



Report: Cabinet paper for lodging – Amending principals' exemptions and removing walking distance exemptions

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| To: | Hon David Seymour, Associate Minister of Education | | |
| Cc: | Hon Erica Stanford, Minister of Education | | |
| Date: | 13/08/2025 | Deadline: | 14/08/2025 |
| Security Level: | In-Confidence | Priority: | High |
| From: | Sela Finau General Manager, Learner Success and Tiriti Policy | Phone: | 04 439 6480 |
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Why are we sending this to you?

- You intend to lodge a Cabinet paper that presents proposed changes relating to exemptions from attendance.
- This paper provides the draft Cabinet paper for your consideration (**Annex 1**). This has now been through departmental consultation, with feedback received from Education Review Office, Whaikaha – Ministry of Disabled People, and Oranga Tamariki – Ministry for Children. Your office is managing Ministerial consultation.

What action do we need, by when?

- We recommend that you lodge the attached Cabinet paper by 10am Thursday 14 August.

Alignment with Government priorities

1. This paper supports the Government's target for student attendance of 80 percent of students being present for more than 90 percent of the term by 2030. Increasing attendance will also contribute to the Government's target for student achievement of 80 per cent of year 8 students being at the appropriate level by 2030.

Background

2. We have previously provided you with a draft Cabinet paper regarding the proposed amendment of section 45 of the Education and Training Act (2020; the Act), and removal of section 44 of the Act [METIS 1351707]. These sections relate to principals' exemptions and walking distance exemptions respectively.
3. Following your agreement the Cabinet paper began departmental consultation on Friday 1 August with the Department of Prime Minister and Cabinet, Education Review Office (ERO), the Ministry of Social Development, Whaikaha - Ministry of Disabled People, Oranga Tamariki - Ministry for Children, the Treasury, and New Zealand Police. Ministerial consultation occurred concurrently.
4. Consultation concluded at 5pm Friday 8 August. Feedback was received from ERO, Whaikaha – Ministry of Disabled People, and Oranga Tamariki – Ministry for Children. NZ Police had no feedback or concerns. Feedback was not received from the Department of the Prime Minister and Cabinet, the Ministry of Social Development, or the Treasury.
5. A summary of this feedback, and any changes made, is provided below. More detail on other changes made is also provided below. These other changes include proposing that rules are developed to support exemptions rather than regulations, adding a commencement date for the changes to exemptions and the supporting rules, and the outcome of the Ministry's RIA QA panel review of the Regulatory Impact Statement (RIS, attached as Annex 2). Pending your agreement with these changes, the paper is now ready for lodging.

Summary of departmental feedback and changes made

6. ERO, Whaikaha and Oranga Tamariki shared their support for the overall aim of the paper to improve outcomes and ensure consistent application of exemptions.
7. Oranga Tamariki noted that tighter exemption rules can help identify young at-risk people earlier, enabling them to intervene more effectively. They also noted that the proposals align with the Oranga Tamariki System Action Plan and the Oversight of Oranga Tamariki System Act 2022, which both emphasise the importance of integrated responses to support the needs of children and young people across education, health, and social services. Strengthened rules around attendance may encourage schools to collaborate more closely with Oranga Tamariki and other agencies when attendance issues signal deeper concerns.

Summary of changes made based on feedback

8. Several minor changes were made based on feedback. This includes:
 - 8.1. Replacing paragraph 12, regarding research on attitudes to attendance, with text provided by ERO.
 - 8.2. Adding to the population implications section that:
 - 8.2.1. As Māori and Pacific students are overrepresented in non-attendance 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.

8.2.2. Disabled learners and children in care face systemic barriers and unique circumstances that prevent attending full school days, and many are vulnerable to exclusion despite wanting to attend school.

- 8.3. Adding a footnote to the attendance statistics, noting that as per section 36(3)(b) of the Act, a learner is counted as fully present if they attend school for 4 hours per day.
- 8.4. Adding to the cost-of-living implication section that requiring medical certificates for absences over a certain period will create an additional cost for some families, and that this will be considered when developing the rules.

Some feedback did not result in Cabinet paper changes but is relevant to implementation

9. Comments useful to consider for the implementation of the proposals include:
 - 9.1. Any new rules that prescribe the grounds for exemption should address the factors influencing Māori and Pacific non-attendance (listed above) and include provisions for culturally grounded exemptions and decision-making processes that involve whānau, hapū and iwi.
 - 9.2. Any new rules for exemption should address the barriers to attendance that some disabled learners face, and include flexible, inclusive provisions that prevent these students from experiencing further exclusion from school.
 - 9.3. There is a risk that rules for attendance exemptions may lead to an increase in unnecessary referrals or reports of concern to Oranga Tamariki. It may be useful to consider investment in early intervention, school-based support, and community services to prevent unnecessary escalation to services based on irregular attendance.
 - 9.4. Oranga Tamariki welcome the opportunity to work with the Ministry on any attendance exemption rules enabled by the proposed changes to the Act, due to the potential impact on children and young people that they work with.

Feedback that was out of scope for this Cabinet paper, but relevant to attendance

10. Feedback to consider for future work on attendance includes:
 - 10.1. Attendance data parameters hide the reality for many disabled learners. Currently partial attendance is forced on some disabled students, as only four hours attendance a day is required to be marked as present for the day.¹ If there is a commitment to full attendance then future work could address this anomaly and require attendance across the full school day to be accounted for.
 - 10.2. Section 33 and 34 of the Act (discussing the right to free enrolment and full-time attendance, and that students with special education needs have the same rights to education as others, respectively) are not part of the paper's discussion. Some principals place unlawful parameters on attendance of disabled learners. Further work could investigate, measure and report on this, requiring principals and boards to uphold their obligations under sections 33 and 34.
 - 10.3. Until disabled children or those with additional learning needs are identified in attendance data, we will not be able to understand the impact of attendance on learning outcomes for disabled children or fully understand their schooling access.

¹ As per section 36(3)(b) of the Education and Training Act.

Other changes made since the previous Cabinet paper draft

The paper proposes that rules are developed to support section 45, rather than regulations

11. Following further analysis and conversations with your office, the Cabinet paper has been changed to propose that rules be developed rather than regulations to support exemptions under an amended section 45. A version of the Cabinet paper with this change was sent for departmental consultation, with no specific comments received in relation to this change. Using rules instead of regulations will allow for the rules to be amended more efficiently following data and feedback from the sector showing how they are being used, and any amendments are able to be carried out by the Secretary for Education.

The agreed commencement dates for the proposed changes have been added to the Cabinet paper

12. The Cabinet paper has been amended to add commencement dates for the changes to exemptions from attendance and the supporting rules. As per your recent agreement, the amendments to legislation and the commencement of the rules to support these changes will be delayed until Term 1 2027 [METIS 1352148 refers].

The Ministry's RIA QA panel assessed the RIS for this work as failing to meet the Cabinet's quality assurance criteria for impact analysis

13. A comment reflecting this has been added to the Cabinet paper. This states that the assessment result 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.
14. We are currently working with the Ministry for Regulations to understand the supplementary analysis that will be required and will update you as this progresses.

Next steps

15. Pending your agreement, the annexed Cabinet paper will be lodged by 10am Thursday 14 August. This will be seen by Social Outcomes Committee on Wednesday 20 August, and Cabinet on Monday 25 August. If the Cabinet paper is not lodged by 10am Thursday 14 August, we will discuss your preferred date for lodging with your office, noting that this will mean the paper will be unlikely to meet the Education Reform Bill timeframes.
16. Pending Cabinet agreement with the proposed changes to legislation, the Ministry will work with the Parliamentary Counsel Office to begin drafting these changes. We will provide further updates as this progresses.

Annexes

The following are annexed to this paper:

Annex 1: Cabinet paper – School Attendance: Amending principals' exemptions and removing walking distance exemptions [attached separately]

Annex 2: Regulatory Impact Statement [attached separately]

Recommended Actions

The Ministry of Education recommends you:

a. note the summary of feedback received through departmental consultation, and changes made to the Cabinet paper (Annex 1) to respond to this.

Noted

b. note the Cabinet paper now proposes that rules, rather than regulations, are developed to support exemptions under section 45.

Noted

c. note the agreed commencement date for the changes to exemptions, and the rules to support the amended section 45, have been added to the Cabinet paper.

Noted

d. note the Ministry's RIA QA panel considered the RIS for this work and assessed it as failing to meet the Cabinet's quality assurance criteria for impact analysis.

Noted

e. **lodge** the Cabinet paper, attached as Annex 1, by 10am Thursday 14 August to be seen by Social Outcomes Committee on Wednesday 20 August and Cabinet on Monday 25 August.

Agree / Disagree

Proactive Release:

f. agree that the Ministry of Education release this paper once the amendments are finalised, with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree / Disagree



Sela Finau

**General Manager, Learner Success and
Tiriti Policy**

Te Pou Kaupapahere

13/08/2025



Hon David Seymour

Associate Minister of Education

13/8/25