

Kōrero

Mātauranga

Me kōrero tātou

Have your say about strengthening the right to education

The right to education is not set out in one place in New Zealand legislation. Instead, aspects of the right are spread throughout the Education Act 1989.

Background

Sections 3 and 8 of the Education Act 1989 are the two main provisions that express this right. Section 3 contains the right to free primary and secondary education. Section 8 guarantees those with special education needs (whether because of disability or otherwise) the same rights as those without special education needs.

The rights in sections 3 and 8 guarantee free enrolment and free education for domestic students between the ages of 5 and 19. There is also a corresponding duty to enrol in a school between the ages of 6 and 16 (section 20), and it is an offence if someone between those ages is not enrolled.

However, the right to education is limited to ensuring that students are enrolled in school and that they are able to access education at no cost. It does not specifically include the right to attendance. This is despite there being a duty to attend school whenever it is open and an obligation on boards of trustees to ensure this occurs (section 25). Parents also commit an offence if their child's attendance is irregular.

The lack of an explicit right to attendance can result in situations where a student is enrolled in a school, but their attendance is restricted. For example, when a student with learning support needs is enrolled in a school, but they are told they can only attend for three days a week when a teacher aide is available.

Current situation

We want to ensure that we are complying with our international obligations to have a right to education in New Zealand. In response to concerns raised about the lack of an explicit right to education, the Ministry of Education is considering how to more explicitly include a right to education in legislation.

The right to education being spread across the Education Act 1989 makes it inaccessible for many people. It may be difficult for people unfamiliar with the law to understand what their right to education encompasses and how to uphold that right.



Further information

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



Submissions
close on
14 June 2019



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the future of education.**

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Proposal for change

We are seeking your views on whether the current aspects of a right to education go far enough in ensuring an individual's right to education is upheld.

Changes could make it clearer where in legislation the right to education is contained, and more explicitly include the right to attend school.

Legislation could expand the current right to education to more explicitly include the right to attendance (as well as free enrolment and free education)

Currently the legislation is clear that students have a right to free education and to free enrolment. The legislation could be amended to explicitly include a corresponding right to attend school whenever the school is open.

This would expand the right to education to ensure that students are accessing the education that they are entitled to.

The Ministry of Education could support this right by building knowledge, understanding and awareness of the rights of children and young people who are disabled or need additional learning support to enrol in and receive an education from their local school.

Signposting the legislation to make it clearer which provisions give effect to the right to education

To make the right to education clearer for students and their whānau, the right to education in legislation could include a description of the elements of the right to education and references to the provisions of the Act that specifically address those elements. This could include links to a) where the right to education is found and b) where the provisions to enforce that right are found.

This approach alone would not enhance students' right to education. However, it would make the legislation more accessible and show where the legislation addresses the elements of a right to education.

How to have your say

We are seeking your views on the proposed change, before the Government makes a decision on including it in a Bill.

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 14 June 2019 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in the wording of proposed new education legislation.

Personal information and confidentiality

Submissions and documents associated with the consultation process meet the definition of official information, and are therefore subject to the Official Information Act 1982.