Proactive release

Minister & portfolio
Hon Chris Hipkins, Minister of Education

Name of package
Publishing finalised guidelines on religious instruction

Date considered
6 May 2019

These documents have been proactively released:

Cabinet Paper: Publishing finalised guidelines on religious instruction
Date considered: 1 May 2019, Social Wellbeing Committee
Author: Ministry of Education

Summary of submissions – Draft guidelines on religious instruction in State primary and intermediate schools
Date considered: 1 May 2019, Social Wellbeing Committee
Author: Ministry of Education
Document already publicly available.

Guidelines on religious instruction in state primary schools, intermediate schools and ngā kura
Date considered: 1 May 2019, Social Wellbeing Committee
Author: Ministry of Education
Document already publicly available.

Cabinet Social Wellbeing Committee Minute – SWC-19-MIN-0042
Date considered: 1 May 2019
Author: Cabinet Office

Cabinet Minute – CAB-19-MIN-0203
Date considered: 6 May 2019
Author: Cabinet Office

Material redacted
Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister’s portfolio responsibilities, and is not relevant to the proactive release of this material.
In confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

Publishing finalised guidelines on religious instruction

Proposal

1 This paper informs Cabinet of my intention to publish:

1.1. finalised guidelines on religious instruction in State primary schools, intermediate schools, me ngā kura; and

1.2. a submissions summary of the consultation on the draft guidelines.

Background

2 The legal framework that regulates whether, and how religion can be taught in schools is hard to navigate. It is important that boards of trustees (boards), students, and their families and whānau can understand their rights and obligations. That is why we developed guidelines on religious instruction in State primary schools, intermediate schools, me ngā kura (the guidelines).

3 The guidelines are not designed to limit a board’s choice as to whether it decides to close its school to allow religious instruction to take place. Instead, they provide boards who choose to close their school to allow religious instruction with advice on how they can do so while protecting the rights of their diverse students, and their parents, caregivers, family and whānau.

4 In September 2018, the Social Wellbeing Committee agreed to consult on the draft guidelines (CAB-18-MIN-0449 refers). The consultation period ran for 10 weeks from 24 September to 7 December 2018. The Ministry of Education has completed this public consultation and made changes to the guidelines to reflect the feedback received.

Summary of consultation

Consultation process

5 The Ministry of Education led an online consultation process. A total of 100 submissions were received. A summary of submissions is attached at Appendix 1.

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

6 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.
7 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

8 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.

9 Some submitters recognised that a complete removal of religious instruction from schools may not be politically feasible. Themes from submission showed that, at minimum, law changes should include:

9.1 making religious instruction “opt-in”;

9.2 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);

9.3 making the guidelines mandatory; extending the requirement that teaching be secular to secondary schools; and

9.4 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

10 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.

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

12 They also disliked the recommendation that religious instruction occur when a school was normally closed for teaching because 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.

Submitters suggested a number of ways that the draft guidelines could be improved

13 The guidelines have been updated to respond to feedback and are attached as appendix two. The Ministry has:

13.1 simplified the text in the introduction section to make it more accessible to readers (page 3-4);
13.2 specified that the guidelines include one-off religious instruction at a school camp (page 4);

13.3 added an expectation that no treats should be offered as part of a religious instruction programme (page 11);

13.4 better aligned “safety checks on volunteers” with other Children’s Act 2014 guidance, and clarified the recommendation for staff-member supervision (pages 13-14);

13.5 amended case studies to better reflect best practice, add detail and include options where the board decides against religious instruction (pages 7-15);

13.6 shifted the more detailed information on the legislative framework to the back of the guidelines (pages 17-18);

13.7 added to the Education Act 1964 legislative framework by including (page 17):

   13.7.1 the objectives of the board in governing the school; and
   13.7.2 the half-day opening requirements;

13.8 added a section on escalating complaints (page 18); and

13.9 changed the word “offer” to the word “allow” to reflect that the board does not provide religious instruction itself (throughout document)

*Given the scope of the guidelines, not all feedback could be incorporated*

14 The guidelines are not designed to limit a board’s choice as to whether it decides to close its school to allow religious instruction to take place. Instead they provide boards with guidance to interpret the current legal framework. Where submission feedback would require legislative change to be enforceable, or would increase the resourcing needed, it was not incorporated. Examples of this include:

   14.1 establishing Ministry of Education or Education Review Office oversight for programmes that are not part of the New Zealand Curriculum and delivered while the school is closed;
   14.2 mandating religious education instead of religious instruction; and
   14.3 requiring the religious instruction provider to pay all direct and indirect costs associated with religious instruction taking place.

15 The Ministry has not incorporated other identified omissions considered to be outside of the scope of the guidelines. These include guidance on religious observances and other elements of religious expression in schools.

16 A number of submitters also suggested a “toolkit” that would include templates for consent forms and key information that should be provided to parents. They also sought further supporting materials for boards including advice on what good consultation should look like, ethical or values-based conflicts of interest, and principles for making good decisions.

17 The Ministry does not plan to develop a toolkit at this time. The guidelines will be the first resource published by the Ministry to support boards while they are deciding whether, and how, to allow religious instruction. The Ministry wants to wait and see how effective the guidelines are before it determines whether further support is needed.
Consultation

18 The following departments were consulted on this paper: the Treasury, Ministry of Health, Te Punī Kōkiri, the Ministry for Pacific Peoples, Ministry of Justice, Ministry for Women, Education Review Office, Oranga Tamariki, Ministry of Social Development, and the State Services Commission.

19 The Department of Prime Minister and Cabinet was informed.

Financial Implications

20 There are no financial implications from the proposals in this paper.

Legislative Implications

21 Publishing the guidelines will not have any legislative implications.

Impact Analysis

22 The Impact Analysis requirements do not apply. Regulatory Impact Assessment has not been prepared.

Human Rights

23 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. I anticipate that the publishing of guidelines will support boards to uphold the rights of diverse students, and their parents, caregivers, families and whānau.

Gender Implications

24 This paper has no direct gender implications.

Disability Perspective

25 This paper has no direct disability implications.

Publicity

26 The Ministry of Education will lead the publicity for the guidelines. This will include:
   26.1 a press release;
   26.2 publishing the guidelines on education.govt.nz (including a summary version); and
   26.3 communicating the publication with schools through the Ministry Bulletin for School Leaders.

Proactive Release

27 This paper should be proactively released within 30 business days. Material will be withheld where appropriate under the Official Information Act 1982.
Recommendations

28 The Minister for Education recommends that the Committee:

1 note that the majority of submissions supported the draft guidelines on religious instruction in State primary schools, intermediate schools, me ō kura;

2 note that changes have been made to the draft guidelines in line with feedback from consultation;

3 note that the guidelines on religious instruction in State primary schools, intermediate schools, me ō kura will be published on the Ministry of Education’s website;

4 note that the summary of submissions from consultation on the draft guidelines will be published on the Ministry of Education’s website.

Authorised for lodgement
Hon Chris Hipkins
Minister for Education
Cabinet Social Wellbeing 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.

Publishing Finalised Guidelines on Religious Instruction

Portfolio Education

On 1 May 2019, the Cabinet Social Wellbeing Committee (SWC):

1. noted that in September 2018, SWC noted that the Minister of Education intended to consult on draft guidelines on religious instruction in state primary and intermediate schools [SWC-18-MIN-0123];

2. noted that the majority of submissions supported the draft guidelines on religious instruction in State primary schools, intermediate schools, me ngā kura;

3. noted that changes have been made to the draft guidelines in line with feedback from consultation;

4. noted that the guidelines on religious instruction in State primary schools, intermediate schools, me ngā kura will be published on the Ministry of Education’s website;

5. noted that the summary of submissions from consultation on the draft guidelines will be published on the Ministry of Education’s website.

Gerrard Carter
Committee Secretary

Hard-copy distribution: (see over)
Present:
Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Phil Twyford
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Dr David Clark
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Jenny Salesa
Hon Tracey Martin
Hon Aupito William Sio
Hon Julie Anne Genter

Hard-copy distribution:
Minister of Education

Officials present from:
Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

On 6 May 2019, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 3 May 2019:

- [Redacted]
- [Redacted]
- [Redacted]

SWC-19-MIN-0042  Publishing Finalised Guidelines on Religious Instruction
Portfolio: Education

CONFIRMED

Redactions made as content outside of scope of Minister’s portfolio responsibility
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Michael Webster
Secretary of the Cabinet

**Hard-copy distribution:**
Cabinet Social Wellbeing Committee