Summary of submissions

Draft guidelines on religious instruction in State primary and intermediate schools

Education System Policy, February 2019

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# Introduction

## Purpose of this document

This document summarises the submissions received by the Ministry of Education during consultation on Draft Guidelines on Religious Instruction in State Primary Schools. The first part provides an overview of the key findings from consultation. The second part provides a detailed submissions analysis. The detailed submissions analysis first provides a summary of the comments made on the guidelines. It then explores the comments made on the place of religion in schools and school boards’ ability to close schools to allow religious instruction to take place.

## Consultation process

An online consultation process ran from 24 September 2018 to 7 December 2018. A total of 100 submissions were received. Submissions were made by:

* 7 organisations, which were:
  + New Zealand School Trustees Association
  + New Zealand Educational Institute Te Riu Roa
  + Churches Education Commission
  + Secular Education Network
  + Humanist Society of New Zealand
  + New Zealand Humanist Society
  + New Zealand Association of Rationalists and Humanists Incorporated
* 93 individual submitters. Some submitters identified as having a special connection to religious instruction in schools, including:
  + 1 principal
  + 2 board of trustees members
  + 1 teacher
  + 5 religious instruction volunteers
  + 20 parents
  + 4 academics

# Overview of the key findings

While most submitters supported the guidelines as a first step, many considered that law change is needed to address the underlying issues

Fifty-seven submitters explicitly supported the draft guidelines. Submitters generally saw the guidelines as clear, sound advice that would help boards navigate a complex legal framework.

In particular, submitters emphasised support for a “signed consent” approach to religious instruction; volunteers who are not school staff leading religious instruction; and schools providing valid, secular alternatives to religious instruction unless religious instruction is allowed when the school would usually be closed.

Over half of submitters wanted a law change to increase regulation of religious instruction in schools or remove religious instruction from schools

Sixty-one submitters did not think the guidelines went far enough and thought the provisions in the Education Act 1964 needed to be reviewed and made fit for purpose. Fifty-five submitters expressed a specific preference for the statutory authority which allows boards to close to allow religious instruction to take place to be repealed.

Some submitters noted that a complete removal of religious instruction from schools may not be politically feasible. Submitters suggested that, at minimum, law changes should include:

* making religious instruction “opt-in”;
* removing the board’s ability to close the school for religious instruction, and instead only allowing religious instruction when the school is usually closed for instruction (i.e. before school, after school, and lunch times);
* making the guidelines mandatory;
* extending the secular requirements to secondary schools; and
* requiring more government oversight of the content of religious instruction programmes, the certification of religious instruction volunteers, and the decision making processes of boards around whether, and how religious instruction is allowed to take place.

Approximately one quarter of submitters expressed a preference for the status quo

Twenty-three submitters expressed a preference for the status quo. These submitters appreciated that the guidelines maintained the ability for boards to allow religious instruction to take place, while showing how to protect students who did not participate from discrimination.

Some of these submitters also identified concerns about making religious instruction “opt-in.” Reasons given included that it adds to the administration burden on schools; some parents simply forget to return consent forms; and parents who strongly oppose religious instruction would opt their child out.

Some submitters also disliked the recommendation that religious instruction occur when a school was normally closed for teaching because they considered that it would disadvantage some children. In particular, they were concerned children who caught a school bus or had competing extracurricular commitments would be unable to attend.

# Detailed submissions analysis

## Draft guidelines on religious instruction in State primary schools

### Establishing guidelines on religious instruction

#### Supporting comments

Fifty-seven submitters explicitly supported the establishment of guidelines on religious instruction in their current form or with minor amendments. They generally saw the guidelines as clear, sound advice that would help boards navigate a complex legal framework. They also recognised the guidelines as filling a policy gap.

Fourteen of these submitters saw the guidelines as an improvement on the status quo. However, 13 submitters commented that the draft guidelines did not go far enough. Two submitters commented that, although the draft guidelines were a useful starting point, further work was needed before the draft guidelines could achieve their purpose because of their limited scope. Five submitters commented that the guidelines would not be able to clarify the complex obligations on boards relating to religious instruction because of the tensions between education law and human rights law. One submitter recommended doing more work with the Human Rights Commission’s Diversity in Action group and the National Statement on Religious Diversity.

Five submitters commented that the practical scenarios used to illustrate each recommendation were a strength of the guidelines. One submitter commented that these scenarios would make the guidelines more operationally useful than advice previously issued by the Human Rights Commission. One submitter suggested that working with schools to find real life case studies would further improve the usefulness of the scenarios.

A further 45 submitters commented that the guidelines need to be made mandatory to be effective. These submitters considered that boards could and would disregard the guidelines without penalty because of high workloads or a belief that the board knew best. Two submitters were concerned about the workload of boards and their inability to interpret laws.

Eleven submitters commented that the guidelines were fair, and balanced the rights of children and young people, and their families and whānau, with the rights of others in their community to freedom of religious expression through religious instruction. They commented that the guidelines would support boards who choose to allow religious instruction to take place to do so in best practice ways that do not discriminate against children or young people.

#### Opposing comments

Four submitters explicitly opposed the draft guidelines.

Three of these submitters opposed the draft guidelines as they did not remove the provisions which allow for religious instruction in State primary schools. They saw the guidelines as a validation of religious instruction and thus discrimination by the Ministry of Education. They commented that the guidelines could provide evidence for the upcoming Secular Education Network High Court Case by showing that the Ministry of Education is aware of issues, including discrimination, from the allowance of religious instruction.

One submitter opposed the draft guidelines because they would make it harder for boards to allow religious instruction in schools, and would take away the opportunity for children and young people to be introduced to God.

#### Other comments

Thirty-nine submitters neither explicitly supported nor opposed the draft guidelines. Nine of these submitters supported the status quo, and made submissions on the benefits of religion in schools. Thirty submitters only commented on the need to change the law to remove religious instruction, and/or made comments on how the draft guidelines could be improved. One submitter suggested an approach to religious instruction in schools that was outside of the scope of either guidelines or law change.

### Introduction to the guidelines and detailed information on the legislative framework

#### General comments

Four submitters commented that the relevant laws were well covered by the guidelines. One submitter found the diagram particularly useful. Another liked the summary of recommendations. Submitters appreciated the statements around the secular nature of teaching, that religious instruction was not part of the New Zealand Curriculum or Te Marautanga o Aotearoa, and the importance of avoiding discrimination.

*Definitions of religious instruction, religious observances and religious education*

Four submitters commented that the guidelines made the difference between religious instruction, religious observances and religious education clear. Two submitters expressed a preference for religious instruction to be renamed religious education and religious education to be renamed religious studies. One submitter commented that the definition of religious observances should be expanded to include all aspects of religious practice. One submitter sought a more modern definition of religious instruction, as even the Churches Education Commission recognise evangelical approaches to religious instruction are not appropriate in a school setting.

Some submitters would have appreciated further guidance on what is religious and what is historical or cultural.

#### Suggested changes included:

* editorial changes to make the guidelines more inclusive and accessible, including by making scenarios more balanced (seven submitters);
* include references to Education Act 1989 schedule 6 section 5 (five submitters);
* clarify that religious instruction is the exception to State education and not the rule, and if in doubt religious instruction should not be allowed (three submitters);
* include references to the requirements of schools being open for a set number of half days and how this fits with religious instruction (two submitters);
* shift the detailed information on the legislative framework to the back of the document (two submitters);
* simplify the introduction (two submitters);
* clarify who should use the guidelines and how they apply to different schools (two submitters);
* specify that some programmes called “values based religious education” are still religious instruction that the Ministry of Education does not endorse or review (one submitter);
* give examples within the definitions of religious instruction, religious observance and religious education (one submitter);
* make child centred, rather than balancing the rights of the child with the wishes of communities (one submitter);
* clarify that the guidelines apply to all religions equally (one submitter);
* add more about the process of closing a school to allow religious instruction (one submitter);

### Recommendation one: use community consultation to inform decision making

#### Supporting comments

Fourteen submitters supported the recommendation that boards use community consultation to inform decisions about religious instruction. Three of them placed a caveat that consultation is only as good as the information that is provided.

**Opposing comments**

Four submitters opposed this recommendation. They did not believe that consultation is enough to protect the rights of children and young people based on their religious or non-religious beliefs. Instead it would only show which parents support religious instruction and which oppose it. They submitted that religious instruction should not be decided by popular opinion.

**Other comments**

*Consultation is either not done or not done well*

Twenty-five submitters commented about their experiences of consultation on religious instruction. Their comments suggested that consultation does not happen often, and that when it does, it is not done well.

Thirteen submitters commented that this was because boards did not understand what good consultation is or have the support to improve their consultation practices. They submitted that a key part of the problem was the board’s failure to provide full and accurate information or ask questions in neutral ways. For example, not providing information on the alternative activity that would take place for children who did not participate.

Twelve submitters commented that consultation appeared to be irrelevant to the outcome. They were concerned that both the consultation process and decision-making was heavily influenced by a board’s conflict of interest or bias.

One submitter commented that consultation had been missed from her school when a teacher started religious instruction without board approval, resulting in the resignation of board members.

*Majority support does not negate the impact on the wellbeing of minorities*

Ten submitters commented that the majority should not be able to impose their views on the minority whether this was in support of or against religious instruction. Three submitters stated that even if there was overwhelming support for religious instruction, it would not lessen the impact on the wellbeing or education of those who did not participate.

Six submitters commented that some parents and families would not participate in consultation. One reason given was a fear of social retribution from “rocking the boat” or opposing the status quo. This was seen as being more significant for families who were of minority ethnic groups or with a language barrier.

#### Suggested changes included:

* explicitly stating that curriculum demands, risk of discrimination and impact on wellbeing of participants and non-participants should be considered in the board’s decision-making process (ten submitters);
* better specifying how consultation should impact a board’s decision-making including:
  + a minimum threshold of support for religious instruction to be allowed (five submitters);
  + the conditions under which a board’s vote should take place (i.e. Principal and any board members with conflicts of interests recuse themselves from voting, which is public and included in the meeting minutes) (nine submitters); and
  + questions that should be asked during consultation (two submitters);
* changing the consultation period to annually or a minimum of three years (eight submitters) or making the consultation period at the board’s discretion (one submitter);
* stating that discrimination of students cannot be enabled by a vote (four submitters);
* requiring minority groups to be supported by a provision for anonymous feedback, translation of information, and support people from their community (four submitters);
* providing more support for boards around what a conflict of interest is and what precautions should be taken if a board member has one (three submitters);
* limiting consultation to parents, caregivers, family and whānau (one submitter); and
* clarifying that consultation be completed before decisions are made by the board (one submitter).

### Recommendation two: provide full and accurate information to students, families and whānau

#### Supporting comments

Twelve submitters supported the recommendation that boards provide full and accurate information about religious instruction to students, families and whānau. They felt the provision of unbiased and detailed information was extremely important and necessary. However, they noted concerns about whether this would happen in practice.

**Opposing comments**

One submitter opposed this recommendation. This was because families would be informed by their own context and would want instruction in their own religion, meaning children would be unable to make informed decisions about their beliefs.

**Other comments**

*Information currently provided is seen as limited and biased*

Thirteen submitters commented that information given to parents is often limited and biased as it comes from the religious instruction provider. Nine of these submitters commented that it is common for schools to claim the religious instruction programme is religious education or a values programme that complements the New Zealand Curriculum. Five submitters commented that schools may claim that the religious instruction programme is approved by the Ministry of Education or is part of the New Zealand Curriculum.

Three submitters were concerned that religious instruction providers are publicly claiming that they are in schools to educate students and not promote their belief, but that even when less evangelical methods were used, the aim of getting children to live their lives in a biblical way remained.

One submitter commented that the Churches Education Commission provided full teachers’ manuals to schools and a curricular overview to parents, and that they also support parental attendance to understand what happens at religious instruction sessions.

*There is inconsistency in the use of the terms ‘religious instruction’ and ‘religious education’, which confuses parents*

Five submitters commented that even though there were clear definitions of religious instruction and religious observances in the guidelines, they needed to be used more frequently and more consistently. They noted that journalists and the Ministry of Education often used religious education and religious instruction to mean the same thing.

#### Suggested changes included:

* explicitly recommending information is given in an ongoing, regular and timely manner (online, on-site and at enrolment) to keep the discussion open and ensure any religious instruction (including one-off events) is reflective of the community (nine submitters);
* explicitly recommending boards review and approve any religious instruction content and make the programme available for the school community and any parents that wish to see them (nine submitters);
* including the names of the religious group, the volunteer who will be leading religious instruction and their goals for the class (three submitters);
* suggest independent reviews of the religious instruction programme are made available where they exist (two submitters);
* explicitly recommending board members who have an actual or perceived conflict of interest declare it as part of the full and accurate information (two submitters);
* explicitly stating whether or not the board allows religious instruction to take place on their website and in their prospectus information (one submitter)

### Recommendation three: provide valid education alternatives if religious instruction is allowed when the school would usually be open for instruction

#### Supporting comments

Seventeen submitters supported the recommendation that schools provide valid education alternatives for children who do not participate in religious instruction, or to hold religious instruction when the school would usually be closed for teaching. They viewed it as clarifying an area where boards were uncertain of their responsibilities. Eleven submitters emphasised the importance of these activities being equally as appealing as religious instruction, but secular. It was also emphasised that children should not be made to feel different or as if they were being punished.

**Opposing comments**

Six submitters opposed this recommendation. They believed it would make it more difficult for those who wish for religious instruction at their school. They also commented that it would disadvantage some children. In particular, they were concerned children who caught a school bus or had competing extracurricular commitments would be unable to attend.

Five submitters opposed the recommendation that religious instruction occur during lunch time. This was because children who attended would be prevented from playing with their friends. Children who did not have parental consent may also be more likely to attend religious instruction if their friends wanted to go. Two submitters saw an increased risk in unintentionally including children who did not have parental consent during lunch time. One submitter was concerned about food incentives or inducements to attend during lunch.

Five submitters opposed staggered start times, as it would be inconvenient and could impose childcare costs on parents, who may be unable to take time off from work. Four of these submitters raised issues with how attendance would be taken in this context. Attendance was seen as being necessary for health and safety, but inappropriate as the school was closed. Two submitters commented on the segregating impact of this approach and their experiences of lost curriculum time when the volunteer did not arrive and regular classroom teaching resumed early.

Four submitters commented that it would be inappropriate for children participating in religious instruction to be in the same classroom as those who were not, as non-participating children could still hear the religious instruction, and participating children needed to be able to concentrate.

**Other comments**

*The cost of planning and implementing alternatives may be a barrier*

Three submitters were concerned that the administrative burden of planning and implementing alternatives would be too hard and costly for boards, leading them to ignore this guideline. One submitter was told by their child’s school’s principal that even if the school provided an alternative, the alternative would still be opt out. The school did not have the resources to enable multiple alternatives. However, another submitter commented that only allowing one religious instruction programme was seen as showing preference for one religion and thus discriminating against children who did not identify with that religion.

*It may not be possible to fairly provide a valid, educational alternative without disadvantaging one group*

Three submitters were unsure whether it was possible to hold an educational alternative without disadvantaging one group of children. Normal classes would not be able to continue as children participating in religious instruction would fall behind. Having no educational alternative was seen as disadvantaging children who were opted out because of lost curriculum time. There were mixed views as to whether curriculum learning, including about values, should continue.

#### Suggested changes included:

* strengthening the recommendation that religious instruction should be held outside of regular school hours unless there’s a compelling reason not to (12 submitters);
* explicitly recommending that religious instruction take place outside of the classroom, and non-participating children stay in their classroom (14 submitters);
* removing ‘educational’ from valid alternatives as the school is closed while religious instruction takes place, instead free play may be appropriate (eight submitters);
* reframing as “alternatives should be equally appealing and include similar activities” (three submitters);
* providing examples of what equally appealing alternatives do and do not look like (three submitters)
* requiring the alternative to be led by a registered teacher with a practising certificate (one submitter);
* including where the activities will be taken (one submitter);
* making it more explicit that one scenario is when the school would usually be open for teaching and the other is when the school would usually be closed for teaching (one submitter); and
* ensuring that if only a few students do not have consent to participate, the alternative is done in a way that prevents them from feeling lonely (one submitter).

### Recommendation four: requiring signed consent for religious instruction

#### Supporting comments

Thirty-one submitters supported the recommendation that schools require signed consent before a child may participate in religious instruction. They saw this recommendation as clarifying an area of confusion. They commented that this made rights clearer as consent is not an absence of “no,” but a free and willing yes.

**Opposing comments**

Nine submitters opposed this recommendation. They did not believe this was a viable alternative because it would disadvantage children if parents forgot to provide consent or did not receive the consent form. They believed parents who opposed religious instruction would take steps to have their child withdrawn. It was also seen as adding to the administrative burden of the school as it would involve more children. There was concern this approach would work in favour of those who wished to have religious instruction removed. One submitter noted an opt-out approach was consistent with other sensitive subjects.

**Other comments**

*Current practice is inconsistent and a shift to requiring consent would not address this*

Four submitters were concerned about inconsistent practice within the current opt-out system in terms of how frequently children had to be opted-out to stay opted-out. They noted children who had been opted-out were often still included within religious instruction sessions because the school did not have effective processes in place. One submitter suggested compliance with consent requirements and processes to ensure all participating children had consent should be audited by the Ministry of Education or the Education Review Office.

Two submitters were concerned this recommendation was inconsistent with the law, which states parents must write to the principal to have their child removed from religious instruction. However, another submitter recognised this is already occurring at some schools.

One submitter stated that this is the approach the Churches Education Commission encourages, and they provide templates to support schools to have an open, transparent consent process.

#### Suggested changes included:

* clarify that any consent must be informed (five submitters);
* remove the statement that this recommendation will reduce discrimination as it will not achieve this (four submitters)
* provide stronger guidance around how to reduce indirectly pressuring children to attend (three submitters);
* clarify what should happen if parents or caregivers and students, or separated parents, disagree about attending religious instruction (three submitters).
* ensure there are opportunities for signed consent to be updated regularly and processes are standardised across schools (two submitters);
* ensure the school has processes in place so children without parental consent do not mistakenly participate, including at lunch times (two submitters);
* remove the content about the board referring the family to the provider because the provider is biased (two submitters);
* ensure the consent form is available in all languages spoken by families at the school (one submitter); and
* use opt-in and opt-out language (one submitter).

### Recommendation five: using volunteers who are not school staff to lead religious instruction

#### Supporting comments

Twenty submitters supported the recommendation that religious instruction be led by volunteers who are not school staff. Five submitters commented that this made expectations clearer and would reduce indirect pressure for children to attend religious instruction. Two submitters commented that this gave children an opportunity to meet safe, supportive and trusted adults who were not their parents.

**Opposing comments**

Four submitters opposed this recommendation. These submitters and two more submitters had concerns about the quality of instruction and behaviour management as these volunteers are not required to be registered teachers with practising certificates. One submitter commented that teaching about religion should be done no differently than a core subject.

**Other comments**

*There are concerns around leaving volunteers with children unsupervised*

Seven submitters expressed concerns about the risks of leaving volunteers with children unsupervised. This was because volunteers were seen as holding strong beliefs and biases that would be shared with children. Particular concerns were raised about the sharing of views around homosexuality and hell. One submitter raised concerns about religious volunteers specifically given historical cases of abuse.

Six submitters commented that the Churches Education Commission has a code of ethics and trains and police vets volunteers. They also require volunteers to be endorsed by local church leaders. This helps ensure religious instruction volunteers are safe.

One submitter noted that religious instruction providers approach schools, not the other way around. Boards did not know how to respond to these religious instruction providers. Another submitter stated that the Churches Education Commission’s resources were indicative of a power imbalance, resulting in them having too much influence in schools.

Eight submitters commented that requiring school staff to supervise religious instruction would ensure the safety of participating children. These staff supervisors would be required to step in if the volunteer became evangelical or shifted into unacceptable content.

However, eight submitters also acknowledged that having the teacher in the room supervising may create borrowed authority for the religious instruction and confuse children about the place of religion in schools. This would be emphasised if the religious instruction took place during regular school hours or in the child’s regular classroom

Three submitters also noted that one of the benefits of religious instruction for teachers was the planning time it enabled. This would be undermined by supervision requirements.

#### Suggested changes included:

* require that school staff supervise volunteers while they are on-site (eight submitters);[[1]](#footnote-1)
* clarify that teachers should not participate in, introduce or promote religious instruction (three submitters);
* include board members within the definition of school staff (three submitters);
* ensure staff are made aware of their own rights not to attend religious instruction, including in a supervisory capacity and that boards will have clear and supportive policies and processes in place to ensure this (two submitters); and
* require potential volunteers to undergo training on the appropriateness of what and how they can teach to become registered and certified as religious instruction volunteers (two submitters)

### Recommendation six: ensuring all support services in schools are secular

#### Supporting comments

Sixteen submitters supported the recommendation to ensure all support services in schools are secular. Three submitters commented that this is currently required by law. One submitter emphasised the importance of having added protections for children going through challenging situations or needing additional support. Two submitters commented that some providers of support services are employing people based on their religious beliefs. These services are then contracted and paid for by the school. They also commented that these workers are usually unqualified or underqualified. Two submitters were concerned about these support service staff working in schools without parents being informed or giving consent.

**Opposing comments**

One submitter commented that the decision about whether support services are secular or not should be at the board’s discretion.

#### Suggested changes:

* stating that volunteers should not be allowed to promote religious activities outside of school (three submitters);
* include processes on how to monitor and enforce this recommendation (two submitters);
* stating that no school should employ a chaplain because they are explicitly a religious counsellor (two submitters); and
* commit the Ministry of Education to increase funding for school support services (two submitters).

### Recommendation seven: ensuring safety checks have been completed for volunteers

#### Supporting comments

Fourteen submitters supported the recommendation that boards should ensure safety checks have been completed for volunteers. One submitter commented that this was already required.

**Opposing comments**

Three submitters opposed this recommendation. One of these submitters stated it was not appropriate, or sufficient to ensure children are safe. Two submitters commented that the administrative burden would be too high, and schools would choose not to allow religious instruction.

#### Suggested changes included:

* better aligning guidance on safety checks for religious instruction volunteers (two submitters);
* recommending against allowing the religious instruction volunteers on-site until the safety check has been completed (two submitters);
* providing an alternative form that could be attested by a Justice of the Peace or Religious Minister to lower the administrative burden (one submitter);
* requiring safety checking to be repeated annually (one submitter); and
* adding information on what should happen when flags are raised by safety checks in the scenario (one submitter).

### Recommendation eight: communicate the complaints procedure to families and whānau and use that complaints procedure to resolve issues

#### Supporting comments

Ten submitters supported the recommendation that boards should ensure the complaints procedure is communicated to families and whānau and used resolve issues. It was seen as important for the complaints procedure to be visible, accessible, and not open its uses to discrimination or bias. One submitter identified this was currently not happening and found school policies and processes to be inaccessible, inadequate, or not followed.

**Opposing comments**

One submitter opposed this recommendation. This was because a complaints procedure was not seen as a safeguard. It was instead seen as a way to avoid consultation and marginalise those who complained.

#### Other comments

*There is a breach of natural justice from boards making decisions about whether and how to allow religious instruction, and resolving complaints about religious instruction*

Nine submitters identified a conflict of interest that arises when boards both make decisions about religious instruction and hear complaints about religious instruction. These submitters believed it was unlikely that the complaints would be dealt with appropriately because the board would have to admit to its own failure.

These submitters believed that the problem would be made worse if the board had a conflict of interest around religious instruction. One submitter gave the example of a board chairperson, who was also the religious instruction volunteer and school chaplain, acting as the ‘gatekeeper’ for religious instruction complaints. Another submitter identified concerns about a board’s refusal to participate in the Human Rights Commission mediation process.

Three submitters raised that the impact of boards making decisions on complaints about their conduct, or how they chose to allow religious instruction would deter parents and whānau from making a complaint. They also reasoned that parents and whānau feared social disadvantage or mistreatment as a result of making a complaint.

#### Suggested changes included:

* adding information about how parents and whānau can escalate complaints (six submitters);
* adding that complaints should be able to be made anonymously (one submitter);
* specifying how the complaints process for religious instruction differs from the general complaints process (one submitter);
* emphasising the importance of upholding students’ rights through the complaints process; and
* adding information to show what should happen to religious instruction while the investigation of religious instruction takes place (one submitter).

### Suggestions for additional guidance and support

#### A toolkit of extra resources and templates for boards

Five submitters commented that a toolkit for boards would be useful to support boards who are considering allowing religious instruction to take place. Submitters suggested this toolkit could include:

* templates including standardised information to be provided to students, families and whānau with placeholders for programme specific information (four submitters) including that:
  + the proposed programme is religious instruction as defined in the guidelines and is not part of the New Zealand Curriculum or Te Marautanga o Aotearoa;
  + the content of religious instruction programmes is not subject to Ministry of Education or Education Review Office oversight;
  + the religious instruction programme is led by volunteers who may not be registered teachers with practising certificates;
  + the religious instruction programme is not religious education as defined by the guidelines; and
  + the school is legally closed when religious instruction takes place and children do not have to participate.
* templates for consent forms (three submitters);
* templates for consultation questions (three submitters);
* the New Zealand School Trustees Association consultation tool (one submitter);
* guidance on actual and perceived conflicts of interest (two submitters);
* guidance on the principles of law that apply to the exercise of legal discretion (one submitter);
* a flow chart on what level of safety checks need to be done, by who, and with what frequency (one submitter).

#### More guidance on religious instruction done as a one-off, including at school camps

Seven submitters commented that it would be useful to include more guidance about one-off religious instruction. In particular, they wanted a focus on school camps. They submitted that their experiences with school camps showed more guidance was necessary for schools, who were not providing information in a timely way to enable parents to make informed decisions. Where information was provided, it was seen as minimising the religious content.

Four submitters commented that religious instruction should be expressly banned from school camps because children are away from their support networks. They included the saying of grace before meals within the ban.

Submitters questioned whether religious camps were appropriate venues for school camps. They were particularly concerned because religious camps advertised discounted rates while making religious instruction compulsory. This would mean children who would not participate in religious instruction could not participate in camp and missed this curriculum supporting experience. Three submitters questioned whether the religious instruction volunteers at the camp could be considered volunteers because they were being paid as part of the school’s fees for the camp.

#### More guidance on religious observances and other elements of religious expression

Fourteen submitters commented that it would be useful to include guidance about religious observances and other elements of religious expression. These elements of religion in school were noted as being more challenging for boards to do in ways that were not discriminatory by their nature and how they were woven into school life. In particular, it was suggested there should be more advice about:

* the intersection between tikanga Māori, te Reo Māori, religion and spirituality (four submitters);
* nationally significant religious holidays, such as Christmas and Easter (three submitters);
* one-off events with a religious component such as ANZAC day or bible recitals (three submitters);
* prayers and hymns during assemblies (three submitters);
* culturally responsive teaching of Māori, Pacific students, and other religious or cultural groups (two submitters);
* religious observances as part of religious instruction (two submitters);
* the national anthem (two submitters); and
* dress codes (one submitter).

Submitters noted that the recommendations in the guidelines may not be effective or practical when applied to religious observances. For example, when the national anthem or a hymn was sung during assembly, it was unlikely that an alternative assembly could be held. It was also noted that the administrative burden of gaining signed consent for children to attend these assemblies would be too high.

*There is a belief that not all cultures are being treated equally in practice, and contrasting opinions on whether this is a good thing or not*

Six submitters felt Christianity was being discriminated against in schools. They felt that Christian religious education was being regulated, but education about other cultures was supported (for example teaching about Matariki, Diwali, Chinese New Year and Halloween). These submitters recognised Māori karakia as being prayers and thus being religious observances.

Four submitters commented that we may wish to treat the teaching of tikanga Māori and te Reo Māori differently to uphold Te Tiriti o Waitangi. One submitter recommended working with Māori to find the best way to move forward. However, some submitters questioned whether there should be any difference in approach towards, for example, the Lord’s Prayer when sung in Te Reo Māori and when sung in English during an assembly.

*Student-led religious expression should be treated more flexibly*

Two submitters noted that students should be enabled to run student-led bible studies, or other religious or cultural clubs. This would reflect the importance of students socialising with others who hold similar beliefs, or having an opportunity to learn or deepen their own belief. However, it was emphasised that this needed to be age-appropriate, well regulated, well supported and enforced.

#### More guidance on the use of gifts or treats

Nine submitters commented that more guidance was needed around the use of gifts or treats (for example food, stickers, toys and accessories) as part of a religious instruction session. Five of these submitters commented that when gifts or treats were only given to children participating in religious instruction, it made children who were not participating feel like they were missing out. One example stated was the use of wrist-bands to distinguish between children who had consent to attend from those who did not. A second example was a school that had a healthy food policy, but allowed lollies during religious instruction. This was seen as increasing the social pressure or desire for children to attend religious instruction, despite parental wishes.

Six submitters recommended banning volunteers from using gifts or treats during their religious instruction sessions. One submitter also suggested prohibiting fundraising for religious groups on the school site.

#### Extending the guidelines to cover secondary schools and early childhood education services

Nine submitters commented on the importance of extending the guidelines to apply to secondary schools. One submitter commented that, as secondary schools are not enabled to close to allow religious instruction to take place, the guidelines should not be needed. However, if religious instruction is occurring in secondary schools the guidelines should apply. One submitter was particularly concerned about mandatory assemblies in secondary schools where bible readings were compulsory.

Three submitters commented on further extending the guidelines to apply to early childhood education services.

#### Requiring schools to recoup the costs of religious instruction from providers

Five submitters commented that more guidance was needed on how religious instruction could be funded. These submitters recognised that religious instruction must be given by volunteers, and thus did not have a staffing cost. However, other direct and indirect costs such as accommodation, electricity and printing of materials were paid by the school. Two submitters were concerned about the costs of time spent responding to religious instruction complaints. These submitters thought that school funds should be prohibited from being used for the direct and indirect costs of religious instruction. The use of school funds on religious instruction programmes was seen as one way that children who did not participate missed out. One submitter also identified a concern of increasing financial burden from legal cases where a school is alleged to be discriminating against children on their religious belief.

Instead, they believed it needed to be made clear that the religious instruction provider should pay for all costs associated with religious instruction. Alternatively, it was suggested that parents or caregivers who wished for their child to participate in religious instruction could be charged for the costs of religious instruction.

**Requiring safety checks to be completed on volunteers as part of a school’s child protection policy**

Two submitters commented that safety checks should be required to be completed on volunteers either as part of a school’s child protection policy, or within the Vulnerable Children Act 2014. These submitters believed compliance with safety checking should be part of a school’s Education Review Office review.

**Improving the monitoring and enforcement of religious instruction**

Fifteen submitters commented that the current pathways to receive support or resolve disputes about religious instruction are not good enough. These submitters commented on the circular referral system between the Ministry of Education, the Human Rights Commission and the school’s board.

These submitters were concerned about the lack of Ministry of Education intervention, even when the conditions set out by law are being broken. These submitters commented that the reasons given for the lack of action are that the school is closed while religious instruction takes place and boards are independent Crown entities. One submitter commented about the general failure of the Ministry of Education to monitor or enforce any guidelines or legislative obligations and was sceptical about the impact of the guidelines as a result.

Four submitters also raised concerns about the time and costs associated with bringing proceedings under the Human Rights Review Tribunal or the High Court, leading to parents changing the school the child is enrolled at or continuing to face segregation and upset at the same school.

Submitters commented about the following monitoring and evaluation functions not being done, or done effectively:

* the evaluation and approval of religious instruction materials based on assessment criteria (seven submitters);
* the evaluation of the impact of religious instruction on wellbeing and educational achievement at schools (one submitter);
* the maintenance of a single complaints register for religion in schools (one submitter);
* guidance and support for boards who are considering allowing religious instruction (one submitter);
* guidance and support for parents and whānau who have concerns about religious instruction (one submitter); and
* listing schools who allowed religious instruction (one submitter).

## Perspectives on changing the laws regulating religious instruction and observances

### Submissions made in support of legislative change to ban religious instruction or increase the regulation of religion in schools

Fifty-five submitters supported the banning of religious instruction in schools. One submitter supported banning both religious instruction and observances. Four submitters supported a review of the legal provisions to ensure they are fit for purpose and will enable school boards to uphold the rights of their students, and their parents and whānau. Two submitters commented that this may make the guidelines irrelevant.

**Many submissions seeking to ban religious instruction still supported religious education**

Twenty-nine submitters who supported the banning of religious instruction in schools also supported continuing religious education. These submitters saw religious education as providing equitable opportunities to engage with various belief systems. They stated that it is important for children to understand all religions in an inclusive and globalised world. However, religious education needed to be balanced with competing curriculum demands in the time available.

Eleven submitters recognised that there was a level of overlap between history, culture and religion. They commented that schools needed more support and resources about how to teach religious education safely, effectively and without bias. Four submitters considered that religious education being taught by registered teachers with practising certificates was a strength. However, one submitter questioned whether this was enough as these teachers still have their own values and biases.

Two submitters questioned whether religious education still needed to be consulted on with communities and whether opt out provisions should be maintained.

**Reasons given in support of banning religious instruction or increasing the regulation of religion in schools**

*Religious instruction is divisive and discriminatory in a secular society.*

Eighteen submitters commented on the importance of a separation between church and state and a belief in a secular education system. Ten submitters commented that our current legal framework is not fit for purpose in a multicultural society. Three submitters were concerned about the public perception that the school and state endorses religion by authorising religious instruction in law. Two submitters believe that boards acting as independent Crown entities should not have the ability to choose whether or what religion is instructed.

Sixteen submitters stated that religious instruction was discriminatory and inconsistent with the Human Rights Act. They believed this inconsistency would not be able to be addressed through the guidelines. This discrimination was seen as occurring whether or not the religious instruction was done with consent. These submitters commented about their belief in religious freedom and freedom from religion.

However, four submitters commented that religious instruction was done inclusively because it does not define Christianity as the only religious practice. Instead it is educating children about what Christians believe. They also submitted that children who do not participate are not discriminated against as religious instruction is a choice. They noted other programmes run in similar, opt-out ways.

Twenty-four submitters identified that religious instruction caused segregation of children who could participate and who could not participate. Seventeen submitters referenced the experiences of their children who felt excluded, self-conscious and different or were bullied as a result of not participating in religious instruction. One submitter noted children do not understand why they are being separated. In six instances this led to parents choosing from undesirable options. These options included subjecting their child to religious indoctrination; denying their child what the child believed would be a fun activity with their friends; or choosing another school to enrol their child in.

Eleven submitters talked about the divisive impacts of religious instruction on communities. Five submitters commented about their own experiences being socially pressured to conform and permit their child to attend religious instruction. They commented that teachers and families may explain why some children may not participate in religious instruction in ways that reflected negatively on the non-participating children and their families. This was seen as heightening tensions and bullying behaviours. Five submitters also commented on the impact on their privacy as they felt religion should be a personal issue and were forced to share their views with the school community through withdrawing their children from religious instruction.

Nine submitters commented that New Zealand’s society is becoming increasingly non-religious or religiously diverse. These submitters were concerned that minority cultural or religious groups would be more vulnerable to the negative impacts of religious instruction. They believed that Christian religious instruction was the most dominant and reflected a white colonialist world view. This was linked to minorities perceiving that state education was biased against their faith and marginalised them.

*There is no need for religion in state schools because there are other options for children to be introduced to religion*

Seventeen submitters commented that there was no need for religious instruction in state schools because families could determine and foster their own beliefs. They commented that there are options provided by religious groups outside of schools. Parents also have the choice to send their child to religious private or state-integrated schools if they wish for their child to receive a religious education. In contrast they believed it was hard for non-religious families to find secular schools that did not allow religious instruction. In some instances, parents and whānau did not find out about the religious instruction until after they had enrolled and the child was settled.

*Children do not have the skills to consider religious instruction critically*

Eleven submitters commented that religious instruction is the indoctrination and brainwashing of children by religious groups. Two submitters viewed this as child abuse and criminal. Five submitters commented that children did not have the critical analysis skills necessary to process religious instruction. Five submitters commented that religious instruction would also harm the further development of vital critical analysis skills. These submitters believed that children should be allowed to stay children and develop their own thoughts and opinions without bias

Sixteen submitters were concerned that religious instruction was based in faith, not fact. Two submitters commented that religion was a barrier to scientific progress. This was seen as counter intuitive to the purpose of the education system. Seven submitters commented that time currently spent on religious instruction would be better spent teaching the New Zealand Curriculum.

**Suggested operational law changes**

*Changing the law to explicitly make religious instruction opt-in*

Eleven submitters stated that the minimum law change necessary was to require religious instruction to be opt-in. However, three of these submitters stated this change would be insufficient as indirect pressure to attend would still exist. They referenced a document drafted by Jan Breakwell, the Ministry of Education’s Chief Legal Advisor which stated:

It is intended to retain these provisions [religious instruction clauses] in their current form in the 1964 Act, however there is a possibility that the provisions will be subject to challenge under the HRA. It can be argued that the provisions authorise indirect discrimination on the grounds of both religious belief and ethical belief, in that, should a board elect to have religious instruction, students who do not hold any religious views or who have religious beliefs that are different from those being instructed, must either attend instruction which is against their beliefs or must absent themselves from such instruction.

*Religious instruction outside of school hours*

Seventeen submitters supported a law change to require that religious instruction only take place outside of opening hours (i.e. removing the board’s authority to close to allow religious instruction to take place). Three submitters stated that this should include religious instruction during lunch times as an option. Submitters were concerned that the lack of distinction between school time and religious instruction time was confusing. Submitters believed religious instruction could easily be made extracurricular.

One submitter stated that if religious instruction was to continue to be allowed during regular school hours, a secular alternative for non-participating children should be a requirement.

*Clarifying that only volunteers who are not school staff may lead religious instruction*

Two submitters believed that the law allowed religious instruction to be led by teachers, and that teachers were leading religious instruction in practice. One of these submitters commented that it would be helpful to clarify the law around volunteers leading religious instruction.

*Defining religious instruction and religious observances within the legislative framework*

One submitter suggested defining religious instruction and religious observances within the legislative framework to make it clearer to the public what each term meant.

*Banning the bible from classrooms and prohibiting the distribution of religious materials in schools*

Three submitters wanted bibles and other religious materials to be prohibited from school sites outside of religious instruction time.

### Submissions made on changing how religious observances in schools are regulated

Some submitters recognised that there is an overlap between teaching about different cultures, culturally responsive teaching methods and religious observances. Two submitters commented that the legal framework did not enable this to happen. They suggested more flexibility may be needed around religious observances.

One submitter suggested introducing a law that gave students from minority religions the right to days off for their religious holidays, which are not recognised as public holidays in New Zealand.

### Submissions made in support of maintaining the existing provisions for religious instruction, or increasing the place of religion in schools

Twenty-three submitters supported the continued ability of boards to choose whether or not to close to allow religious instruction under certain conditions. One submitter believed that there should be more religion in schools. These submitters believed religion was important, valid and necessary.

**Reasons given in support of maintaining the status quo**

*Christian religious instruction is fundamental to New Zealand’s history and a well-functioning society*

Sixteen submitters commented that religious instruction helps children to develop values and morals. They believe these values and morals give children the tools to cope with the pressures of life and support the values of schools. Three submitters commented that religious instruction improves social skills and reduces bullying behaviours in children. This was seen as complementing and adding value to the New Zealand Curriculum.

However, eight submitters commented that morality and religion are separate. They stated that the New Zealand Curriculum teaches values, and religious instruction undermines this. Two submitters suggested that if the New Zealand Curriculum was insufficient at teaching values, a secular values programme could be created. Three submitters suggested it would not be wise to learn values from religion because of the association between religion and violence throughout history. This included the use of the bible as a weapon during colonisation. One submitter stated secular societies are more peaceful.

Ten of these submitters linked the bible to the development of values and morals and building good citizens and a strong society. They were concerned that the loss of Christianity from our communities has resulted in increased crime and social harm. One submitter commented on what they considered to be benefits to Māori resulting from the adoption of Christian values from missionaries during colonisation; in particular, the abolition of slavery, cannibalism and utu through the promotion of Christian love and respect.

One submitter linked the loss of Christianity with the increase in diversity from migrants and refugees. Two submitters commented that religious instruction can introduce migrants and refugees to the New Zealand way of life, including Christian ethics. These submitters viewed minorities as having an interest in what Christians believe.

Ten submitters commented that Christianity is a fundamental part of New Zealand’s culture and history. They specifically referenced our legal and education systems, New Zealand’s National Holidays, the National Anthems, place names and values. These submitters commented that it was important for New Zealanders to understand their roots. One submitter compared a New Zealander’s exposure to and understanding of Christianity with Māori testimonies of the benefits from learning about te Ao Māori.

*Religious instruction provides an opportunity for children to be exposed to new things and develop spiritual wellbeing*

Eight submitters commented that children would not get the experience of knowing God without religious instruction. They viewed religious instruction as an opportunity for children to be exposed to new things in a safe, non-denominational and fun way. This was seen by two submitters as being more important because we live in a secular society. They also believed having religious instruction available gave children a choice. Two submitters emphasised the enthusiastic participation of children in religious instruction sessions.

Two submitters commented that allowing religious instruction was a fair and balanced approach to education. One submitter commented that the only alternative to creationism is evolution, which they considered to be a potentially dangerous theory. They used the example that Hitler believed in evolution to demonstrate this.

Six submitters commented on the benefit of developing spirituality or faith on mental and emotional health. They emphasised the importance of having something to believe in. Five submitters commented about the value that developing an understanding of Christianity had brought to their life.

*Religious instruction is an important part of religious expression*

Three submitters emphasised that sharing the word of God is part of religious expression. They noted that it is important that we uphold the right to freedom of religious expression. This importance was emphasised by New Zealand’s large Christian demographic. Submitters noted it would be difficult to remove religious instruction and observance without impacting the rights of those who wish to undertake religious instruction and observance. One submitter stated evangelism should be allowed in schools in line with the Universal Declaration of Human Rights, articles 18 and 19. Challenges were also identified in removing religious instruction and observances because of the way spirituality is entwined in every aspect of society and human existence.

While three of these submitters identified that all religions should be treated equally when it comes to the opportunity for their religion to be the focus of religious instruction, they considered that Christianity would be the most valuable.

However, seven submitters commented that Christianity was favoured in religious instruction. They questioned whether minority religions would have the resources required to provide religious instruction. They also believed it was likely there would be backlash if the only religion that was being instructed was Judaism or Islam.

1. Some submitters made comments on requiring school staff to supervise religious instruction volunteers while they are on site as a safety issue (recommendation seven: ensuring safety checks have been completed for volunteers). All thematic feedback has been compiled here. [↑](#footnote-ref-1)