



## Education Report: Education (2019 School Staffing) Amendment Order 2018

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	25 October 2018	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1160543
<b>Drafter:</b>	Rachel Sutcliffe	<b>DDI:</b>	s 9(2)(a)
<b>Key Contact:</b>	Nick Risdon	<b>DDI:</b>	
<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

The purpose of this paper is for you to:

**note** that an amendment to the Education (2019 School Staffing) Order 2018 has been drafted, pending your agreement;

**agree** to submit the Education (2019 School Staffing) Amendment Order 2018 to the Cabinet Legislation Committee meeting of 8 November 2018.

### Summary

- 1 The Ministry of Education is charged with paying the salaries of regular teachers under Part 8A of the Education Act 1989 (the Act).
- 2 The Education (2019 School Staffing) Order 2018, which was made on 6 August 2018 under the provisions of section 91H of the Act, was drafted based on an incorrect version of the previous year's order. It contains an older definition of a Community of Learning.
- 3 An amendment to the Education (2019 School Staffing) Order 2018 has been drafted to correct this error, pending your agreement.

## Recommended Actions

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The Ministry of Education recommends you:

- a. **agree** to the submission of the Education (2019 School Staffing) Amendment Order 2018 to Cabinet Legislation Committee by 10:00 a.m. on 1 November 2018, to be considered at the meeting of 8 November 2018;
- b. **sign** the enclosed paper to Cabinet recommending that Cabinet authorise the submission of the Education (2019 School Staffing) Amendment Order 2018 to the Executive Council by 10:00 a.m. on 1 November 2018; and
- c. **sign** the attached advice sheet to the Governor-General; and
- d. **proactively release** this Education Report.

Agree / Disagree

Release / Not release



Katrina Casey  
Deputy Secretary  
Sector Enablement and Support

25/10/2018



Hon Chris Hipkins  
Minister of Education

31/10/18

## Background

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- 1 An annual Education (School Staffing) Order is made under section 91H of the Education Act 1989 (the Act). It prescribes the limits on the number of teachers that may be employed by schools for the following year.
- 2 Each annual Order follows the previous year's Order and incorporates any new policy changes which have been approved by Cabinet.

### Community of Learning definition change

- 3 In late 2017, an anomalous error was identified in the Community of Learning definition of the substantive 2018 School Staffing Order. The Parliamentary Council Office was consulted at the time to correct the definition as per your agreement (METIS 1094116).
- 4 The Education (2018 School Staffing) Amendment Order 2018 was made on 30 January 2018 to correct the Community of Learning definition in the substantive 2018 Order.
- 5 The definition of a Community of Learning had been aligned with the definition in the Act, however no Community of Learning has been approved under section 71C of the Act to date.
- 6 The Parliamentary Council Office was consulted at the time to correct the definition as per your agreement (METIS 1094116).

### Current error

- 7 The Education (2019 School Staffing) Order 2018 was made on 6 August 2018. The 2019 Staffing Order prescribes the limits on the number of teachers that may be employed by schools for 2019.
- 8 The Parliamentary Council Office drafted the 2019 Order based on a previous version of the 2018 Order rather than the amended version.
- 9 This has meant that the amendment made in January 2018 to replace the definition of Community of Learning in clause 6 with a new definition was omitted from the 2019 Order.
- 10 This amendment now reinserts that definition.

### Risks

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- 11 If the error is not corrected, we would be faced with a decision to either not deliver the Community of Learning entitlement to schools that did not strictly meet the definition, or fail to deliver entitlements that have already been provisionally notified.
- 12 This amendment of the 2019 Order and the reinsertion of the correct definition would ensure this risk is no longer relevant.

## Next Steps

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- 13 The Cabinet Legislation Committee meeting is scheduled for 8 November 2018. The paper will need to be submitted to the Cabinet Office by 10:00 a.m. on 1 November 2018.
- 14 A waiver of the 28 day rule is being sought so the Amendment Order can come into force on the day after the date of its notification in the New Zealand Gazette, following authorisation from the Governor General. This will ensure the correct version of the Order is in force as soon as possible.

## Proactive Release

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- 15 It is intended that this Education Report is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.