



NEW ZEALAND COUNCIL OF TRADE UNIONS  
*Te Kauae Kaimahi*

**Submission of the  
New Zealand Council of Trade Unions  
Te Kauae Kaimahi**

**to the**

**Education and Science Select Committee**

**on the**

**Education (Update) Amendment Bill 2016**

**P O Box 6645**

**Wellington**

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### 1. Summary of recommendations

- 1.1. **Note** that a number of the Bill's provisions are piecemeal responses to the inefficiencies and inequities of the Tomorrow's Schools' model of stand-alone schools. Tomorrow's Schools' reforms have been in place for 27 years. A comprehensive, integrated, research-based review of their impact and operation, in consultation with sector groups, is needed. This should be completed prior to any legislative change.
- 1.2. **Amend** Clause 4, new Part 1AA, to provide that before issuing or amending National Education and Learning Priorities, the Minister must consult with education sector stakeholders including, but not limited to, national representatives of teachers, principals and boards of trustees in both the early childhood and compulsory education sector.
- 1.3. **Remove** Clause 10 and new sections 5A-5C on cohort entry policy
- 1.4. **Retain** Clause 14-17, new section 11IA on enrolment schemes policy.
- 1.5. **Remove** Clause 38, new Part 3A and new sections 35T-35Z so that comprehensive consultation and further risk analysis and research can be carried out on Communities of Online Learning prior to any legislative change.
- 1.6. **Amend** Clause 90 allowing boards to combine and split, to provide that boards receive additional overarching support from the Ministry of Education during the process, as needed.

- 1.7. **Remove** Clause 122, section 159F, transferring the functions of Careers New Zealand to the Tertiary Education Commission.
- 1.8. **Retain** Clause 140 new section 410AA, establishing a new specialist body within the Education Council to consider competency issues in the teaching profession
- 1.9. **Remove** Clause 140, new section 410AA (3) requiring the inclusion of a ministerial appointee to the Competence Authority.
- 1.10. **Retain** Clause 140, new section 410A(4) requiring that the majority of Competence Authority members and those on every panel must hold practising teaching certificates.
- 1.11. **Amend** Clause 140, new section 410AA (4) to provide that registered teachers who may have recently retired from holding a practising certificate should also be eligible to sit on the Authority

## **2. Introduction**

- 2.1 This submission is made on behalf of the 31 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 320,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 2.2 The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 2.3 We welcome the opportunity to make a submission on the Education (Update) Amendment Bill (the Bill). The CTU supports the submissions made by our affiliates, the the New Zealand Educational Institute (NZEI) and the Post Primary Teachers' Association (PPTA). Both the NZEI and the PPTA have engaged with their membership and through their structures to respond on the detailed, technical and professional aspects of the Bill.
- 2.4 All CTU affiliated unions have a strong interest in education. Education directly affects the lives of union members, families/whanau, their friends and their communities. Union submissions are informed by the views of people who have extensive experience and knowledge of the education system and its workforce.

- 2.5 The CTU has a wider interest in the delivery of education and the education system. We believe that a free, quality public education system provides the most equitable and effective model of education for all. Education is a public good and a basic right that brings benefits to both the wider society and the economy. It is the fundamental basis of a sustainable and democratic society.
- 2.6 Our wider interest in education recognises the significant influence of other social policy areas on student outcomes. These include adequate income, a reduction in child poverty, decent housing and accessible health services.
- 2.7 This submission makes a general comment on the Bill and the process of its development. It then focuses on specific aspects including: National Education and Learning Priorities (NELP); cohort entry policy; enrolment schemes; Communities of Online Learning (COOL); combining and splitting boards, Careers New Zealand; and the Competence Authority.

### **3 General Comment**

- 3.1 The Tomorrow's Schools' reforms have been in place for 27 years and a comprehensive, integrated, research-based review of their impact and operation, in consultation with sector groups, is well overdue. We would see this as encompassing: further policy options to support and encourage collaboration across the self-managing schools' model; coordination at both the local and regional level; and collaboration and support around the provision of professional learning and development, services and advice. This should be completed prior to any legislative change.

### **4 Process**

- 4.1 Our submission on proposals to change the Education Act 1989 expressed concerns about the highly unsatisfactory consultation process.<sup>1</sup> Those concerns have been exacerbated by the significant and unannounced inclusion of COOL directly into the Bill. Apart from some discussion with Te Aho o Te Kura Pounamu (Te Kura) to our knowledge, there has been no consultation regarding COOL.

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<sup>1</sup> CTU (December 2015) *Updating the Education Act 1989*.

- 4.2 Background information related to the development of the policy has been both belated and sparse. The Regulatory Impact Statement (RIS)<sup>2</sup> for example, was released in August and Treasury comment only recently obtained through an Official Information Act request.<sup>3</sup> Other provisions, for example those around the roles and responsibilities of schools and kura, have also been introduced into the Bill with inadequate consultation.
- 4.3 Parts of the Bill require further research, analysis and development together with full, meaningful consultation with the education sector prior to any legislative change. Examples include provisions around cohort entry policy, the establishment of COOL and aspects of the expansion of communities of learning. The broad brushed nature of parts of the Bill indicate a rushed process, when there appears to be no good reason for haste in including such significant change into legislation.

## **5 National Education and Learning Priorities (Part 1: Clause 4, inserts new Part 1AA, new section 1A)**

- 5.1 We expressed concerns regarding the setting of NELP in our submission on changes to the Education Act 1989.<sup>4</sup> We stressed that an emphasis on narrowly defined targets and micro-management at the national level may not improve the overall performance of the education system.
- 5.2 We noted the disastrous and perverse results of an overly narrow focus on meeting national access targets and achieving financial balance in the health sector in England. Those targets were given priority at the expense of the quality and safety of care.<sup>5</sup> Similarly, we would want to avoid the application of the target driven 'Better Public Services' approach that is current government policy, believing that it could narrow teaching and learning.
- 5.3 Before issuing the NELP, the Bill requires the Minister to consult with those stakeholders in the early childhood and compulsory education sectors that he or she considers ought to be consulted. We believe that which stakeholders are to be consulted should not be at the discretion of the Minister.

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<sup>2</sup> Ministry of Education (2016) *Regulatory Impact Statement: Establishing a Regulatory Framework for Online Learning*.

<sup>3</sup> The Treasury (26 September, 2016) documents released under the Official Information Act including: emails 13-22 April, 2016; Draft summary of evidence, 2 June 2016; Treasury report, 15 June, 2016.

<sup>4</sup> CTU (December 2015)

<sup>5</sup> New Zealand Treasury (2014) *Report to the Incoming Minister of Health*, 2014.

5.4 If concerns around the setting of overly narrow targets are to be addressed, the NELP must be supported by, and acceptable to, participants in the system. Before issuing or amending NELP, the Minister must consult with education sector stakeholders including, but not limited to, national representatives of teachers, principals and boards of trustees in both the early childhood and compulsory education sector.

**6 Cohort Entry Policy (Part 1, Clause 10, amends section 5 and inserts new sections 5A to 5C)**

6.1 The CTU does not support allowing schools to adopt or revoke a cohort entry policy. We support the view of our affiliated unions that there is no evidence that this would improve the transition experience for children. The policy appears to be based on addressing the “..risk of increased government expenditure under current arrangements..”<sup>6</sup> rather than on the best interests of the child. In the absence of conclusive evidence in support of the policy it should be withdrawn from the Bill.

**7 Enrolment Schemes (Part 1, clauses 14-17, inserts new section 11IA and amends sections 11J, 11K and 11M)**

7.1 We support the strengthening of the Act’s provisions around enrolment schemes. This is an area where competition and the market approach to education provision has not worked and intervention to improve equity and stability is needed. We look forward to the time when parents will recognise all New Zealand State schools as being of high quality, so that enrolment schemes are not an issue, as is the case in countries such as Finland.

**8 Communities of Online Learning (Part 1, Clause 38, inserts new Part 3A and new sections 35T-35Z)**

8.1 We recognise both the current and the potential benefits of online learning and support the expanded use of digital technology in the teaching and learning context. As noted earlier in this submission, however, we are concerned that a significant new model of online provision is being introduced into legislation without notice and with little or no consultation with the education sector. Our concerns include:

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<sup>6</sup> Ministry of Education (2016) *Regulatory Impact Statement, Changes to enable schools to implement cohort entry arrangements for children first starting school.*

- 8.2 *Research to support open access full-time online learning is inconclusive to say the least:* The Treasury notes that student outcomes in open-access full-time online learning are variable. There is significant research, particularly in the USA, that calls for caution in introducing this model.<sup>7</sup> COOL have the potential for rapid expansion which makes it even more important to be confident that the model results in better learning outcomes for students, prior to any legislative change.
- 8.3 *The legislation is being introduced with too much haste:* Key policy proposals need further analysis and development. These include: the mechanisms and structures for accrediting, monitoring and evaluating COOL; criteria for access; the relationships between COOL and COL; the pedagogy required for online teaching and the provision of relevant professional development and training; the identification of the technology and resourcing required; and the risks related to the employment of unregistered teachers.
- 8.4 *Open access full-time online learning and blended online learning are largely treated as similar when there are significant differences in their provision:* The former requires robust processes for management and restricted entry for school-age children to be developed, if it is to be appropriate and effective. The latter, provides the benefits of face-to-face teaching and established school-based processes to support students.
- 8.5 *We strongly oppose the establishment of a new set of publicly-funded private education providers:* This can only undermine the public system, which would benefit from the additional resourcing. In particular, it would undermine the integrity and credibility of the current Correspondence School, Te Kura. Previous policies of opening education provision to competition and private providers have not been entirely successful. We refer in particular to the proliferation of private training establishments beginning in the 1990s. That market approach has too frequently resulted in duplication of provision and resources, issues around poor quality and the undermining of public education infrastructure and provision. Experiences and results have been similar in the early childhood education sector.
- 8.6 *There are equity issues related to charging fees:* The RIS emphasises the objective of increasing student choice in education provision and improving the quality of online learning through competition.<sup>8</sup> 'Choice' is less likely to be available to students from more disadvantaged backgrounds given the costs involved. In that respect COOL would

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<sup>7</sup> The Treasury (26 September 2016) documents released under the Official Information Act including: emails 13-22 April 2016; Draft summary of evidence 2 June 2016; Treasury report, 15 June 2016.

<sup>8</sup> Ministry of Education (August 2016) *Regulatory Impact Statement: Establishing a regulatory framework for online learning.*

introduce new inequities into our education system. The concepts of ‘choice’ and ‘competition’ applied to public services and to education in particular have been discredited in recent years and there is no conclusive evidence that they will be successful, or are necessary, in a COOL context.

8.7 *The establishment of COOL is contradictory to other provisions in the Bill:* On the one hand, there are tentative proposals that, to some extent, push back a number of Tomorrow’s Schools’ reforms. These include proposals around increasing collaboration and reducing competition such as the further development of COL, a range of provisions aimed at supporting boards and strengthening requirements around enrolment schemes. On the other hand, COOL would extend the Tomorrow’s Schools’ philosophy of competition and privatisation. The CTU believes that the latter provisions would undermine and work against the former.

8.8 *Our strong view is that all online education should be:*

- taught by New Zealand certificated teachers;
- fully funded by the government;
- based on the New Zealand Curriculum/Te Marautanga, and
- should ensure both the physical and emotional wellbeing of students.

## **9 Combining and Splitting Boards: (Clause 90, amends Section 110)**

9.1 The CTU supports the combining of boards that improve collaboration and reduce competition in the system. The proposed changes provide an additional ground on which the Minister may establish a combined board: that there are serious problems with governance of one or more schools or institutions and those problems could be addressed by the combined board.

9.2 Boards experiencing serious problems with governance should be provided with all necessary assistance. How this is to be provided and by whom is the issue. Some of our concerns around COL also apply here. We see some issues around expecting board members to address serious and complex governance issues across a number of schools, in addition to their current workload.

9.3 In the case of four or more schools combining, the Bill states that the Minister may require the combined board to have an alternative constitution. This is likely to

involve significant time and resources and can only detract from boards' other basic responsibilities. There is no reference to Ministry and/or School Trustee Association support or responsibility in the process.

- 9.4 The proposals continue policies that abdicate the State's responsibility for significant education services and support to the largely voluntary work of boards. We support combining boards, if this is accompanied by a commitment from the Ministry to providing additional overarching support during the process, as needed.

**10 Careers New Zealand: (Clause 122, section 159F amended: Functions of Commission; Clause 123, new sections 159FA to 159A) and (Part 4, Clause 5: Dissolution of Careers New Zealand)**

- 10.1 The list of new Tertiary Education Commission (TEC) functions in the Bill emphasises careers' services activity in the tertiary sector and the wider workforce. The CTU recognises that careers' information and services are important throughout a working life and support an increased focus on that area. This should not, however, be at the expense of school-based careers' services.
- 10.2 The need for career information and services begins well before students reach the tertiary sector. Those services are currently embedded in the school sector and it is important to maintain and improve that connection.
- 10.3 There is uncertainty and lack of clarity in the proposals for the future of careers' services in schools. We understand that initially all careers' services will transfer to the TEC and that over time resources will be moved from the TEC to the school sector. There appears to be no firm timetable for this process only that the Ministry will consult with the school sector how best to support provision in schools.
- 10.4 We believe that the consultation should take place before legislating for the change. That is accepted practice in any significant change involving a range of stakeholders. As with other proposals in this Bill, consultation has been unsatisfactory, belated or non-existent.
- 10.5 We are concerned that the transfer to the TEC will lead to a loss of the specialist skills, knowledge and experience of Careers New Zealand employees, both in the new TEC context and also in the schools' sector. We note that employees will receive offers of employment in equivalent positions in the TEC. This may provide

some continuity. The arrangement is subject to review, however, and likely restructuring after six months.

- 10.6 The CTU believes that the transfer of Careers New Zealand to the TEC should be put on hold until concerns around the future of careers' services in the school sector are addressed. We note and support the submission of our affiliate union the Public Service Association which deals with this aspect of the Bill in more detail.

## **11 Competence Authority (Clauses 140-143, inserts new sections 410A-412A)**

- 11.1 The CTU supports the establishment of a new, specialist body to consider competency issues in the teaching profession, particularly if this will lead to a speedy and efficient resolution of cases. We agree with the placement of the Competence Authority (the Authority) within the Education Council (the Council).

- 11.2 We do not support ministerial appointments to the Authority (410AA (3)). There is no reason to include political appointees to the Authority and open it to accusations of undue influence. The independence of the Authority and its professional focus must be maintained.

- 11.3 We support the provision that the majority of the Authority's members and members of every panel must hold practising teaching certificates (410AA(4)). We also support the view of our affiliates that registered teachers who may have recently retired from holding a practising certificate should also be eligible to sit on the Authority. Retaining the wisdom, experience and knowledge of longstanding members of the profession can only be of benefit to the work of the Authority.

## **12 Summary**

- 12.1 The Bill provides a number of positive changes in the education sector. Significant provisions have, however, been developed without adequate consultation with sector groups and a number require further risk analysis and research prior to any legislative change.