

Version
as at 18 January 2024



Education (School Boards) Regulations 2020

(LI 2020/193)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 10th day of August 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 638 and 639 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

Enacting statement: amended, on 1 January 2023, by regulation 4 of the Education (School Boards) Amendment Regulations 2022 (SL 2022/290).

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry of Education.

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Regulations

1 Title

These regulations are the Education (School Boards) Regulations 2020.

2 Commencement

These regulations come into force on 15 September 2020.

Part 1

Preliminary provisions

Part 1: inserted, on 18 January 2024, by regulation 4 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Education and Training Act 2020

presiding member, in relation to a board, means the person for the time being appointed under regulation 11.

- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Names of boards

[Revoked]

Heading: revoked, on 18 January 2024, by regulation 5 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

4 Names of boards

The name of a board is “The [*name of school or institution*] Board”.

Compare: 1989 No 80 Schedule 6 cl 3

Part 2

Powers of boards

Part 2: inserted, on 18 January 2024, by regulation 6 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

Powers of boards

[Revoked]

Heading: revoked, on 18 January 2024, by regulation 7 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

5 Work for other boards or educational or social services

- (1) Two boards may agree in writing—

- (a) for one of them (**board A**) to do either or both of the following:
 - (i) acquire materials for, and supply them to, the other;
 - (ii) do work for the other; and
 - (b) for the other board to pay board A for doing so.
- (2) An agreement under subclause (1) does not absolve a board from any responsibilities imposed by the Act.
- (3) A board may resolve to do work for other educational services and social services if—
- (a) the board is a member of a community of learning; and
 - (b) the other members of the community of learning agree that the work will benefit—
 - (i) the members of the community of learning; or
 - (ii) the children or young people who are enrolled at a member of the community of learning.

Compare: 1989 No 80 Schedule 6 cl 15

6 Students enrolled at State school may be given tuition by another

- (1) Students enrolled at a State school may, by agreement between the boards concerned, receive tuition at or from another State school.
- (2) The tuition may be delivered through any medium, including digital technology.
- (3) The board of the State school at which the students are enrolled may pay the board of the State school giving the tuition for that tuition.

Compare: 1989 No 80 s 158(1), (1A)

7 Use of certain facilities by students enrolled at more than 1 school

- (1) This regulation applies if the Minister is satisfied that facilities at a State school were provided or constructed for the use of students enrolled at more than 1 State school.
- (2) The Minister may, by written notice to the school's board, require the board (in accordance with any arrangements specified in the notice) to do either or both of the following:
 - (a) allow the board of another State school to use the facilities for the tuition of students enrolled at the other school;
 - (b) provide in or by means of those facilities tuition for students enrolled at another State school.
- (3) A notice under subclause (2) must provide for the making of payments by the board of the school at which the students required to be provided with tuition

are enrolled to the board of the school whose facilities are to be used; and payments must be made in accordance with the notice.

Compare: 1989 No 80 s 158(2), (3)

8 Delegation

- (1) A board may, by resolution and in writing either generally or specifically, delegate any of the functions or powers of the board or of a board member to any of the following persons:
 - (a) a board member or members:
 - (b) the principal or any other employee or office holder of the board:
 - (c) a committee consisting of at least 2 persons at least 1 of whom is a board member:
 - (d) a person approved by the Minister:
 - (e) any class of persons that comprises any of the persons listed in paragraphs (a) to (d).
- (2) Subclause (1) does not apply to any functions or powers specified in the Act as not being capable of delegation.
- (3) The board must not delegate the general power of delegation.

Effect of delegation

- (4) A person to whom any function or power is delegated may perform the function or exercise the power in the same manner and with the same effect as if the person were the board or board member (subject to any restrictions or conditions imposed by the board).
- (5) A person purporting to act under a delegation—
 - (a) is, in the absence of proof to the contrary, presumed to be acting in accordance with the delegation; and
 - (b) must produce evidence of the person's authority to do so if reasonably requested to do so.

Subdelegation

- (6) A person to whom any function or power is delegated may delegate that function or power only—
 - (a) with the prior written consent of the board; and
 - (b) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.

Other matters relating to delegation

- (7) A delegation under subclause (1)—
 - (a) is revocable at will by resolution of the board and written notice to the delegate (or by any other method provided for in the delegation):

- (b) does not prevent the board or the board member performing the functions or the exercising the powers:
- (c) does not affect the responsibility of the board for the actions of any delegate acting under the delegation:
- (d) is not affected by any change in the membership of the board or of any committee or class of persons.

Compare: 1989 No 80 Schedule 6 cl 17(1)-(8)

9 Board may appoint committees

- (1) A board may, by resolution, appoint committees—
 - (a) to advise it on any matters relating to the board’s functions and powers that are referred to the committee by the board; or
 - (b) to perform or exercise any of the board’s functions or powers that are delegated to the committee.
- (2) A person must not be appointed as a member of a committee unless, before appointment, the person discloses to the board the details of any financial interest that would disqualify the person from being a board member under clause 10 of Schedule 23 of the Act.
- (3) Regulation 8 applies, with any necessary modifications, to each member of a committee who is not a board member.

Compare: 1989 No 80 Schedule 6 cl 17(9)-(11)

Part 3 Procedure of boards

Part 3: inserted, on 18 January 2024, by regulation 8 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

Procedure

[Revoked]

Heading: revoked, on 18 January 2024, by regulation 9 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

10 Procedure of board

Except as provided in these regulations, a board may determine its own procedure.

Compare: 1989 No 80 Schedule 6 cl 40(15)

11 Presiding member

- (1) A board must appoint a board member (not being the principal or a staff or student representative) to preside at meetings of the board.
- (2) The appointment must be made—

- (a) at the board's first meeting in any year, unless it is an election year, in which case it must be at the first meeting held after the election; and
 - (b) if the board has resolved that it has no confidence in the person for the time being appointed as the presiding member; and
 - (c) if the person appointed as the presiding member ceases to be a board member or resigns the task by written notice to the board.
- (3) If the presiding member is not present at a meeting of the board, a board member (not being the principal or a staff or student representative) appointed by the board at the meeting must preside.

Compare: 1989 No 80 Schedule 6 cls 40(5)(b), 41

12 Board meetings

- (1) A board must hold a meeting no later than 3 months after the date of its previous meeting, at a time and place determined at the previous meeting.
- (2) If, at any meeting of the board, the board does not determine a time and place for its next meeting, the time and place of its next meeting must be determined—
- (a) by the presiding member; or
 - (b) if no board member is for the time being appointed as the presiding member and a board member who presided at the board's previous meeting is still a board member, by that board member; or
 - (c) in any other case, by the principal.
- (3) A meeting of the board may be held—
- (a) by more than half the board members then holding office being assembled together at the time and place appointed for the meeting; or
 - (b) by means of audio, audiovisual, or electronic communication, but only if—
 - (i) all of the board members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

Compare: 1989 No 80 Schedule 6 cl 40(1), (2), (12)

13 Quorum

No business may be transacted at a meeting of the board unless more than half the board members then holding office are present.

Compare: 1989 No 80 Schedule 6 cl 40(4)

14 Voting

- (1) Every question before a board must be decided by a majority of the votes cast on it by the board members who are present at a meeting of the board.
- (2) The presiding member has a deliberative vote on every question and, on any question where deliberative votes for and against are equal, also has a casting vote.

Compare: 1989 No 80 Schedule 6 cl 40(6), (7)

15 Attendance at meetings

- (1) A board member who has a pecuniary interest in any matter or any interest that may reasonably be regarded as likely to influence a board member in carrying out their duties and responsibilities as a member must be excluded from a meeting of the board while it discusses, considers, considers anything relating to, or decides the matter.
- (2) A board member who is a member of the board staff must be excluded from a meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to—
 - (a) the board member's employment by the board; or
 - (b) the course of action to be taken after the hearing of a complaint against the board member (being a complaint against the board member in their capacity as a member of the board staff).
- (3) A board member who is a student enrolled at the school or institution must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to the board member as an individual student.
- (4) However, a board member may attend a meeting referred to in subclause (1), (2), or (3) to give evidence, make submissions, or answer questions.

Compare: 1989 No 80 Schedule 6 cl 40(8)-(11)

16 Casual vacancies

If a casual vacancy occurs, the presiding member, or, if there is no presiding member, the principal, must fix a place for a meeting of the board to deal with the vacancy on a day that is—

- (a) within 28 days of the vacancy occurring, if it occurs during any period of 6 months commencing on 1 October in a year before an election year; or
- (b) within 8 weeks of the vacancy occurring, if it occurs at any other time.

Compare: 1989 No 80 Schedule 6 cl 40(3)

17 Board decisions

- (1) A resolution of the board signed or assented to in writing (whether sent by post, courier, or electronic communication) by all board members is as valid and effectual as if it had been passed at a meeting of the board.

- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more board members.

Compare: 1989 No 80 Schedule 6 cl 40(13), (14)

18 Common seal

- (1) A board's common seal may be affixed to a document only in accordance with a resolution of the board.
- (2) A document to which the seal is affixed must be signed by 2 persons, each of whom is a member of the board.

Compare: 1989 No 80 Schedule 6 cl 39

19 Payment of travel costs and attendance fees

- (1) The Minister may, by notice in the *Gazette*, fix a scale of maximum fees and payments to be made to board members.
- (2) A board member may be paid, out of the board's funds and in accordance with the scale, travel costs, and attendance fees fixed by the board.
- (3) In determining the attendance fees paid to board members, a board must have regard both to loss of income and to the cost of child care.

Compare: 1989 No 80 s 88

Part 4 Duties of boards

Part 4: inserted, on 18 January 2024, by regulation 10 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

Promotion of healthy food and nutrition

[Revoked]

Heading: revoked, on 18 January 2024, by regulation 11 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

20 Duty to promote healthy food and nutrition

The board of a school must promote healthy food and nutrition for all of the school's students.

Regulation 20: inserted, on 1 January 2023, by regulation 5 of the Education (School Boards) Amendment Regulations 2022 (SL 2022/290).

*Reporting on progress and achievement of students**[Revoked]*

Heading: revoked, on 18 January 2024, by regulation 12 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

21 Duty to report on progress and achievement of students

- (1) The board of a school, together with the school's principal and teaching staff, must use good quality assessment or aromatawai information to report to each student at the school and their parents on the student's progress and achievement.
- (2) The reports must—
 - (a) be written in plain language; and
 - (b) include the student's progress and achievement—
 - (i) across any relevant foundation curriculum policy statements and national curriculum statements made under section 90 of the Act; and
 - (ii) in literacy and mathematics or te reo matatini and pāngarau; and
 - (c) be provided at least twice per year.
- (3) In this regulation, **good quality**, in relation to assessment or aromatawai information, means that the information draws on a range of evidence to evaluate the progress and achievement of each student and build a comprehensive picture of that student's learning.

Regulation 21: inserted, on 1 January 2023, by regulation 5 of the Education (School Boards) Amendment Regulations 2022 (SL 2022/290).

22 Duty to prohibit the use or access of mobile phones

- (1) The board of a State school (other than Te Aho o Te Kura Pounamu) must prohibit students from using or accessing mobile phones at all times while they are attending school.
- (2) The board may do anything within its powers that it thinks is necessary or desirable to implement the prohibition.
- (3) However, the board must ensure that the prohibition does not apply to a student to the extent that—
 - (a) the board is satisfied that the student needs to use or access a mobile phone—
 - (i) for a purpose connected with the student's health; or
 - (ii) for the purpose of assisting the student in connection with any disability or learning support need; or
 - (b) a registered teacher determines that the student needs to use or access a mobile phone for a specific educational task or purpose; or

- (c) the principal determines that there are special circumstances that make it necessary for the student to use or access a mobile phone (for example, the student is a teenage parent).
- (4) The board must ensure that the prohibition takes effect no later than 29 April 2024.

Regulation 22: inserted, on 18 January 2024, by regulation 13 of the Education (School Boards) Amendment Regulations 2023 (SL 2023/294).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 13 August 2020.

Notes

1 *General*

This is a consolidation of the Education (School Boards) Regulations 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Education (School Boards) Amendment Regulations 2023 (SL 2023/294)

Education (School Boards) Amendment Regulations 2022 (SL 2022/290)