associate Minister to make decisions on any issues of detail that may arise during the drafting process, subject to the decisions being consistent with the policy decisions in the paper under SOU-25-SUB-0108;

10 **noted** that how the bill is drafted is subject to Parliamentary Counsel's discretion as to how best to express these policy decisions in legislation.

Jenny Vickers
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis
Hon Chris Bishop
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston (Chair)
Hon Matt Doocey
Hon Nicole McKee
Hon Casey Costello
Hon Penny Simmonds
Hon Karen Chhour
Hon Nicola Grigg
Hon Scott Simpson

Officials present from:

Office of the Prime Minister
Officials Committee for SOU
Office of the Minister of Education
Office of the Attorney-General



Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

On 25 August 2025, Cabinet made the following decisions on the work of the Cabinet Social Outcomes Committee for the period ended 22 August 2025:

SOU-25-MIN-0108 **School Attendance: Amending Principals' Exemptions and Removing Walking Distance Exemptions** CONFIRMED
Portfolio: Associate Education

[illegible]

Out of scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Rachel Hayward
Secretary of the Cabinet

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