

Cabinet Paper material Proactive release

Minister & portfolio Hon Erica Stanford Minister of Education
Name of package Automatically Triggering Responses to Schools of 'Serious Concern'
Date considered 25 August 2025
Date of release 23 December 2025

These documents have been proactively released:

Automatically Triggering Responses to Schools of 'Serious Concern'

Date considered: 25 August 2025

Author: Office of the Associate Minister of Education

Cabinet Social Outcomes Committee Minute SOU-25-MIN-0111

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

Section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinion

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.

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

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In Confidence

Office of the Minister of Education

Cabinet Social Outcomes Committee

Automatically Triggering Responses to Schools of ‘Serious Concern’

Proposal

- 1 This paper proposes legislative changes to set clear expectations for identifying and responding swiftly to schools of ‘serious concern’. It seeks Cabinet agreement to amend the Education and Training Act 2020 (the Act) and approval to issue drafting instructions that reflect the policy proposal.

Relation to government priorities

- 2 Clarifying the roles and responsibilities of education agencies will improve the system’s responsiveness to school performance so that it can deliver the Government’s relentless focus on lifting student achievement and closing the equity gap. The proposals in this paper seek to improve the timeliness and consistency of the response when Education Review Office (ERO) identifies a school is of ‘serious concern’.

Executive Summary

- 3 I have a relentless focus on lifting student attendance and achievement, including through stronger accountability and earlier intervention when schools are not delivering excellent outcomes for their students. In response to expectations for strengthened accountability for schools, the Ministry of Education (the Ministry) and ERO have improved processes to identify and support schools in serious difficulty. However, I am not confident that operational changes alone provide enough direction for agencies to respond quickly, consistently and effectively to schools of ‘serious concern’.
- 4 To clarify the current complementary roles of ERO (review and evaluation) and the Ministry (intervention and support) and to guarantee timely and effective support for schools that need it the most, I propose legislating to:
 - 4.1. require ERO’s Chief Review Officer (CRO) to notify the Ministry and the Minister of Education in writing within two working days of forming a view that a school may be of ‘serious concern’;
 - 4.2. require the CRO to subsequently provide a report to the Ministry and the Minister of Education within 28 working days of receipt of the CRO notification, either confirming that the school is of ‘serious concern’ and what statutory intervention is recommended, or that the school is not of ‘serious concern’;

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- 4.3. require the Ministry to report to both the Minister and the CRO on what action it has taken or intends to take (with a timeline) or recommends the Minister take and why, within 30 working days of receipt of the CRO's report; and
 - 4.4. provide that the Secretary and Minister may rely on the CRO's judgement, and the information provided when determining whether the thresholds in section 171 are met to reduce the risk of legal challenge.
- 5 These legislative changes will need to be supported by effective implementation and changes to operational practices to enable the Ministry and ERO to work better in ways that improve insights about schools of 'serious concern', reduce duplication in investigations and review, and enable faster and more effective responses when concerns are identified.

Background

- 6 This Government is committed to addressing persistently poor attendance and achievement in schools – it is not fair to New Zealand's children or their futures. On Sunday 4 August 2024, the Prime Minister announced *Make it Count – a maths action plan* to tackle maths achievement, in response to the unacceptable Curriculum Insights and Progress Study finding that only 22% of Year 8 students in New Zealand are achieving at the expected curriculum level for mathematics.¹ This action plan included strengthening accountability, with an overhaul of ERO's reporting so it has a greater focus on progress, achievement and assessment; and an expectation that the Ministry of Education will intervene earlier and more often in schools that need extra support.
- 7 Over the last year, ERO and the Ministry have taken steps to improve operational processes for the group of schools in the most serious circumstances. These steps include:
- 7.1. draft ERO reports identifying concerns being shared with the Ministry so there is an opportunity to share insights and to identify any targeted support required.
 - 7.2. the final ERO report being provided to the Ministry promptly, with the report having the evidence required to support intervention decision making, an assessment of whether the statutory test to intervene has been met and an indication of which intervention is most appropriate.
 - 7.3. having effective local collaborative relationships, processes, and feedback loops between ERO and the Ministry.
- 8 However, I am not yet confident that operational changes alone are enough to ensure agencies respond quickly, consistently, and effectively for the schools of 'serious concern' so that appropriate action is taken, including intervention under section 171

¹ The Curriculum Insights and Progress Study does not include Māori-medium or kaupapa Māori education data. The Ministry is developing Tīrewa Mātai, a National Monitoring System for those learning through Te Reo Māori

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of the Act. It is not fair for schools and teachers facing significant barriers or challenges for this to be the case. More needs to be done to improve performance in this area.

Case for change

- 9 Out of the 2,464 schools across New Zealand, ERO has identified 173 schools of concern (7%), 9(2)(f)(iv) [REDACTED].
- 10 9(2)(f)(iv) [REDACTED] Although the rest had non-statutory interventions in place including regular engagement, leadership and curriculum advisors, special education consultants or attendance plans, I am not confident that this is sufficient.
- 11 I am particularly concerned, that there is no clear direction or certainty that ERO reviews will automatically trigger formal consideration of intervention action under section 171 of the Act², and that ERO review reports may not be sufficient for the Ministry to rely upon when deciding whether and how to act.
- 12 At this stage, my concerns focus on ERO and the Ministry working together to improve the reliability of insights about schools of 'serious concern', reducing duplication in investigations, and acting faster and more consistently once a school of 'serious concern' is identified.
- 13 9(2)(f)(iv) [REDACTED]
- 14 9(2)(f)(iv) [REDACTED]

² These interventions range from requiring that information be provided, that a board engage specialist help, or prepare and carry out an action plan through to requiring the appointment of a limited statutory manager, the dissolution of a board and subsequent appointment of a commissioner.

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15 9(2)(f)(iv)

Analysis on improving the timeliness and effectiveness of action being taken to address schools of ‘serious concern’

- 16 I have considered three options to improve the response to schools identified by ERO as being of ‘serious concern’. I have ruled out non-regulatory options because I believe that legislative change is needed to clarify the Ministry and ERO’s complementary roles in identifying and responding to schools of concern and set clear direction that insights into school performance will provide the evidence required for intervention, and concerns raised will be taken seriously through swift, consistent and effective action.
- 17 I therefore propose legislating to:
- 17.1. require the CRO to notify the Ministry and the Minister of Education in writing within two working days of forming a view that a school may be of ‘serious concern’;
 - 17.2. require the CRO to subsequently provide a report to the Ministry and the Minister of Education 28 working days of receipt of the CRO notification, either confirming that the school is of ‘serious concern’ and what statutory intervention is recommended, or that the school is not of ‘serious concern’;
 - 17.3. require the Ministry to report to both the Minister and the CRO on what action it has taken or intends to take (with a timeline) or recommends the Minister take and why, within 30 working days of receipt of the CRO’s report; and
 - 17.4. provide that the Secretary and Minister may rely on the CRO’s judgement, and the information provided when determining whether the thresholds in section 171 are met to reduce the risk of legal challenge.
- 18 This proposal strengthens existing roles and raises expectations for agency performance. ERO will continue as the review agency, identifying schools of ‘serious concern’ and making recommendations for action. ERO will be expected to produce review reports that provide the evidence required to guide interventions so the Ministry can use them to make an informed consideration of the most appropriate intervention under section 171, including making recommendations to the Minister if a more serious intervention is needed. It will also set a statutory requirement to take, and report back on, swift and appropriate action for schools of ‘serious concern’.

Defining schools of ‘serious concern’

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- 19 ERO has developed a system for identifying and categorising schools of concern where it has a serious concern about the quality of education provision and require significant improvement. 9(2)(f)(iv)

[REDACTED]
[REDACTED] :

- 19.1. 9(2)(f)(iv)

- 19.2. 9(2)(f)(iv)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- 19.3. 9(2)(f)(iv)

- 20 9(2)(f)(iv)

- 21 With the introduction of the proposed policy change, ERO and the Ministry will work together to establish a shared definition, with clear and robust criteria for what a 'school of concern' is. 9(2)(f)(iv)

[REDACTED]
[REDACTED]

Implementation

- 22 ERO will use its existing reporting channels to update both myself and the Ministry when a school is at risk of being identified as a school of serious concern.

- 23 The Ministry and ERO would work together to agree the information ERO will need to provide to support the Ministry's statutory consideration on whether interventions under section 171 of the Act should be used. 9(2)(f)(iv)

[REDACTED]
[REDACTED]
[REDACTED]

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- 24 While not every part of the implementation process will be set out in legislation, I expect the Ministry and ERO to work together to develop clear and agreed approaches for:
- 24.1. how ERO identifies schools of ‘serious concern’ 9(2)(f)(iv)
 - 24.2. the information that needs to be included in the CRO report to the Ministry so that these provide sufficient evidence and direction for intervention. This will be delivered through ERO’s refreshed workplan for improving its current approach to reporting to ensure reports are clear, coherent, consistent and usable for the purpose of intervention action and will ensure the Ministry/Minister can rely on the information provided by ERO being at a standard to support the intervention under section 171 and timely decision making;
 - 24.3. how ERO reports for action are shared with the right people, at the right time, and in the right way. This will include ERO monitoring whether current mitigations in place ensure that schools do not ‘game’ reviews to avoid statutory interventions being applied;
 - 24.4. how the Ministry uses this evidence to provide advice and make decisions; and
 - 24.5. how ERO will monitor the impact of interventions once in place.
- 25 The Ministry and ERO will need to work with Te Runanga Nui o Ngā Kura Kaupapa Māori o Aotearoa and Ngā Kura ā Iwi o Aotearoa to make sure the processes regarding ERO reviews, and what the Ministry does after receiving an ERO report, works for them in practice if a kura kaupapa Māori or kura ā iwi are identified as a school of serious concern. Under section 188 of the Act, the Secretary must consult with Te Runanga Nui o Ngā Kura Kaupapa o Aotearoa before applying any interventions to a Kura Kaupapa Māori. The Ministry will work with Ngā Kura ā Iwi o Aotearoa in a similar way for interventions in a kura ā iwi.
- 26 If a State-integrated school is identified as a school of ‘serious concern’, the Ministry will also need to consider the Act’s section 187 requirements. This includes consulting with the proprietors of a State integrated school before appointing a limited statutory manager or commissioner for the school, and regard any recommendations made by the proprietors.
- 27 Intervention action will not always occur – it may ultimately be more effective for a non-legislative approach to be taken instead. Particular attention will need to be given to ensuring that the Ministry is not forced into re-evaluating a school to confirm ERO’s judgement or having to seek supplementary information to be able to report back to the Minister and ERO.
- 28 The proposal will require the Ministry to commit existing resources to responding to ERO recommendations on schools of ‘serious concern’ within the statutory 30-working day timeframe. There will be a risk that a surge in schools of ‘serious concern’ could overwhelm Ministry resources. This means resources will need to be re-allocated within baseline to undertake investigation and decision-making processes.

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This may in turn delay support for other schools or reduce the effectiveness of statutory interventions if adequate support is unable to be provided.

Cost-of-living Implications

- 29 These proposals reduce costs to government by improving the efficiency and effectiveness of the regulatory system.

Financial Implications

- 30 There are no financial implications. The Ministry and ERO will re-allocate existing regional resources within current baselines to implement this option.

Legislative Implications

- 31 The legislative proposals in this paper will require amendments to the Education and Training Act 2020. I intend to progress these through the Education and Training (System Reform – 9(2)(f) Amendment Bill 9(2)(f)(iv)

Impact Analysis

Regulatory Impact Statement

- 32 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts. The proposal clarifies expectations within an area of current law and makes changes to the internal administrative or governance arrangements of the New Zealand government which are likely to have no or very low impacts outside of government.

Climate Implications of Policy Assessment

- 33 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

- 34 The proposals outlined in this paper are expected to lead to improved health, safety and wellbeing outcomes for children and young people through a more timely and effective response to schools of ‘serious concern’.

- 35 9(2)(g)(i)

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36 9(2)(g)(i)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Human Rights

37 There are no inconsistencies of the proposals in this paper with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

38 The Public Service Commission, Treasury, Education Review Office, Ministry for Regulation were consulted. The Department of Prime Minister and Cabinet was informed.

Communications

39 My office will announce these proposals once Cabinet decisions have been made.

Proactive Release

40 I intend to proactively release this Cabinet paper once decisions have been made subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Education recommends that the Committee:

- 1 **note** there are delays in action for schools identified by ERO as being of 'serious concern' in particular, and that ERO reviews do not currently automatically trigger formal consideration of intervention action under the section 171 of the Act.
- 2 **note** that the Ministry and ERO will report back to the Minister of Education on a clear, refreshed definition of a school of 'serious concern', 9(2)(f)(iv) [REDACTED].
- 3 **agree** to amend the Education and Training Act 2020 (the Act) to:
 - 3.1. require the CRO to notify the Ministry and the Minister of Education in writing within two working days of forming a view that a school may be of 'serious concern';
 - 3.2. require the CRO to subsequently provide a report to the Ministry and the Minister of Education within 28 working days of receipt of the CRO's notification, either confirming that the school is of 'serious concern' and what statutory intervention is recommended, or that the school is not of 'serious concern';
 - 3.3. require the Ministry to report back to the CRO and the Minister on what action it has taken, or intends to take (with a timeline) or recommends the Minister take and why within 30 working days of receipt of ERO's report; and

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- 3.4. provide that the Secretary and Minister may rely on the CRO's judgement, and the information provided when determining whether the thresholds in section 171 are met.

Regulatory Impact Statement

- 4 **note** that the Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts. The proposal clarifies expectations within an area of current law and makes changes to the internal administrative or governance arrangements of the New Zealand government which are likely to have no or very low impacts outside of government.

Drafting

- 5 **invite** the Minister of Education to issue drafting instructions to Parliamentary Counsel Office to give effect to the decisions on these recommendations.
- 6 **authorise** the Minister of Education to make decisions on any issues of detail that may arise during the drafting process, provided that they are consistent with the policy decisions in this paper.
- 7 **note** that these proposals will be given effect through the Education and Training (System Reform 9(2)(f) Amendment Bill 9(2)(f)(iv) .
- 8 **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 Erica Stanford

Minister of Education



Cabinet Social Outcomes Committee

Minute of Decision

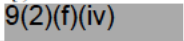

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Automatically Triggering Responses to Schools of 'Serious Concern'

Portfolio Education

On 20 August 2025, the Cabinet Social Outcomes Committee:

- 1 **noted** that there are delays in action for schools identified by the Education Review Office (ERO) as being of 'serious concern' in particular, and that ERO reviews do not currently automatically trigger formal consideration of intervention action under section 171 of the Education and Training Act 2020 (the Act);
- 2 **noted** that the Ministry of Education (the Ministry) and ERO will report back to the Minister of Education (the Minister) on a clear, refreshed definition of a school of 'serious concern', 9(2)(f)(iv) [REDACTED];
- 3 **agreed** to amend the Act to:
 - 3.1 require the ERO Chief Review Officer (CRO) to notify the Ministry and the Minister in writing within two working days of forming a view that a school may be of 'serious concern';
 - 3.2 require the CRO to subsequently provide a report to the Ministry and the Minister within 28 working days of receipt of the CRO's notification, either confirming that the school is of 'serious concern' and what statutory intervention is recommended, or that the school is not of 'serious concern';
 - 3.3 require the Ministry to report back to the CRO and the Minister on what action it has taken, or intends to take (with a timeline) or recommends the Minister take and why within 30 working days of receipt of ERO's report;
 - 3.4 provide that the Secretary of Education and Minister may rely on the CRO's judgement, and the information provided when determining whether the thresholds in section 171 are met;
- 4 **noted** that the Ministry for Regulation has determined that the proposal under SOU-25-SUB-0111 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts;.

- 5 **invited** the Minister to issue drafting instructions to Parliamentary Counsel Office to give effect to the decisions above;
- 6 **authorised** the Minister to make decisions on any issues of detail that may arise during the drafting process, provided that they are consistent with the policy decisions above;
- 7 **noted** that the decisions under SOU-25-SUB-0111 will be given effect through the Education and Training (System Reform ^{9(2)(f)} Amendment Bill (the Bill), ^{9(2)(f)(iv)} 
);
- 8 **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
Rt Hon Winston Peters
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



Cabinet

Minute of Decision

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Report of the Cabinet Social Outcomes Committee: Period Ended 22 August 2025

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:

9(2)(f)(iv)		
SOU-25-MIN-0111	Automatically Triggering Responses to Schools of ‘Serious Concern’ Portfolio: Education	CONFIRMED
9(2)(f)(iv)		

9(2)(f)(iv)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CONFIRMED

Rachel Hayward
Secretary of the Cabinet

Proactively Released