

Appendix 2: Discussion document: Proposed changes to the priority categories for school enrolment schemes

Have your say about whether we should amend the provisions in the Education and Training Act 2020 to change the priority categories for out of zone enrolments in state schools

Introduction

Many schools in New Zealand operate an enrolment scheme to manage capacity constraints. If a school with an enrolment scheme has capacity to enrol additional students from out-side their home zone, the school must offer those places to students using the balloting priority categories laid out in Schedule 20 of the Education and Training Act 2020.

In its July 2019 Report, *Our Schooling Futures: Stronger Together | Whiria Ngā Kura Tūātitini*, the Independent Taskforce for the Review of Tomorrow's Schools' (the Taskforce) noted concerns about barriers to accessing education, especially for Māori, Pacific peoples, children and young people with disabilities and/or learning support needs, and learners from disadvantaged backgrounds. As part of the Government's response to the Taskforce's Report, Cabinet agreed to review the current balloting priority categories to ensure they are fit for purpose (i.e. they are equitable, fair and transparent).

Our initial analysis did not find any strong evidence of problems with the current priority categories. However, while the priority categories are transparent, they could be amended to be fairer and more equitable.

We have identified two potential options for changing the priority categories (in addition to retaining the status quo) which are presented in this document for feedback. We would like to hear your views to better understand how the current categories are working, whether there are any issues that justify changing the categories through legislative amendments, and if so, the preferred priority categories.

In this document, we are considering possible future changes to the out-of-zone enrolment priority categories.

If there are any changes to the out-of-zone enrolment priority categories resulting from this consultation, these would not be introduced until 2022 at the earliest. This means that the current out-of-zone enrolment priority categories will continue to apply for students and schools for the time being.

Background

Many schools in New Zealand operate enrolment schemes. The purpose of an enrolment scheme is laid out in section 71 of the Education and Training Act 2020 (the Act) and is to:

- avoid overcrowding, or the likelihood of overcrowding;
- enable the Secretary for Education (the Secretary) to make the best use of existing networks of State schools; and
- ensure that the selection of applicants for enrolment at the school is carried out in a fair and transparent manner.

The Act requires that an enrolment scheme must, as far as possible, ensure that the scheme does not exclude local students and that no more students are excluded from the school than is necessary to avoid overcrowding at the school.

Where a school's capacity is greater than the number of enrolled in-zone students, the school can decide whether to offer those excess places to out-of-zone students. Clause 2 of Schedule 20 of the Act sets out how school boards must select applicants from outside the home-zone. This includes the order of priority in which applicants are offered places at the school (the priority categories). The current order of priority is:

- 1) students accepted into a special programme¹ run by the school;
- 2) siblings of current students;
- 3) siblings of former students;
- 4) children of former students;
- 5) children of board employees and board members;
- 6) all other students.

Each of the priority groups must be considered in order. If the number of applicants within a priority grouping is fewer than the total number of remaining available places, all applicants within the grouping must be offered enrolment. Otherwise a ballot is required. If out-of-zone spaces are still available, then consideration moves to the next priority until all available out-of-zone spaces are filled.

What is the problem?

In their July 2019 report, the Taskforce noted that there are systemic inequities in educational outcomes in New Zealand. A key theme of the Taskforce's findings was the need to place greater weight on equity at a system level. The Taskforce considered that improving equity of access to schooling has an important role to play in reducing these systemic inequities.

Enrolment schemes inherently limit access to schooling as they restrict guaranteed enrolment to a geographic zone around a school. The order of the priority groups heavily influences the chances that an out-of-zone student has to be offered a place at a school. To mitigate the risk of creating barriers to accessing education, the balloting categories must be fit for purpose. This means they should be transparent, fair and equitable.

We do not currently have strong evidence of a problem with the current balloting categories. We are seeking your feedback to better understand and quantify the extent to which there are concerns with the current order of the priority categories.

Question:

Do you agree with the problem definition outlined above? If not, why?

Objectives/criteria

Criteria

¹ Special programmes for the purpose of enrolment schemes are programmes that have been approved as special programmes by the Secretary for Education and offer special education, Māori language immersion classes, or any other type of specialised education to overcome educational disadvantage

Based on the Taskforce's concerns, and the legislated purposes of enrolment schemes, we have used the following principles to determine whether the current priority groups are fit for purpose:

- **Transparency:** the primary purpose of the priority groups and the ballot process is to ensure that the offer of places to out-of-zone students is carried out in a fair and transparent manner. Ministry guidance states that, to be considered transparent, a process must be freely available, unambiguous and consistently applied.
- **Fairness:** to be considered fit for purpose, the ordering of the priority groups must be perceived as fair and justified. Perceptions that the priority categories are unfairly advantaging certain groups would be seen as a failure to meet this principle by the broader community.
- **Equity:** some children and young people are underserved by the current education system. If the ordering of the priority categories perpetuates this disadvantage or creates additional barriers to access by reducing choice for these learners, then options for improving equity of access should be considered.

Objectives

The objective of any change to the status quo is to improve the overall balance of transparency, fairness, and equity of the enrolment of out-of-zone students. However, in meeting these objectives, any changes must have benefits that justify any potential downsides of their implementation.

Do the current priority groups meet these objectives?

Transparency

The current priority groupings are set out in legislation, which prescribes the manner that out-of-zone students are to be prioritised and offered enrolment. There are also mandatory instructions to schools that lay out the criteria for and details of balloting. Accordingly, we consider that legislatively the priority groups and ballot criteria are transparent in that they provide a clear hierarchy for selecting out-of-zone students and clear details of how to select students from within groups in that hierarchy.

This finding rests on the assumption that offers of enrolment and balloting are carried out in accordance with legislation and the guidelines and instructions available. It also assumes that the legislation, instructions, and priority groups and balloting practices are accessible and understandable to the public. We have not carried out an in-depth analysis of how balloting operates on the ground or its accessibility for different communities (such as people with disabilities), so would welcome views on the operation of balloting in practice.

Question:

What is your experience of balloting in practice? Are you aware of issues with it?

Fairness

Currently, children of board employees and children of board members are fifth priority in the priority groups. We are aware of concerns that this low priority results in teachers being unable

to enrol their children at the school where they work. This has the potential to influence where teachers choose to work.

We are unable to quantify the extent to which this is considered to be a problem with the current balloting categories. However, one option to address these fairness concerns would be to increase the priority of children of board employees and board members. This option is

Question:

Do you think that the priority groups are fair? If not, why? Please provide examples where relevant.

discussed in detail below.

Equity

The current priority groups place a high value on familial connection to a school, even if that connection was some time ago through a sibling who no longer attends the school or a parent who once attended the school. The priority groups also acknowledge students who would significantly benefit or be disadvantaged if they could not attend a certain school (such as children who would be separated from their siblings). These connections help build school community, which in turn supports wellbeing and quality learning for students.

While the priority groups have benefits for many whānau and schools, they also significantly reduce the likelihood of out-of-zone students without a current connection to a school being able to enrol. In practice, this means that access to many schools with an enrolment scheme is currently restricted to students and whanau who live within a school's home-zone or fall within the first few priority groups.

Additionally, we consider that there may be a risk that prioritising some family connections, especially links between former students and their children, could contribute to inequity, by removing opportunity for families without these connections from attending some schools.

Some students and whanau choose to apply for out-of-zone enrolment at a school other than their local school. When a decision is made to apply to enrol in a school from out-of-zone, the process for selecting these students for enrolment should be as equitable as possible, in keeping with the Taskforce's emphasis on increasing equity throughout the education system.

One option to address these concerns would be to reduce the number of priority groups. This could increase the number of available out-of-zone spaces.

Questions:

Q.1. Do you agree with our findings that the priority groups could be made more equitable? Please provide examples where relevant.

Q.2. Have you seen evidence of inequitable outcomes caused by the priority groups or balloting? If so, what are they?

Constraints on analysis

Our analysis to date has been constrained by the lack of data surrounding the use of balloting. While we have data on the number of in-zone and out-of-zone students enrolled at a school, we do not have information on the use of specific priority groups or the socioeconomic background of students enrolling under each category. This means we would value information on the real-world impacts of the options presented below.

Options and Analysis

The options below will not result in any change in access to schools that do not currently have capacity to accept out-of-zone enrolments or those schools that only have capacity to accept applicants for special programmes or siblings of current students.

The Ministry does not have a preferred option. We are seeking public feedback on the feasibility, impact, and effects of each option to inform further policy development, including whether any changes should be progressed.

Option one: Retain the status quo

This option retains the current priority groups in their current order. We currently have limited information on the operation of priority groups and balloting in practice. However, if the status quo is chosen, any existing issues or inequities in the current system will remain.

Question:

Do you want to retain the status quo? If so, why?

Option two: Increase the priority of children of board employees (teachers and other staff) and board members to priority three, lower the priority of siblings of former students, and remove the children of former students as a priority group

This option recognises the strength of the connection that board employees and board members have with their school and uses this as the basis for increasing their priority.

It addresses some of the concerns raised by the sector about teachers not being able to enrol their children in the school that they work at. Increasing the priority of children of board employees and board members should increase the number of students being accepted under this category, although, as with all other out-of-zone applicants, it would not guarantee them enrolment in a school.

There is a risk that schools that are already perceived as desirable places to work could be seen as even more attractive due to the increased likelihood of a teacher's children being enrolled there. This could lead to work force pressures such as teacher retention issues in other schools.

This option could exacerbate fairness concerns from other sectors of society as it only focusses on the fairness concerns of teachers. There are other groups who may have their own connections to a school but are not recognised in the current priority categories. Further prioritising the children of board employees and board members may be seen as unfair by these groups.

Lifting children of board members and board employees to priority three under this option would move siblings of former students to priority four (down from priority three).

We did not consider retaining the priority category for children of former students as this did not meet our policy objectives of improving equity of balloting.

This option removes the priority category for children of former students to try and improve the equity of balloting.

Questions:

Q.1. Do you agree with this option and want it progressed?

Q.2. Do you believe that children of board employees and children of board members should continue to be treated together as the same priority, or do you believe they should be prioritised separately?

Q.3. Do you agree that children of board employees (teachers and other staff) and children of board members should be given a higher priority?

Q.4. Do you agree that siblings and children of former students should be given a lower priority?

Option three: Retain current priority groups one and two, increase the priority of children of board members and employees to priority three, and hold an open ballot for all other applicants

This option would retain the current priority groups one and two (students accepted into a special programme run by the school and siblings of current students), increase the priority of children of board members and board employees to priority three, and then hold an open ballot for all other applicants.

This option aims to address the fairness concerns of teachers being unable to enrol their children in the school that they work at by increasing the priority of children of board members and board employees. This option is also intended to improve equity of access by opening more out-of-zone spaces to applicants without a pre-existing connection to a school (where a school has capacity).

Removing the priority for siblings of former students would be disruptive for some families (assuming the sibling did not receive a place via the wider ballot). We note that there are fewer cost savings for parents associated with siblings attending a school at different times, than if they attend together, such as transportation and after school care. However, this option still carries a risk of increased costs for families, as other cost saving measures (such as passing down uniforms) will no longer be available.

Question:

Do you agree with this option and want it progressed?

Options not considered

We have not considered options that would bypass balloting and guarantee enrolment for certain categories of students. We have also not considered options that would remove the underlying structure of enrolment schemes, and geographically based home-zones.

We also did not present an option that would have removed all priority categories aside from children accepted into special programmes and siblings of former students as the disruption caused outweighed potential equity benefits.

How to have your say

We are seeking your views on school enrolment scheme out-of-zone priority categories. You can email your submissions to legislation.consultation@education.govt.nz or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to enrolment priority categories.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

ANNEX 1: Options analysis table

	OPTION ONE Retain the status quo	OPTION TWO Increase the priority of children of board employees (teachers and other staff) and board members to priority three, lower the priority of siblings of former students, and remove the children of former students as a priority group	OPTION THREE Retain current priority groups one and two, increase the priority of children of board members and employees to priority three, and hold an open ballot for all other applicants
Benefits & advantages	<ul style="list-style-type: none"> • Recognises the policy reasons underlying the current priority groups: the underlying policy reasons for the current priority groups and their ordering (such as recognising the importance of keeping siblings together) would be retained. • Stability: continuation of status quo will not impact the current management of the schooling network and is unlikely to cause disruption for families and school communities. • Transparency: the current priority groups and balloting system is generally perceived as being transparent with a clear hierarchy mandated in legislation. This system may be perceived as being more transparent than having no criteria at all. 	<ul style="list-style-type: none"> • Increased likelihood of some parents being able to enrol their children at the school that they work at: this option increases the likelihood that children of board employees and board members will be able to enrol their children, from out-of-zone into the school where they are employed at/a member of the board. This partially addresses the concerns raised by the sector that it is unfair that many teachers are unable to enrol their children at the school where they work. 	<ul style="list-style-type: none"> • Increased likelihood of parents being able to enrol their children at the school that they work at and improved equity for families that lack a parental connection to a school: this option would increase the likelihood that children of board members and employees would be able to enrol at the school where their parents work.
Costs & disadvantages	<ul style="list-style-type: none"> • Continues the perceived inequities in the current system: this option retains the order of the current priority groups and would perpetuate any inequities that may exist. 	<ul style="list-style-type: none"> • Impact on schools with Old Boy/Girl cultures: this option removes the priority of siblings of former students and children of former students. Accordingly, schools may see a decrease in the number of students attending their schools whose parents also attend the school. This could affect schools which are known for their Old Boy/Girl cultures. • Decrease in priority for siblings of former students: this option will decrease the priority of siblings of former students and may lead to fewer of these students being enrolled in a school. 	<ul style="list-style-type: none"> • Impact on schools with Old Boy/Girl cultures: this option removes the priority of siblings of former students and children of former students. Accordingly, schools may see a decrease in the number of students attending their schools whose siblings or parents also attended the school. This could affect schools which are known for their Old Boy/Girl cultures. • Disregards some connections to schools: this option rejects consideration of the connection that children of former students have to a school as well the connection of siblings of former students. As noted above this may lead to some families experiencing additional costs.
Risks	<ul style="list-style-type: none"> • Perpetuation of unseen issues: unidentified issues related to the current system of balloting would be perpetuated. 	<ul style="list-style-type: none"> • Unfairness: while this option is designed to address the perceived unfairness by school staff and board members of the current system, it may contribute to additional perceptions of unfairness by others. Other members of the school and local community have their own connections to a school as well as their own legitimate reasons for wanting their children to attend a certain school. These groups may feel that it is unfair that the children of board employees and members are further prioritised. • Work force pressures: there is a risk that schools that are already perceived as desirable places to work could be seen as even more attractive due to the increased likelihood of a teacher's children being enrolled there. This could lead to work force pressures such as teacher retention issues in other schools. 	<ul style="list-style-type: none"> • Uncertain equity benefits: the Ministry does not hold any data on the use of specific out-of-zone enrolments, nor do we have any information as to the connection between the current groups and real world inequities. This option is designed to address the potential for the current priority groups to perpetuate inter-generational inequality. However, the real-world equity benefits from this change cannot currently be predicted. • Less structure allows more opportunity for misuse: increasing the number of enrolments that occur through an open ballot increases the number of students who are enrolled through a strict identifiable criteria. If proper safeguards are not adhered to in the operation of balloting, bad faith actors could offer enrolment to students in contravention of the process.
Magnitude of impact	<ul style="list-style-type: none"> • Impact on schools and students: this option retains the current status quo. Schools and students will likely continue to act as they do now. 	<ul style="list-style-type: none"> • Will not guarantee enrolment of children of board members or board employees: this option rearranges the current priority groups for selecting out-of-zone enrolments. It does not create additional spaces or guarantee children of board members and employee's enrolment. As noted earlier many high demand schools do not take in out-of-zone students. • Impact on equity: this option re-orders the current ballot priority categories and is not explicitly designed to improve the equity of the education system. 	<ul style="list-style-type: none"> • Will not guarantee enrolment of disadvantaged students or children of board employees or board employees: this option will only address how out-of-zone spaces are allocated - it will not guarantee enrolment for out-of-zone students. Many highly sought-after schools take in an extremely limited number of out-of-zone students, and these changes will not necessarily impact these schools. • Impact on equity: the Ministry does not hold data on the use of specific priority categories, or the correlation between the current groups and inequity in New Zealand. This change is intended to address inequity in the priority groupings, but the real-world equity impacts cannot be predicted at this stage