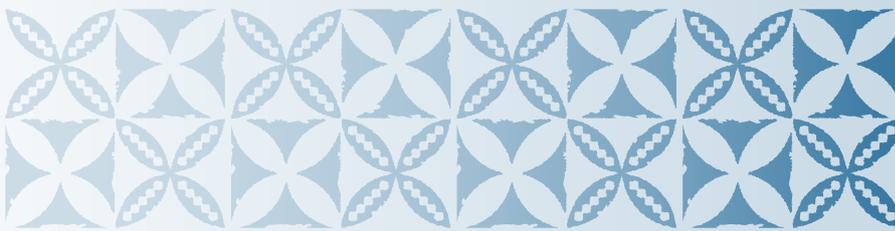


Effective governance

Keeping your records straight



Information for boards of trustees on
the importance of good record-keeping
to good governance

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Introduction

As a board, you play a vital role in leading the future direction and performance of your school.

This resource explains why it is important for boards to keep good records and offers some practical suggestions about how best to do this.

These guidelines have been developed by the Ministry of Education (the Ministry) and NZSTA as part of the family of Effective Governance resources for school boards. These are available online, at <http://www.minedu.govt.nz/Boards.aspx>. They will help you understand your governance role and how to fulfil the responsibilities that go with it.

1. Why is good record-keeping important?

There are many reasons for making sure that your board's record-keeping is up-to-date, transparent and well-maintained.

Good record-keeping helps the board manage its work

Good records mean the board can effectively manage its work and make sure things don't fall through the cracks. Minutes and reports record how decisions were made, what the board considered when it made the decision, who was present at meetings, who voted and who was given responsibility for putting the decision into action.

Good record-keeping helps to protect the board from legal liability

People may not agree with every decision your board makes, but if the reasons for your decisions are clear and transparent you may be less likely to be challenged on those decisions. Not keeping good records can put your board in a difficult position if it needs to re-visit a past event and perhaps justify a decision made or action taken. Even if the board has followed a good process, poor records of the process could put the board at risk, in some cases risking legal liability.

Good record-keeping helps your board to meet formal, legal requirements under a number of Acts

A number of Acts of Parliament set out clear expectations for boards. As a Crown Entity it is important that your board understands its obligations. Maintaining accurate records is an essential part of meeting these responsibilities.

Good record-keeping is an essential reference and

source of information for future boards

Poor record-keeping can mean that important information about the board, and key decisions affecting the school could be lost over time. This puts later boards at risk of making decisions without full knowledge of the history of an issue.

Questions for Reflection

1. How effective is your board's current record-keeping?
2. Are minutes taken at every meeting? Are the minutes of your meetings a factual, accurate record of decisions made, discussions held, the board meeting process and those in attendance?
3. Does your board deal with correspondence and complaints in a timely way?
4. Are there any aspects of record-keeping or minute-taking or correspondence that could be improved?
5. Are your board's minutes and other relevant documents safely stored, including in-committee minutes?
6. Does your board know how to handle an Official Information request?
7. Is information on important board decisions easily accessible for future boards to reference?



1. Managing the board's work effectively

Ensuring a timely response to correspondence

Access to General Correspondence

The whole board must have access to all correspondence, including anything addressed to the board Chair.

Whoever opens the board's mail must make sure that all correspondence is listed and tabled at the next board meeting so that board members can read it if they wish.

If a letter requires some action by the board it is good practice to copy it to all trustees as part of the papers for the next board meeting. This makes best use of valuable meeting time as trustees will have had the chance to consider the letter before the meeting and be ready to discuss it.

Having a clear process for how all board correspondence is dealt with will help to reduce the chance of misunderstandings. How the board responds to correspondence can make a big difference to the outcome of an issue, especially a complaint.

Email correspondence

These days, correspondence to the board is often through email. All electronic correspondence should be printed and tabled at the board meeting as part of the general correspondence.

The board should ideally have its own email address, such as board@kiwipark.school.nz, which could be accessed remotely by the board Chair. This means that correspondence is not delayed until the Chair is at the school. This also helps safeguard the board against losing records as the emails will remain stored on the school's server/hard drive.

Take care that emails to board members at their home or work email address are secure and not accessible by family or workmates.

Responding to Complaints

A minor issue can turn into a major issue if the board seems to be slow to respond. Your board should have a clear complaints policy and procedure. It pays to make sure that parents and caregivers know what the process is and what they can expect of the board.

Most boards meet only once a month. If a letter arrives the day after a board meeting, this can mean that some time will pass before the letter is tabled at a board meeting and a further delay before the reply is sent. If the letter is a complaint this can leave the complainant feeling in limbo for an unhealthy period of time.

Complaint letters should be acknowledged straight away,

by the board secretary or Chair, in writing. This should set out the process and timeline for the board to deal with the complaint, or the correct process to follow if the complaint should first be referred to the school management. Letters of complaint should be tabled at the next board meeting and only considered once any relevant reports in response to the complaint have also been received. This protects the board from any allegation that they did not consider all the information they needed to make a proper decision. If the complaint is serious the board may need to schedule an extra board meeting to deal with it quickly, or the board may delegate it to a special committee for action. Alternatively an e-meeting could be held (see below).

All correspondence must be filed safely and appropriately for future reference.

The Ombudsman's office has a useful guide on its website – "Good complaints handling by school boards of trustees"

<http://www.ombudsman.parliament.nz/resources-and-publications/documents/good-complaints-handling-by-school-boards-of-trustees>

Other documents

Any written information to support a discussion at the board meeting should be tabled so that it can be examined by those present. All documents tabled then form part of the board's official record.

To protect the privacy of individuals some documents may need to be tabled in the public excluded (in-committee) section of the meeting.

Record decisions made, progress and results of work coming from those decisions

As a Crown entity, your school is subject to audit by the Office of the Controller and Auditor General (OAG) every year. These audits are delegated to accounting firms but they are still conducted under OAG standards and guidance. As part of the financial statement audit, the auditors are required to review your board minutes. They will look at delegations and appropriate recording of major decisions the board has made. They are also required to consider the board's attention to compliance with legislation – and the best way for the board to show it is considering those obligations is through good minutes of the actions the board has taken.

Meetings

Clause 8 of the Sixth Schedule of the Education Act 1989 sets out a general framework for how a board should

conduct its meetings. However, it leaves a lot of flexibility for you to decide on practices and procedures to make your board meetings productive and orderly, as long as they are consistent with legislation.

Boards may hold meetings by means of audio or electronic communication (e-communication), such as video or teleconferencing, provided that:

- all trustees who wish to participate in the meeting have access to the technology; and
- a quorum of trustees are able to communicate with each other at the same time throughout the meeting.

As most board meetings are open to the public, you will also need to ensure that interested community members can access the same technology as trustees so they can observe and/or listen to the meeting in progress.

For most routine matters, meetings using e-communication methods will not mean any new responsibilities for trustees, other than the need to maintain appropriate security and to ensure that confidentiality is protected when the board is “in committee” (public excluded business).

If your board makes use of e-communication when making important decisions or acting in a quasi-judicial capacity, such as in suspension meetings, your decision-making processes must still be able to withstand any legal challenge. For example, although it is possible to hold a suspension meeting via a teleconference to allow for absent trustees to take part, students and their parents may feel that due process has not been followed if this limits their own ability to take part in the meeting.

For this reason, it may be more appropriate to allow for students and their families to speak directly to trustees through face-to-face hearings, and to use teleconferencing, if needed, only for the boards’ final decision-making, which can be conducted in private.

See Circular 2005/17 at <http://www.minedu.govt.nz/NZEducation/EducationPolicies/Schools/PublicationsAndResources/Circulars/Circulars2005/Circular200517.aspx>

Notice of Meeting and Agenda

Parents and caregivers are entitled to know when and where the board will meet, within a reasonable time before the meeting. These requirements are set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA). See page 13.

The date, time and location of the meeting, with the agenda and board papers, should be sent to all trustees at least two working days before the meeting. These (except any public excluded material) should also be available to the public at the school office at least two clear

working days before the board meeting and available at the meeting itself so that people can follow what is happening.

Documents related to in-committee business should be marked as confidential and only the general type of issue to be discussed should appear on the agenda, for example “Personnel Issue”, under Public Excluded Business (in-committee).

Keeping Minutes

The minutes are the official record of the board meeting and **must be kept indefinitely**. They should be brief, factual and accurate. It is very important to record:

Attendance

Record which trustees were at the meeting, including when any trustee arrived late or left early, or left for a period of time because of a conflict of interest.

Also record the presence of any visitors who attend the meeting. It is not necessary to name them, although if the board grants a visitor speaking rights, that, and their name, should be recorded.

Members of the public, including the media, must leave the board meeting during any public excluded discussion and this should be recorded. The board may agree that a particular person or group of people remains during the public excluded part of the meeting. The reason for allowing this should be clearly recorded in the minutes (see below).

Apologies

Record those trustees unable to be at the meeting who have put in an apology unless they already have ‘prior leave’ of the board. Any trustee (except the principal) who misses three meetings in a row without prior leave of the board automatically ceases to be a board member. Prior leave must be formally requested by the trustee and approved by the board and minuted before the leave is taken.

Correspondence

A list of correspondence received and approved (inwards and outwards).

Decisions made

Record the motions put forward, who moved and seconded them, any amendments made to the motion, what happened to the amendments (whether they were passed or not), and the final decision on the original (or amended) motion.

Trustees are able to sign or agree in writing to Board resolutions by way of post or electronic communication, such as a fax or email. In the case of emails, an electronic signature is acceptable.

These resolutions have the same status as those resolutions passed at a regular Board meeting, but they must be signed or agreed to in writing by **all** Board members rather than just by a majority (see Schedule 6, Clause 8, section 11B of the Education Act). This is because the vote is on the resolution on its own without the opportunity for discussion.

Voting

A trustee can ask for his or her vote on a particular motion to be recorded, usually if they voted against the board's final decision. If that request is made, the minutes must reflect that.

You should note, however, that the trustee asking for their vote to be recorded is still bound by collective responsibility to abide by the board's final decision. They should not do or say anything to undermine the board's final decision.

You should record any abstentions (deliberately not casting a vote). You should also record if the board Chair uses his or her casting vote to break a tied vote. Refer to *Effective governance – How boards work re casting votes* – <http://www.minedu.govt.nz/Boards/EffectiveGovernance/PublicationsAndResources/HowBoardsWork.aspx>

Recording conflicts of interest

Record any real or perceived conflicts of interest that trustees may have regarding an issue being discussed. Conflicts of interest can include financial interests and personal relationships, for example, if the board is considering a contract that a trustee has tendered for, or is discussing the pay and conditions of the staff trustee or principal.

The minutes should record that the trustee declared the conflict **before** the matter was discussed, the general nature of the conflict and how the conflict was managed. This trustee must leave the room while the matter is being discussed, must not vote on the matter, and must not discuss the matter with the board or try to influence the vote.

Closing and next meeting

At the end of the meeting, record what time the meeting finished and where and when the next meeting will be held.

Availability of minutes

If anyone asks for copies of the agenda, open minutes or reports they should be given a copy as soon as practicable. If the minutes have not yet been confirmed, they should be marked as 'draft' or 'unconfirmed' and the person requesting them informed that they may be altered before they are confirmed.

Public-excluded (in-committee) minutes

If and when the public has been excluded from any part of the meeting, you must record this in the open meeting part of the minutes. The wording to use for a motion to exclude the public is set out in the Local Government and Information Act, Schedule 2A, which you can find here: <http://www.legislation.govt.nz/act/public/1987/0174/latest/DLM123642.html>

Your record should include:

- the general topic area to be discussed, and
- the grounds under which you can exclude the public and the related grounds under the Official Information Act.

The most common reason is to protect the personal privacy of individuals, such as in personnel and student discipline matters.

Please note that the need for a board to have a 'free and frank discussion' is **not** a valid reason for excluding the public.

Keeping in-committee minutes confidential

All discussion and the minutes of public-excluded meetings are confidential to the board. If the board reveals details to the public it may be liable to legal action. If a trustee, acting as an individual, passes on confidential information, he or she may be personally liable for any damages awarded against the board.

The board should make this clear to any person it asks to attend the in-committee part of a meeting.

However, in-committee minutes may be requested under the OIA, subject to the various grounds for refusal and the need to consider whether public interest favours release of the information. (See below)

Recording and storing confidential minutes

The business dealt with while the public is excluded from a board meeting should be recorded in the same form as you do for the open meeting.

NZSTA suggests that boards print the confidential minutes on different coloured paper and paste them into a separate minute book, once they have been approved by the board and signed by the board Chair.

Some boards choose to number each copy and collect and destroy all the copies, except the official copy, after they have been confirmed. They are not for public viewing but can be requested under the *Official Information Act*. (See more about this below in section 3, page 12).

For more information on storing board records see section 4, page 15 below.

Record formal delegations

Your board can delegate some of its powers or functions to committees. Committees must have a minimum of two people, at least one of whom is a board member. The terms of any delegation to a committee should be clearly recorded; what the board expects the committee to do, what (if any) decision-making powers the board is giving to the committee, and how long the committee will exist for. The board is still ultimately responsible for any decisions made by its committee.

Your board should also formally record the delegations it makes to its principal, for example, financial delegations setting out how much the principal can spend without reference to the board. It is not necessary to do this every year unless the board changes any existing delegations. It is important that these delegations are clearly recorded for future boards and are revisited and recorded in the minutes when a new principal is appointed. Recording all delegations in your board's governance manual is one way to ensure that they are kept up to date and can be found easily.

Record-keeping for self-review and reporting

Good record-keeping is also an essential part of a school's self-review and planning and reporting processes.

Decisions about targets and actions to improve student achievement need to be properly recorded so that they can inform future decision-making.

Accurate records are also vital so that your board can share information with the wider school community.

Boards should strive to be as accountable and transparent as possible, so that the community can have confidence in their decision-making. Maintaining and sharing accurate records of meetings and decisions helps promote awareness of important issues and builds public confidence.

Minutes from meetings should be made publicly available to your school community.

Similarly, the agenda for a board meeting must be made available before meetings, so that members of the community have an opportunity to attend. The agenda could be posted on the school noticeboard and parents advised through the school newsletter. Some boards post the agenda and minutes of the public section of board meetings on the board section of the school's website.

What should your minutes look like?

Many boards either write too much in their minutes or not enough. The minutes should record the board

processes (who was there, how you made decisions, votes etc) and the decisions that were made, with a brief outline of what was discussed. There is no need to document who said what. A brief outline of the key points of every discussion is plenty.

Public excluded or in-committee minutes should be printed on a separate sheet of paper (maybe a different colour) and kept somewhere secure.

Here is a useful template for what your board minutes could look like.

1. List of those present

List of those not in attendance: apologies with prior leave/apologies/absent

Declaration of interests

Minutes of previous meeting confirmed/with alterations

Motion:

Move that the above items be accepted:

Moved/Seconded: Carried: Unanimously

2. Strategic Decisions

2A. Topic:

Motion:

Move that

Moved/Seconded: Carried: 9 for, 3 against

The main points raised [for/against; clarification] were

2B. Motion: that the public be excluded from the following part/s of the proceedings of this meeting namely agenda item 2B. The grounds are that the matter is one of personnel and the reason is to protect the privacy of the individual/s. This motion is proposed to comply with Sec 48 of the LGOI & M Act 1987 and the special requirements when moving to exclude the public.

Moved/Seconded: Carried: 9 for, 3 against

Motion: that x, as an xxx, be permitted to remain at this meeting, after the public has been excluded, because of their knowledge of personnel matters which will support the board's decision-making.

Moved/Seconded: Carried: unanimously

2A. Topic: discussed in the absence of the public – minutes kept in Public Excluded Business minute book

The meeting resumed in public at [time].

Reporting to the Ministry of Education

Record-keeping also plays a vital role in helping your board report to the Ministry of Education. The charter and annual report are part of a board's on-going cycle of self-review to improve student achievement and meet its obligations under the legislation.

Boards must report annually on student achievement and progress, including any variance for the targets and priorities they have set out in their charter. Full and accurate records will assist your board to analyse how your school is performing against the aims and targets that were set in its charter.

Presenting an accurate picture of progress will give the Ministry a better idea of any support or resources your board may need to achieve its charter aims.

Reporting to your school community

Boards govern schools on behalf of their school community. Keeping good records, such as minutes of meetings, and making those records readily available is an important part of keeping your local community well-informed and involved.

2. Help protect your board – put it on the record

Full and accurate record-keeping gives a community confidence and helps safeguard a board if its decisions are challenged or queried. To help protect your board, make sure you put all its decisions on record.

Boards of trustees are also major employers in New Zealand and the schools they govern are significant business enterprises.

Good record-keeping is an essential part of meeting your responsibilities and legal obligations as both an employer and a business.

Governance decisions need to be transparent, accurately recorded and stored in a way that can be easily retrieved if need be.

Every community contains a wide range of people and views. Not everyone will agree with every decision a board makes. From time to time, your board may need to explain or justify the reasons for its decisions to the public or it may need to respond to complaints about a decision.

Even if people disagree with your decision, good record-keeping assures them that robust processes were followed in reaching the decision. Your board's records therefore need to clearly show who attended a meeting, when it was held and how the decision was reached.

Recording conflicts of interest

Your school community also has the right to expect that any decisions made by your board are free from conflicts of interest. This means officially declaring and recording any conflict of interest in your board's meeting minutes.

It is important that board members, principals and other school employees who make significant decisions, particularly about expenditure or recruitment, regularly complete and declare any actual or potential personal interests. Creating a school-specific 'Interests Register' is a good approach for recording conflicts of interests. The completed register should be kept and made available on request to members of the board, the principal, staff, parents, and for inspection as part of any audit.

An Interests Register will help schools identify when a conflict of interest might occur, so that steps can be taken to manage it. However, even if you have an up to date Register you must still disclose and deal with specific interests when they arise.

You can download a template of a model register here:

[http://www.minedu.govt.nz/NZEducation/
EducationPolicies/SchoolEmployment/Employers/
EmployingStaff/ConflictsofInterest.aspx](http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/Employers/EmployingStaff/ConflictsofInterest.aspx)

Here is an example of how to use it.

Register of interests Template proposal

Name	Position	Date advised of interest	Interest disclosed	Nature of potential conflict and estimated value (if known)	Action taken / recommendations	Date implemented	Review / comments
Case Study 1 Trevor	School Bursar	1st June 2011	Brother-in-law is managing director of lead tender	Trevor is running the tender process for a school canteen supply contract. His Brother-in-law is a managing director of one of the tenders and therefore can financially benefit from a successful tender. Canteen turnover \$20,000p.a (2010)	Due to the close family connection and to remove any potential biased perception on decision-making, the management of this tender should be assigned to someone other than Trevor.	08th June 2011	Trevor had no involvement in the decision making and a successful tender was chosen under a fair and transparent process. Ref: BoT minutes 26 Aug 2011 Item 3
Case Study 2 Stephanie	School Principal	10th August 2011	Stephanie's husband wishes to apply for the School's Finance Manager Position.	Potential perceived bias and preferential treatment in the recruitment and selection process. Reporting lines and working relationships if her husband were successful could also be a source of further conflicts of interest.	The Board is to ensure that the recruitment and appointment process is handled by others and Stephanie has no influence on any outcome. If the husband becomes the preferred candidate, the board are to discuss the ongoing potential for further conflicts and set process in place to manage this.	10th August 2011	Stephanie's husband was unsuccessful in the position after a process was followed assessing people on their merits of application. No further follow up required.

Protect your board's legal status – keep a Trustee Register

Boards also need to ensure that there is written proof that they are legally constituted. The best way is to maintain a trustee register – an accurate record of who is on your board and how and when they came to be on the board.

The register keeps track of when trustees came into office so that there is a written record of any changes and the timing of those changes. You should notify the Ministry of any changes to your board membership, including a new Chair or Principal. This is done online through Appendix F on the NZSTA website or through <http://www.minedu.govt.nz/Boards/EffectiveGovernance/TrusteeElections/ChangesToYourBoard.aspx>

The make up of boards at any particular time can include trustees who have been elected, co-opted, selected or appointed. When any trustee joins your board, the term and reason should be officially documented in a formal letter and the trustee register updated, so that your board's legal status is protected. This is important for coopted trustees because if you don't specify the term the cooption will be for a 3 year term, which might extend beyond the next board election.

It is especially important to keep track of your trustees' terms of office if your board has mid-term elections, so that you know which trustees' places are up for re-election each 18 months.

The same applies to any changes in the number of parent representatives on your board. From time to time, boards can decide to alter their constitutions by increasing or decreasing the number of parent trustees.

The process for this is set out in section 94B of the Education Act 1989. Your board needs to keep a record of any resolutions altering the composition of the board and give the public an opportunity to attend board meetings that make any such decisions. Please notify your local Ministry office if you change your board's constitution.

Good records are also important for boards that have an alternative constitution (under section 105A of the Education Act) or a Combined Board (section 110 of the Education Act) so that the legal basis for the alternative constitution is not lost over time.

Your Trustee Register could be part of your board's governance manual, so that it can be kept up to date and easily found.

Good employer obligations

The board is required to keep accurate and up to date employment records, including;

- records of appointment processes
- copies of letters of appointment, including terms and conditions of employment (for example whether a staff member is appointed permanently or for a fixed term),
- copies of written employment agreements, signed by the employee and the board Chair (or delegate)
- leave records,
- payroll records,
- police vetting,
- practising certificates,
- performance management/appraisal documents

Boards can be exposed to significant costs if accurate employment records are not kept. Your board should have clear policies and procedures for the recruitment, appointment and performance management of staff, including clear expectations for your principal in this area.

You can find further information on the board's employer role at <http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/Employers.aspx> or at <http://www.nzsta.org.nz/board-as-employers/>

Refer to *Effective Governance - Recruiting and managing school staff* at <http://www.minedu.govt.nz/~media/MinEdu/Files/Boards/EffectiveGovernance/RecruitingAndManagingSchoolStaff.pdf>

3. Meeting legal requirements

There are many legal requirements relating to school records, such as tax and education legislation. In addition, state and state integrated schools need to comply with the Public Records Act 2005.

These are formal, legal requirements that every board, as a Crown Entity, must understand and meet in terms of its record-keeping.

Legislation covering education, public finance, health and safety, official information, privacy and employment all reinforce the need for your board to keep good records and ensure they are available upon request.

Here is a brief summary of some of the legislation with relevant links for those who need more detail. The bottom line is your board needs to have systems and processes in place for keeping and storing accurate records of all meetings and correspondence.

Public Records Act 2005 (PRA)

Section 17 of the PRA requires that:

- a. *Every public office and local authority must create and maintain full and accurate records of its affairs in accordance with normal, prudent business practice*
- b. *All public and protected records must be in an accessible form so that they can be used for future reference*
- c. *For as long as is required under another Act.*

Official Information Act 1982 (OIA)

You should also be aware that your board's decisions may be subject to a request under the OIA. All boards of trustees of state and state-integrated schools are subject to the OIA. Your board should understand its obligations to provide information requested and the process it is required to follow.

A recent complaint to the Ombudsman noted that a school board had been disadvantaged by not keeping a full record of its discussions. The Ombudsman also noted that the fear of receiving a request under the official information or privacy legislation is not a legitimate reason for not keeping proper records.

While the complaint against the board was not upheld, the Ombudsman commented that if the board had responded appropriately, the matter might not have become the subject of a complaint to the Ombudsman and the board would have been spared two years of stress.

The Ombudsman found the board had addressed the complainant's concerns and resolved how to respond to him, but had kept no record to confirm these actions had

occurred. No reasons were given to the complainant for the stance the board took. Section 23 of the OIA sets out an individual's right to request a statement of reasons for any decision affecting them.

There are lessons for all board of trustees members in these findings.

The Ombudsman's office provides helpful guidance on how boards should respond to an OIA request. It also explains the Ombudsman's role in complaints about schools.

The OIA and School Boards of Trustees

<http://www.ombudsman.parliament.nz/resources-and-publications/documents/the-oia-and-school-boards-of-trustees>

Some OIA requests may include requests for personal information that the board may hold about the requester him/herself. In that case the request must be considered under the Privacy Act, or in some cases under both Acts.

Privacy Act 1993

The board will hold personal information about many individuals, including staff and students. The Privacy Act sets out how agencies may collect, store, use and disclose personal information that they may hold about an individual.

The Office of the Privacy Commissioner has helpful information on how your board can safely hold and share information, to make sure that any personal information is lawfully and accurately collected, safely stored against loss or misuse and not accessed by or disclosed to any unauthorised person.

You can download the 12 Information Privacy Principles at <http://privacy.org.nz/news-and-publications/guidance-notes/information-privacy-principles/>

You can find Privacy in Schools: A guide to the Privacy Act for principals, teachers and boards of trustees at <http://www.privacy.org.nz/news-and-publications/bookshop/privacy-in-schools-a-guide-to-the-privacy-act-for-principals-teachers-and-boards-of-trustees/>

NZSTA also has a guide <http://www.nzsta.org.nz/news-and-publications/publications/general-publications/>

Local Government Official Information and Meetings Act 1987 (LGOIM), Part 7

This legislation details the responsibilities of boards to make agendas, minutes and associated reports publicly available.

Section 46A on the availability of agendas and reports, states that any member of the public may, without payment of a fee, inspect all agendas and associated reports that have been circulated to the board members, relating to that meeting, except any in-committee documents.

- at least 2 working days before every meeting
- during normal office hours
- at the school's office

Any member of the public may take notes from any agenda or report they inspect, or request a copy of any part of the agenda or report. A reasonable charge may be made for copying and the copy must be provided as soon as practicable.

If the board resolves to hold an extraordinary meeting, an agenda and reports must be made available as soon as is reasonably possible in the circumstances.

Details of items, reports or items from reports that will be discussed in public excluded session may be excluded from this requirement.

Providing the agenda in advance means that the public is aware of the matters the board intends to discuss at each meeting. The board may discuss matters that are not on the agenda as long as;

- the board resolves (moves) to do so (and records this in the minutes)
- the Chair advises, during the open part of the meeting, that the item will be discussed in the meeting and explains why the item was not on the agenda, and
- the Chair advises the reason why the discussion cannot be delayed to a later meeting.

If it is a minor matter relating to the general business of the board it may be discussed at the meeting but no decision may be made on the matter "except to refer that item to a subsequent board meeting for further discussion" (section 46A(7A)).

<http://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html>

Education Act 1989, Schedule 6

This part of the Act covers many aspects of Board elections, meetings and membership and reinforces the need to keep good records.

<http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM187901.html>

Crown Entities Act 2004 (CEA)

Schedule 5A of the Education Act 1989 lists all the sections of the Crown Entities Act that apply to school boards of trustees. Many of these provisions are about keeping records for the purpose of reporting back to the Minister and the Crown.

The CEA is intended to clarify the powers and duties of those who govern Crown entities, including their financial responsibility to the Crown, and to set out reporting and accountability requirements.

Some important sections of the CEA are set out below:

133 Power to request information

- (1) *The board of a Crown entity must supply to its responsible Minister any information relating to the operations and performance of the Crown entity that the Minister requests.*
- (2) *The board of a Crown entity must supply to the Minister of Finance any information requested by the Minister in connection with the exercise of his or her powers under Part 4.*
- (3) *This section is subject to section 134.*

168 Accounting records to be kept

- (1) *The board of a Crown entity must cause accounting records to be kept that—*
 - (a) *correctly record and explain the transactions of the Crown entity; and*
 - (b) *will at any time enable the financial position of the Crown entity to be determined with reasonable accuracy; and*
 - (c) *will enable the members of the Crown entity to ensure that the financial statements of the Crown entity comply with section 154;¹ and*
 - (d) *will enable the financial statements of the Crown entity to be readily and properly audited.*
- (2) *The accounting records must be in written form or in a manner in which they are easily accessible and convertible into written form.*
- (3) *If the board of a Crown entity fails to comply with*

1 Must be read as a reference to section 87(3) of the Education Act 1989

the requirements of this section, every member of the Crown entity commits an offence and is liable on conviction to a penalty not exceeding \$5,000.

- (4) *It is a defence to a member charged with an offence under this section if the member proves that—*
- (a) *the board took all reasonable and proper steps to ensure that the requirements of this section would be complied with; or*
 - (b) *he or she took all reasonable and proper steps to ensure that the board complied with the requirements of this section; or*
 - (c) *in the circumstances he or she could not reasonably have been expected to take steps to ensure that the board complied with the requirements of this section.*

Find out more here: <http://www.legislation.govt.nz/act/public/2004/0115/latest/DLM329631.html>

Health and Safety in Employment Act 2002

As an employer, your board must ensure your school keeps a record of any health and safety incidents or accidents so it can provide reports as required under the Act.

Section 25 relates to the recording and notification of accidents and serious harm

- (1) *Every employer shall maintain (in the prescribed form) a register of accidents and serious harm; and shall record in the register the prescribed particulars relating to—*
- (a) *every accident that harmed (or, as the case may be, might have harmed)—*
 - (i) *any employee at work; or*
 - (ii) *any person in a place of work controlled by the employer; and*
 - (b) *every occurrence of serious harm to an employee at work, or as a result of any hazard to which the employee was exposed while at work, in the employment of the employer.*

If there occurs any serious harm or accident to which this subsection applies, the employer, self-employed person, or principal concerned must,—

- (a) *as soon as possible after the occurrence becomes known to the employer, self-employed person, or principal, notify the Secretary of the occurrence; and*
- (b) *within 7 days after the occurrence, or, if the occurrence is not known to the employer, self-employed person, or principal within that period, as soon as possible after it becomes known, give the Secretary written notice, in the prescribed manner, of the circumstances of the occurrence.*

28 Coroner may call for report on fatal accident

If so requested by a coroner, an inspector shall give the coroner a written report on the circumstances of any fatal accident that occurred at a place of work.

<http://www.legislation.govt.nz/act/public/2002/0086/latest/whole.html>

4. Future-proofing – storing board records

Over the years, boards make many decisions for many reasons. Good record-keeping will make sure that future boards will have access to the background and the reasons for those decisions.

Without that, later boards may be at risk of making decisions without full knowledge of an issue or relying on faulty or incomplete information.

What you record, and how much, is a matter for your board to decide, however it should be enough information to preserve a concise, but complete record. Your board must meet the legal requirements about what to keep, how to store it and for how long (see below).

Storing records

Records should be securely and safely filed and stored, especially confidential documents. Storage should be fire resistant and theft-proof.

It is a good idea to designate a person to take charge of this responsibility so that your record-keeping stays current and there are clear school-wide procedures about how records are filed, named, numbered, processed and accessed.

A school record could be in a range of formats – email, electronic documents and paper files. It's important to have systems in place to capture them all.

Records must be accessible and stored so they can be retrieved if need be. Written records should not be stored at the homes of board members or staff.

What records to keep/store

- Minutes and agendas of board of trustees meetings, and other records documenting the board's decisions and discussions (including its committees). Papers, such as reports, attached to the minutes.
- Governance documents such as charter, strategic plans, annual reports, school goals and targets and student achievement information.
- All correspondence of the board of trustees.
- School policies and procedures.
- Board of trustees election administration records, including advertisements.
- All other records as set out in the School Records Schedule.

How long to keep these records

The records listed above must be:

- kept indefinitely
- may be sent to Archives NZ after 10 years (not sooner)
- must be sent to Archives NZ after 25 years, unless arrangements are made with Archives NZ for the school to keep them longer.

If your school is closing, sort, list, box and send these records to the local/ regional Ministry of Education office for off-site storage and eventual transfer to Archives NZ.

Archiving and records disposal

The Ministry has prepared some helpful guidelines on archiving and records disposal regulations. This booklet provides detailed information about what to keep, how to store it and for how long.

It recommends that every school keep a retention and disposal schedule which gives a clear process and authority about how long to keep school records and what needs to happen when they are of no further use to the school.

This helps ensure that schools keep records for the length of time required to comply with legal requirements, such as tax and education legislation.

State and integrated schools are also legally required to retain some records for archival purposes.

The aim of the School Records Schedule is to identify records that can be discharged, destroyed or disposed of and those which must be sent to Archives New Zealand. Find out more here:

School Records Retention/Disposal Information Pack

<http://www.minedu.govt.nz/NZEducation/EducationPolicies/Schools/SchoolOperations/PlanningAndReporting/SchoolRecordsSchedule.aspx>

MOE Circular 2006/19

<http://www.minedu.govt.nz/NZEducation/EducationPolicies/Schools/PublicationsAndResources/Circulars/Circulars2006/Circular200619.aspx>

Maintaining your records

Who should look after school records?

Your board has the ultimate responsibility for maintaining and monitoring school records. A board can delegate this authority to an appropriate person. State and state integrated schools cannot legally destroy any items considered to be school records without the authority of Archives New Zealand.

Who should have access to school records?

Boards of trustees, principals and staff should be able to access the school records they are likely to need to carry out their work. This will vary from school to school. Some records, such as personnel files, should be kept in a locked storage area, and access to them limited to authorised staff.

Who decides what school records need to be kept and what can be disposed of?

Under the School Records Retention/Disposal Schedule, Archives New Zealand has authorised what categories of records need to be kept and what can be destroyed. The person at your school with delegated authority from the board will need to use the schedule to make decisions about retaining, discharging and disposing of your school records.

Are emails included?

Yes, if you are creating or receiving them as part of school business. A school record can be in any format, including email and electronic documents. You may find it is easier just to print and file important emails.

5. Summary – Checklist

What should your board record and keep?

Your records should include:

- Board meeting minutes and agendas
- Board election administration records
- Board correspondence
- Strategic governance documents such as charters, annual reports, school policies, student achievement information.
- Financial and audit reports, tender documents, contracts, leases, registers of assets.

What meetings to record

Your board should keep accurate, written minutes of all meetings. This includes the following types of meeting:

- Full board meetings
- Public-excluded meetings
- Board committee meetings
- Student discipline meetings
 - There are Ministry guidelines for running these meetings. Help is also available from the NZSTA Helpdesk, 0800 782 435 (0800 STA Help)
- Employer/employee meetings
 - Help is available from NZSTA Industrial Advisers.



MINISTRY OF EDUCATION
Te Tāhuhu o te Mātauranga

ISBN 978-0-478-40699-3 (internet)