

Cabinet Paper material Proactive release

Minister & portfolio Hon David Seymour Associate Minister of Education
Name of package Education (Early Childhood Services) Amendment Regulations 2026
Date considered 7 Apr 2026
Date of release 19 Aug 2026

These documents have been proactively released:

Education (Early Childhood Services) Amendment Regulations 2026

Date considered: 7 Apr 2026

Author: Office of the Associate Minister of Education

Cabinet Legislation Committee LEG-26-MIN-0054

Date considered: 2 Apr 2026

Author: Committee Secretary

Cabinet Minute CAB-26-MIN-0113

Date considered: 7 Apr 2026

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:

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Proactively Released

In Confidence

Office of the Associate Minister of Education

Chair, Cabinet Legislation Committee

Education (Early Childhood Services) Amendment Regulations 2026

Proposal

- 1 This paper seeks authorisation to submit the Education (Early Childhood Services) Amendment Regulations 2026 to the Executive Council.

Executive Summary

- 2 On 14 April 2025, Cabinet agreed to amend the Education (Early Childhood Services) Regulations 2008 (the Regulations) to ensure a more proportionate approach to enforcing compliance [CAB-25-MIN-0123]. The amendments respond to recommendations from the Ministry for Regulation's Early Childhood Education Regulatory Sector Review.
- 3 The Education (Early Childhood Services) Amendment Regulations 2026 (the Amendment Regulations) give effect to Cabinet decisions. They will come into effect on 29 June 2026, providing the Director of Regulation with a broader and more graduated set of regulatory and compliance tools. This paper seeks approval to submit the Amendment Regulations to the Executive Council.

Policy

Responding to the ECE Regulatory Sector Review

- 4 In 2024 the Ministry for Regulation undertook a regulatory sector review (the Review) of early childhood education (ECE). On 25 March 2025, the Cabinet Expenditure and Regulatory Review Committee endorsed the Review's 15 recommendations and work began on modernising the ECE regulatory system in line with good regulatory practice and to improve its effectiveness for children, parents and caregivers [EXP-25-MIN-0015].
- 5 As part of this work, the Education and Training (Early Childhood Education Reform) Amendment Act 2025 was passed in November 2025. This legislation plays a significant role in modernising our ECE regulatory system by clarifying the purpose, objectives and guiding principles of regulating the ECE system and establishing the Director of Regulation, a new statutory role with responsibilities for performing key regulatory functions in the ECE system. To align with this system change, this paper proposes changes that will modernise the regulatory tools available to the Director of Regulation. This represents another step in implementing the recommendations of the Review.

- 6 The Review found that the ECE regulatory toolkit is limited and recommended that the regulations be updated to allow the development of a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk. Accordingly, on 14 April 2025 Cabinet agreed to amend the Education (Early Childhood Services) Regulations 2008 (the Regulations) to:
- 6.1 introduce new provisions to establish a set of **graduated enforcement tools** in addition to the existing tools that the Director of Regulation can use to enforce compliance with the regulations and licensing criteria – including:
 - 6.1.1 a **record of non-compliance**, where a formal record is kept of an incident of non-compliance that was identified by the Director of Regulation and immediately addressed by the licence holder,
 - 6.1.2 a **formal warning**, specifying the non-compliance that has been identified and the remedial action that must be taken by a specified date to avoid further compliance action,
 - 6.1.3 a **written direction** to comply either immediately or within a period of no more than 10 days, where non-compliance is identified that poses a health and safety risk but can be remedied safely while the service continues to operate,
 - 6.1.4 requirement to engage **specialist help**, where the service provider must employ or engage a specialist or expert in a specified area to support them to address non-compliance, and
 - 6.1.5 requirement to develop, implement and complete an **improvement plan**, where the service provider must, within 15 working days, set out the specific actions that will be taken to address non-compliance, including timeframes where they will implement and complete the plan, to the satisfaction of the Director of Regulation;
 - 6.2 remove Regulation 54A of the Education (Early Childhood Services) Regulations 2008 that provides for the Secretary to direct a service provider to remedy an immediate health and safety risk - these risks will be managed through Regulation 29C which enables the Director of Regulation to, by written notice, direct a service provide to remedy a risk to health and safety;
 - 6.3 introduce new provisions to enable the Director of Regulation to have **discretion to issue a public notice of non-compliance**, including details of the enforcement action that has been taken, if they are satisfied this is in the public interest and any one of the following enforcement actions has been taken:
 - 6.3.1 a written direction,
 - 6.3.2 requirement to engage specialist help, or
 - 6.3.3 requirement to develop, implement and complete an improvement plan;

- 6.4 introduce new provisions to **require the Director of Regulation to issue a public notice of non-compliance**, including details of the enforcement action that has been taken, if any one of the following enforcement actions is taken:
- 6.4.1 reclassification of the licence as provisional,
 - 6.4.2 suspension of the service licence, or
 - 6.4.3 cancellation of the service licence;
- 6.5 increase the **threshold for changes to the status of a service licence** by amending Regulation 15(1) so that the Director of Regulation may reclassify a probationary or full licence as provisional if satisfied that the service provider:
- 6.5.1 has been issued with one or more of the following enforcement actions and failed to comply:
 - 6.5.1.1 a written direction,
 - 6.5.1.2 requirement to engage specialist help, and
 - 6.5.1.3 requirement to complete an improvement plan, or
 - 6.5.2 has been found to be non-compliant and has been issued with two or more of the following enforcement actions in the preceding 12 months:
 - 6.5.2.1 record of non-compliance,
 - 6.5.2.2 formal warning,
 - 6.5.2.3 a written direction,
 - 6.5.2.4 requirement to engage specialist help, and
 - 6.5.2.5 requirement to complete an improvement plan;
- 6.6 increase the **threshold for suspending a service licence**, by amending Regulation 30(1)(a) so that the Director of Regulation must be satisfied, on reasonable grounds, that:
- 6.6.1 there is an immediate risk to the health, safety or wellbeing of children attending or participating in the service, and
 - 6.6.2 it is not in the children's interests that the service continues to operate [CAB-25-MIN-0123].

Education (Early Childhood Services) Amendment Regulations 2026

- 7 The Amendment Regulations give effect to Cabinet decisions and provide for a new set of graduated enforcement tools, new provisions for public notification of non-

compliance, and an increased threshold for changing the status of a service licence to enforce compliance.

- 8 To support the development process of the Amendment Regulations, Cabinet authorised the Minister of Education and I to make additional joint decisions on policy and drafting issues arising from these proposals, as necessary [CAB-25-MIN-0123]. Changes to provisional licencing at Regulation 15(1) will remove provisions that enable parents to be informed of investigations. This will create an information gap for parents when a serious and high-risk complaint or incident is being investigated by the Director of Regulation. To address this, the Minister of Education and I have approved a new provision at Regulation 59A as an alternative way for the Director of Regulation to inform parents and caregivers of their decision to investigate a complaint or incident.
- 9 Regulation 59A is a discretionary notification action that the Director of Regulation may exercise where they consider that it is appropriate to inform parents and caregivers. This regulation provides a more proportionate action, compared to the status quo regulatory action of licence reclassification. This is also better aligned with the new graduated enforcement tools and will preserve keeping parents informed, noting a key finding in the Review about information asymmetry for parents, caregivers and families in the ECE sector.

Timing and 28-day rule

- 10 Following approval by the Executive Council, the Amendment Regulations will be Gazetted as soon as possible. This will mean the Amendment Regulations will be notified more than 28 days before they come into force from 29 June 2026. This timing is intended to give the sector as much prior notice of the Amendment Regulations as possible.

Compliance

- 11 There are no inconsistencies between the Amendment Regulations and:
 - 11.1 the principles of the Treaty of Waitangi;
 - 11.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 11.3 the principles and guidelines set out in the Privacy Act 2020;
 - 11.4 relevant international standards and obligations;
 - 11.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 12 Section 636(2)(ea)-(ed) of the Act allows for the inclusion of enforcement and public notification powers. These are provided for in regulations 29A to 29F and 59A. These powers are intended as an extension of the statutory functions of the Director of

Regulation, which includes undertaking investigations and prosecutions as appropriate (Education and Training Act 2020, section 27B).

13 9(2)(h)

14 However, I consider that providing these powers in regulations is consistent with the current ECE legislative framework, as regulations 29A to 29F and 59A are less intensive and lower-level interventions than the enforcement powers that are currently provided in the ECE Regulations. An example of this is regulation 32 which provides for cancellation of a service provider's licence.

Certification by Parliamentary Counsel Office

15 9(2)(h)

Impact analysis

16 A Regulatory Impact Statement (RIS) was prepared and submitted at the time that Cabinet approval was sought for the policy relating to the relevant regulations [CAB-25-MIN-0123]. A Ministry of Education Quality Assurance panel assessed that the RIS did not meet Cabinet's quality assurance criteria. The Ministry for Regulation and the Ministry of Education have agreed that a Post Implementation Report on the chosen options will be provided to Cabinet by April 2026.

17 Under delegated authority from Cabinet, the Minister of Education and I have made additional drafting and policy decisions on the Education (Early Childhood Services) Amendment Regulations 2026. No RIS exemption was sought at the time when these additional decisions for the Amendment Regulations were made. However, the Ministry for Regulation has now determined that these decisions would have been eligible for an exemption from Cabinet's regulatory impact analysis requirements on the basis that they have no or only minor impacts.

Publicity

18 The Ministry will notify the ECE sector about the regulatory changes through its standard publications and other relevant channels.

Proactive release

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

Consultation

Public consultation

- 20 Cabinet authorised me to undertake public consultation on exposure draft regulations that give effect to these decisions [CAB-25-MIN-0123]. This was undertaken from Monday 22 September to Sunday 19 October. This consultation was conducted online, with the exposure draft and accompanying discussion document published on the Ministry of Education (the Ministry) website.
- 21 During consultation, the Ministry received 335 email and survey submissions from a range of ECE stakeholders including service owners, managers, teachers, parents and caregivers. Many submitters supported the new graduated approach to enforcing compliance. The changes to the threshold for licence reclassification and suspensions (Regulations 15 and 30) and the new graduated tools (Regulations 29A – 29E) had the strongest support. Some concerns were raised about the potential for disproportionate impacts on small, rural and kaupapa Māori services, the need for consistency and fairness in implementation and the potential for reputational harm from public notifications. A wide range of implementation and operational considerations were also shared. Implementation planning is currently underway and will take into account the issues raised through consultation.
- 22 As referenced in paragraph 5, recent changes made to the Education and Training Act 2020 clarified the objectives and guiding principles of regulating the ECE system. These will guide implementation of the Amendment Regulations. In performing and exercising their functions, duties, and powers, the Director of Regulation must give effect to the purpose and objectives and have regard to the guiding principles. This will enable the Director of Regulation to consider the effects of enforcement and regulatory actions, for example, the impacts that an enforcement action may have on the accessibility of ECE provision for parents and caregivers.

Agency consultation

- 23 The following agencies have been consulted on the regulations outlined in this paper: The Treasury, Public Service Commission, Te Puni Kōkiri, Ministry for Regulation, Ministry of Business, Innovation and Employment, Ministry of Health, Ministry of Justice, Ministry of Social Development, Office of the Privacy Commissioner, Ministry for Ethnic Communities, Ministry for Pacific Peoples, Ministry for Women, Oranga Tamariki, Whaikaha Ministry of Disabled People, the Education Review Office and the New Zealand Qualifications Authority.
- 24 The Department of Prime Minister and Cabinet has been informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 14 April 2025, in response to recommendations from the Early Childhood Education Regulatory Sector Review, Cabinet agreed to amend the Education (Early Childhood Services) Regulations 2008 to:
 - 1.1 introduce new provisions to establish a set of graduated enforcement tools in addition to the existing tools that the Director of Regulation can use to enforce compliance with the regulations and licensing criteria – including:
 - 1.1.1 a record of non-compliance,
 - 1.1.2 a formal warning,
 - 1.1.3 a written direction,
 - 1.1.4 requirement to engage specialist help, and
 - 1.1.5 requirement to complete an improvement plan;
 - 1.2 remove Regulation 54A of the Education (Early Childhood Services) Regulations 2008 that provides for the Secretary to direct a service provider to remedy an immediate health and safety risk;
 - 1.3 introduce new provisions to enable the Director of Regulation to have discretion to issue a public notice of non-compliance, including details of the enforcement action taken, if they are satisfied this is in the public interest and any one of the following enforcement actions has been taken:
 - 1.3.1 a written direction,
 - 1.3.2 requirement to engage specialist help, or
 - 1.3.3 requirement to complete an improvement plan;
 - 1.4 introduce new provisions to require the Director of Regulation to issue a public notice of non-compliance, including details of the enforcement action taken, if any one of the following enforcement actions has been taken:
 - 1.4.1 reclassification of the licence as provisional,
 - 1.4.2 suspension of the service licence, or
 - 1.4.3 cancellation of the service licence;
 - 1.5 increase the threshold for changes to the status of a service licence by amending Regulation 15(1) so that the Director of Regulation may reclassify a probationary or full licence as provisional if satisfied that the service provider:

- 1.5.1 has been issued with one or more of the following enforcement actions and failed to comply:
 - 1.5.1.1 a written direction,
 - 1.5.1.2 requirement to engage specialist help, and
 - 1.5.1.3 requirement to complete an improvement plan, or
- 1.5.2 has been found to be non-compliant and has been issued with two or more of the following enforcement actions in the preceding 12 months:
 - 1.5.2.1 record of non-compliance,
 - 1.5.2.2 formal warning,
 - 1.5.2.3 a written direction,
 - 1.5.2.4 requirement to engage specialist help, and
 - 1.5.2.5 requirement to complete an improvement plan;
- 1.6 increase the threshold for suspending a service licence, by amending Regulation 30(1)(a) so that the Director of Regulation must be satisfied, on reasonable grounds, that:
 - 1.6.1 there is an immediate risk to the health, safety or wellbeing of children attending or participating in the service, and
 - 1.6.2 it is not in the children's interests that the service continues to operate.
- 2 **note** that the Minister of Education and I have jointly approved an additional provision at Regulation 59A to enable discretionary public notification powers for the Director of Regulation when managing investigations of complaints or incidents;
- 3 **note** that the Education (Early Childhood Services) Amendment Regulations 2026 will give effect to the decisions referred to in recommendation 1 and 2 above;
- 4 **authorise** the submission to the Executive Council of the Education (Early Childhood Services) Amendment Regulations 2026;
- 5 **note** that the Education (Early Childhood Services) Amendment Regulations 2026 will come into force on 29 June 2026.

Authorised for lodgement

Hon David Seymour

Associate Minister of Education



Cabinet Legislation 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.

Education (Early Childhood Services) Amendment Regulations 2026

Portfolio **Associate Education**

On 2 April 2026, the Cabinet Legislation Committee:

- 1 **noted** that in April 2025, following recommendations from the Early Childhood Education Regulatory Sector Review, Cabinet agreed to amend the Education (Early Childhood Services) Regulations 2008 to:
 - 1.1 introduce new provisions to establish a set of graduated enforcement tools in addition to the existing tools that the Director of Regulation can use to enforce compliance with the regulations and licensing criteria, including:
 - 1.1.1 a record of non-compliance;
 - 1.1.2 a formal warning;
 - 1.1.3 a written direction;
 - 1.1.4 a requirement to engage specialist help;
 - 1.1.5 a requirement to complete an improvement plan;
 - 1.2 remove Regulation 54A of the Education (Early Childhood Services) Regulations 2008 that provides for the Secretary of Education to direct a service provider to remedy an immediate health and safety risk;
 - 1.3 introduce new provisions to enable the Director of Regulation to have discretion to issue a public notice of non-compliance, including details of the enforcement action taken, if they are satisfied this is in the public interest and any one of the following enforcement actions has been taken:
 - 1.3.1 a written direction;
 - 1.3.2 requirement to engage specialist help;
 - 1.3.3 requirement to complete an improvement plan;

- 1.4 introduce new provisions to require the Director of Regulation to issue a public notice of non-compliance, including details of the enforcement action taken, if any one of the following enforcement actions has been taken:
- 1.4.1 reclassification of the licence as provisional;
 - 1.4.2 suspension of the service licence;
 - 1.4.3 cancellation of the service licence;
- 1.5 increase the threshold for changes to the status of a service licence by amending Regulation 15(1) so that the Director of Regulation may reclassify a probationary or full licence as provisional if satisfied that the service provider:
- 1.5.1 has been issued with one or more of the following enforcement actions and failed to comply:
 - 1.5.1.1 a written direction;
 - 1.5.1.2 a requirement to engage specialist help;
 - 1.5.1.3 a requirement to complete an improvement plan; or
 - 1.5.2 has been found to be non-compliant and has been issued with two or more of the following enforcement actions in the preceding 12 months:
 - 1.5.2.1 a record of non-compliance;
 - 1.5.2.2 a formal warning;
 - 1.5.2.3 a written direction;
 - 1.5.2.4 a requirement to engage specialist help;
 - 1.5.2.5 a requirement to complete an improvement plan;
- 1.6 increase the threshold for suspending a service licence, by amending Regulation 30(1)(a) so that the Director of Regulation must be satisfied, on reasonable grounds, that:
- 1.6.1 there is an immediate risk to the health, safety or wellbeing of children attending or participating in the service; and
 - 1.6.2 it is not in the children's interests that the service continues to operate;

[CAB-25-MIN-0123]

- 2 **noted** that the Minister of Education and Associate Minister of Education have jointly approved an additional provision at Regulation 59A to enable discretionary public notification powers for the Director of Regulation when managing investigations of complaints or incidents;
- 3 **noted** that the Education (Early Childhood Services) Amendment Regulations 2026 will give effect to the decisions referred to in paragraphs 1 and 2 above;
- 4 **authorised** the submission to the Executive Council of the Education (Early Childhood Services) Amendment Regulations 2026 [PCO 27408/7.0];

- 5 **noted** that the Education (Early Childhood Services) Amendment Regulations 2026 will come into force on 29 June 2026.

Vivien Meek
Committee Secretary

Present:

Hon David Seymour
Hon Chris Bishop (Chair)
Hon Louise Upston
Hon Judith Collins KC
Hon Todd McClay
Hon Tama Potaka
Hon Matt Doocey
Hon Simon Watts
Hon Chris Penk
Hon Nicole McKee
Hon Casey Costello
Hon James Meager
Stuart Smith MP
Jamie Arbuckle MP

Officials present from:

Officials Committee for LEG



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 3 April 2026

On 7 April 2026, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 3 April 2026:

Out of scope		
LEG-26-MIN-0054	Education (Early Childhood Services) Amendment Regulations 2026 Portfolio: Associate Education	CONFIRMED
Out of scope		

Out of scope

Rachel Hayward
Secretary of the Cabinet

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