

Appendix 1: Discussion document: Proposed changes to school board elections

More Choices, More Voices: Rethinking school board elections

Introduction

Kura/school boards play an important role in the educational achievement and wellbeing of ākonga/learners. Parents, staff and students in years 9 and above, elect representatives to their kura/school board. At the moment, school board elections mostly have to use the postal system and paper forms. But we know that the current process doesn't work well for everyone:

- Voter turnout is variable across schools.
- The current processes have contributed to the underrepresentation of many communities, including Māori and Pacific communities.
- Some students feel like they don't have enough of a say in school board decisions.

Last year we made some minor changes to the Education (Board Elections) Regulations 2000 to improve the workability of the framework in time for the December 2020 midterm elections.

Since then, we have reviewed the more fundamental aspects of the legislative framework for school board elections. This discussion document seeks your feedback on proposed changes.

Summary of suggested changes

Key suggested change

1. We are considering enabling schools to choose whether to **run their elections electronically, through hui or through the current process.**

Other suggested changes

2. Requiring **schools to consult students (years 9 and above), staff and their school communities** on election processes.
3. Updating the **criteria for co-opting and appointing board members** so that they are more inclusive and better reflect te Tiriti o Waitangi.
4. Strengthening **student voice** by requiring boards, after a failed election to fill a casual vacancy for a student representative, to either select a student representative or establish a different method for students to have a say in school board decisions.
5. Clarifying **casual vacancy** procedures.
6. Making **amendments to election timetables** to increase flexibility and to allow certain election processes to happen faster.
7. Making other minor and technical changes.

Question 1:

Does the current postal school board election process work for you? If yes, in what ways? If not, what are the issues?

Question 2:

How could election processes be designed in a way to support engagement of Māori, Pacific, Muslim, Asian, refugee, migrant and disability communities?

Proposal 1: Giving schools the choice about whether to run their elections electronically, through hui or through the current process

Currently, the framework for school board elections only enables a primarily postal and paper-based election process. But different communities have different needs and this type of election process may not work well for you or your school community.

While we don't propose to take away the current process of running elections, we do want to give schools and school communities more choice about how to run their elections. This way schools can better respond to the diverse needs and preferences of their communities. We would like to hear what you think about enabling kura/schools to run some or all of their election processes electronically or through hui.

Electronic elections

Communication between ākonga/learners, parents and schools is now often taking place through text messaging, emails and apps. We are considering enabling elections to be run fully electronically. This may make it easier for parents to participate which could result in boards that are more reflective of the school community.

What could the electronic election processes look like?

Electronic elections would have to comply with minimum requirements similar to those that apply to the current process. For example, those relating to nominations and voting. Minimum requirements give a level of assurance to everyone participating in the process that it will be relatively secure, transparent and fair. But beyond those minimum requirements, kura/schools and returning officers would have plenty of flexibility to run elections through various electronic methods. For example, email, apps and webpages.

The Ministry of Education and the New Zealand School Trustees Association (NZSTA) will provide support and guidance to schools about their obligations if they choose to run their elections electronically. This could involve providing advice to schools about how to choose an electronic voting system and how to make such a process inclusive and accessible, including for disabled people.

Question 3:

What do you think would be the benefits and challenges of electronic elections? What do you think would be the best ways of guaranteeing the robustness and security of electronic election processes?

Hui-based elections

We know that some school communities prefer to elect board members through hui. Currently, schools are only able to have election hui if they have an alternative constitution that allows for this. Under the proposed new process, any school would be able to choose to hold their elections through hui. Enabling any school to easily choose to hold elections through hui may help schools to deliver culturally appropriate and inclusive elections. As with electronic

elections, we believe this could lead to increased voter turn-out and a more diverse board make-up.

What could the hui-based election processes look like?

To ensure transparency and provide certainty, hui elections would also have to comply with minimum requirements, including requirements to check that everyone who votes is eligible to vote. While all election hui would have to meet these minimum requirements, kura/schools would be able to hold unique hui that reflect their specific school kaupapa and local tikanga.

Some hui-specific requirements will also have to be established. This is because the structure of hui elections is significantly different to postal or electronic election processes. For example:

- hui elections may not be required to use nomination or voting forms, with voters instead being able to elect through a show of hands;
- returning officers' duties would look quite different in a hui context; and
- nominating and voting outside of the hui itself may need to be allowed to account for voters that cannot make it on the day.

Question 4:

What do you think would be the benefits and challenges of hui-based elections?

Proposal 2: Requirement to consult students (years 9 and above), staff and school communities on election processes

Each school and school community is different. We would like schools to choose an election process that works for their communities and so we are considering requiring boards, at least every three years, to consult:

- school communities - this includes parents and whānau of students that attend the school and the Māori community associated with the school;
- staff; and
- students. Schools with students in years 9 and above would be required to consult their students to find out how they would like their student representative elections to be run.

Currently, if a board wishes to adopt a staggered election cycle for parent representatives it must do so at a meeting open to all parents of students enrolled at the school. A board must take reasonable steps to ensure that the parents are notified of the details relating to this meeting, including the date and time of the meeting. This is intended to give parents the opportunity to have a say about whether they agree that a staggered election cycle for parent representatives should be adopted.

We are considering including in the proposed new broader consultation requirement described above, the current requirement for boards to consult parents about whether to adopt a staggered election cycle. This means that boards would not have to consult separately on these two things.

Question 5:

Do you think schools should have to consult students, staff and school communities on election processes?

Proposal 3: Updating criteria for co-opting and appointing board members to be more inclusive and better reflect te Tiriti o Waitangi

Boards can co-opt members to ensure that there is a good balance of skills, genders and ethnicities. The legislation currently lists criteria that boards should consider when deciding whether to co-opt a board member. Boards are required to reflect, as far as is reasonably practicable, the ethnic and socio-economic diversity of the student body of the school or special institution, the fact that approximately half the population of New Zealand is male and half female, the character of the school or schools or special institution it administers and the character of the community (whether geographical or otherwise) served by the school or schools or special institution it administers. Boards should also try to have available from within their membership expertise and experience in management.

These criteria were established around two decades ago. We consider that they should be updated so that when additional members are chosen, boards have to consider their Tiriti o Waitangi commitments and the need to reflect their diverse communities. For example, the criteria could be updated to specify that, as far as reasonably practicable, boards should reflect:

- the genders, sexualities and sexes of the school's students and of the school community;
- disabled students and the school's disability community; and
- Māori students and the school's Māori community, including local iwi and hapū.

Question 6:

Do you agree that the criteria for co-opting and appointing board members should be updated to be more inclusive and better reflect te Tiriti o Waitangi? If not, why not?

Proposal 4: Strengthening student voice

Currently, students in years 9 and above can elect a student representative to the board. This is intended to give students a voice in board decisions.

We think that improvements can be made to how schools seek and use the views of their students in board decisions. Currently, if there's a casual vacancy for a student representative, another election needs to be run to fill that vacancy. If no nominations are received, or no board member is elected at this election, the vacancy for the student representative is not allowed to be filled until the next annual student representative elections.

We are considering removing this prohibition and requiring schools to either select a student representative or establish a different method for students to have a voice on school boards. This means boards of schools with students in years 9 and above will always need to involve and consider the views of their students or a student representative.

Question 7:

Where an election to fill a vacancy for a student representative has failed, do you agree with requiring schools to either select a student representative or establish a different method for students to have a voice on school boards? If not, why not?

What else can be done to strengthen student voice and participation in school board elections?

Proposal 5: Clarifying casual vacancy procedures

We have identified several potential improvements to the requirements that set out how casual vacancies of board members are to be filled. These include:

- removing some of the prescriptive timing requirements about when casual vacancies need to be filled and by when boards must make certain decisions. Instead we propose requiring schools to do this as soon as reasonably practicable. This will improve flexibility for schools and create better alignment between these requirements and the election timetables;
- clarifying the time period when boards can choose not to fill a casual vacancy due to an upcoming triennial election. The current requirements are that the vacancy need not be filled during a period of 6 months from 1 October in the year before an election is held. This means it is unclear if boards can leave a vacancy unfilled if the election dates are later than April, i.e., more than six months from 1 October. We propose to clarify that if a parent or staff representative vacancy occurs six months before the first date in the range of election dates gazetted by the Minister, a board may resolve not to fill it; and
- clarifying requirements about the filling of casual vacancies that arise for positions elected during midterm elections so that it is clear that where a vacancy for that type of position occurs close to the next midterm election e.g. within six months of the next midterm election, the board can choose not to fill that casual vacancy.

Question 8:

What issues do you experience with casual vacancies?

Proposal 6: Election timetable changes*New month-long timetable for student representative elections and staff by-elections*

We have heard that the current 63-day timetable for student representative elections might be too long and that a shorter timetable may be more appropriate and engaging for students. We also understand that some boards would like to run an election to fill a casual vacancy for a staff member faster than what's enabled by the current timetables.

We propose introducing a new month-long timetable for student representative elections and staff by-elections. The current 63-day timetable would continue to apply to all elections except hui-based elections, student representative elections and staff by-elections.

Question 9:

Do you agree with a new month-long timetable for student representative elections and staff by-elections? Should there be a shorter timetable for electronic elections?

Holding student representative elections in September

As mentioned above, student representative elections take place every year in September. While this might work for some schools, it's possible that students may wish to elect their student representative at a different time in the year.

Question 10:

What do you think would be the benefits or challenges of schools being able to choose when in the year they hold student representative elections?

Distance schools: removing the long election timetable and the requirement to use it

Distance schools are required to use an almost three months long election timetable. Currently, New Zealand's only distance school is Te Aho o Te Kura Pounamu. Distance schools must also hold their board elections on the second Tuesday in July or earlier. We are considering removing the long election timetable as we have heard that these requirements make the board election process for distance schools too long. Distance schools would use the 63-day timetable instead.

If the feedback we receive is supportive of the proposal to remove the long election timetable, we also propose removing the requirements for when distance schools have to hold their elections as they would become redundant.

Question 11:

Do you agree with the proposal to remove the long election timetable? Will distance schools have enough time to run their elections?

Proposal 7: Minor and technical changes

We also propose making some further minor and technical changes, including:

- simplifying and modernising language, including using gender inclusive terminology and terminology in te reo Māori;
- removing redundant provisions, such as clause 5 of Schedule 23 of the Act, which states that a board or special institution can't hold an election if the election date is after the date of the school's closure;
- converting into regulations some of the provisions in Schedule 23 of the Act that are better suited for regulations as they deal with technical matters, for example clause 11 of Schedule 23, which specifies that before a person is appointed they must confirm that, to the best of their knowledge, they are eligible to be a board member;
- providing for a vote to be invalid if the returning officer has reasonable cause to believe that the vote was not cast by the eligible voter (this addresses a current gap in the grounds around invalidating a vote); and

- removing the detail currently provided for in the legislation about what nominees should include in their statements. This is intended to increase flexibility for nominees to include whatever information they wish about themselves in their statements.

Question 12:

What other changes should be made to school board elections?

Providing feedback*Purpose of feedback*

We are seeking your views on the suggested changes discussed above and whether you think that there are any other changes that should be made. Your feedback will enable us to make better informed decisions about possible changes to school board elections.

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.

How to provide feedback

Submissions close on 16 June 2021. You can make a submission by emailing us at legislation.consultation@education.govt.nz, or write to:

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

If you have any questions about making a submission, or would like more information, please email legislation.consultation@education.govt.nz.

Further information

The legislative framework for school board elections is set out in the Education and Training Act 2020 and the Education (Board Elections) Regulations 2000.

The Act can be accessed here:

<https://www.legislation.govt.nz/act/public/2020/0038/latest/LMS170676.html>

The Regulations can be accessed here:

<https://www.legislation.govt.nz/regulation/public/2000/0195/latest/DLM8656.html>