

**Draft for information**

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## **Education (School Boards) Regulations 2020**

Governor-General

### **Order in Council**

At Wellington this                      day of                      2020

Present:  
in Council

These regulations are made under section 601 of the Education and Training Act 2019 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

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

### 2 Commencement

These regulations come into force on [date].

### 3 Interpretation

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

**Act** means the Education and Training Act 2019

**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.

#### *Name of boards*

### 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

#### *Powers of boards*

### 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) Despite section 518 of the Act, 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, despite section 518 of the Act, 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; or
  - (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 22 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)

### *Procedure*

#### **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 cl 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; and
  - (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, 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

Clerk of the Executive Council.

### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on [date], are made under the Education and Training Act 2019 and deal with matters relating to the name, powers, and procedure of school boards under the Act.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.