



**Guidance for Boards of Trustees – Planned Term 2 2019 Strike Action by PPTA
teachers**

UPDATED 31 May 2019

Assistance, Responsibilities, and Obligations

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This document's purpose

This updated document explains what Boards need to know and do to manage the strikes mandated by PPTA teachers for Term 2 2019 and the supports available through the Ministry and NZSTA.

About the Term 2 2019 strike action by PPTA teacher members

Several important points to note before you read any further:

- This guidance material includes payroll related actions required of a principal concerning returning the Strike Action Spreadsheet to Novopay. Although it is the Board's responsibility as employer to ensure the spreadsheet is filled in accurately, the principal or another Novopay authorised user are the only staff who can return the spreadsheet to EPL with the necessary security and privacy controls in place.
- Secondary principals are not striking with secondary teachers and should send the strike action spreadsheet back on the day of the strike if they can. Given that secondary principals in large secondary schools may need some time to confirm that teacher absences were due to strike action, the deadline for returning the strike action form is 5pm the day after a full secondary teachers' strike.

New in Update#2

The date for reporting on the "rostering home" partial strike action has been extended to 3 July at the latest. Please see Appendix C, para 4.

New in this update

- PPTA has formally notified Boards and the Ministry of Education that its secondary teacher members will be "rostering home" students by year level on a particular day in each of weeks 6, 7, 9 and 10 of Term 2. The dates are detailed in the table below.

Week	Date of action	Year group affected
Week 6	Tuesday 4 June	Year 9
Week 7	Tuesday 11 June	Year 10
Week 9	Tuesday 25 June	Year 11
Week 10	Tuesday 2 July	Year 12

- Rostering students home constitutes a **partial strike**. The original guidance has now been updated to include a new Appendix C detailing how Boards should manage and report on this partial strike action by PPTA teachers.
- Schools cannot close for instruction because a year level "partial" strike is underway.
- Schools need to ensure that parents know about the year level strike and are required to send their children to school since the school will be open for instruction.

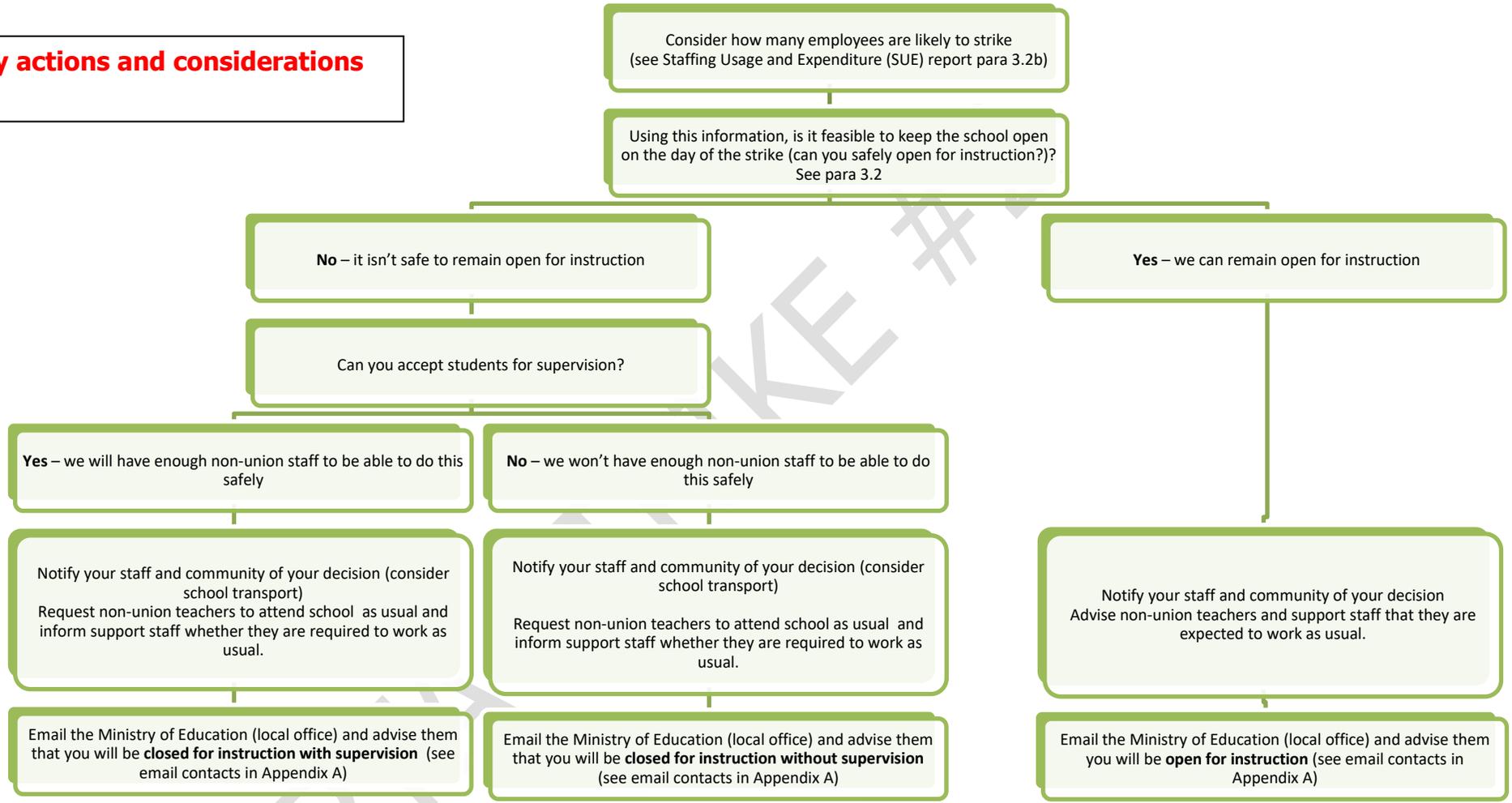
- We are also aware that PPTA is likely to conduct a week of rolling regional full strikes during the week of 17-21 June, although no formal announcement has been made. ***As far as individual schools are concerned, the required preparation is identical to that for the 29 May strike.*** The details are in the following table:

Date of action	Region
Monday 17 June	Auckland / Northland (Upper, Central, Lower)/ Counties- Manukau/ Hauraki-Coromandel
Tuesday 18 June	Waikato / Taranaki/ Central Plateau/ WBOP/ BOP
Wednesday 19 June	Otago / Southland/ Aoraki
Thursday 20 June	Canterbury /West Coast/ Nelson/ Marlborough
Friday 21 June	Wellington / Hutt Valley/ Wairarapa/ Manawatu-Whanganui/ Hawkes Bay/ East Coast

Confirm with PPTA if you require clarification about the situation applying at your school.

Please note that none of the above industrial action applies to PPTA members in Area Schools.

**Full strike: Key actions and considerations
– flow chart**



On the day of the strike:
- ensure the safety of your students

By 5pm on the day after a full strike: 1) Print, sign and archive the original spreadsheet, and 2) return the electronic version of the spreadsheet to EPL to returns.industrialaction@edpay.nz
NB it doesn't matter if you haven't made any changes to the spreadsheet, you are still required to return it to the above email address
Advise union members who did not participate in the strike that their name has been included in the list returned to EPL- see para 2.2(a)

1. **What to do before a full strike: Plan for the school and students**

The union is required to give at least three calendar days' notice of a strike.¹

In planning for a strike, you should consider:

- Student safety;
- Communication with parents, staff and the Ministry;
- Staffing scenarios;
- The effect of a strike on non-striking staff; and
- Transport implications.

Note that any Board member who is a PPTA member must not participate in the decision-making process about whether to keep the school open or close the school for instruction on the day of the strike, as this would constitute a conflict of interest. Any PPTA member on the Board is, however, able to provide factual information to other Board members, who will actually take the decision.

1.1 **Plan teaching and, if needed, extra supervision**

You will need to consider:

- how many employees are likely to strike (you can use the information in your Staffing Usage and Expenditure (SUE) report to do this – see para 3.2(b) below);
- whether it's feasible to keep the school open for instruction based on the number of staff striking;
- whether the school will be closed for instruction, and if so, how to provide supervision for students who arrive at school and how to keep them safe (see para 3.2(b), (c) and (d) below).

1.2 **Plan the effect of a strike on non-striking staff**

- School remains open

Note that if a school remains open during a strike, non-striking teachers are expected to carry out their usual range of work. They may choose to perform the work of striking teachers, but cannot be required to do so – the choice is theirs.

Support staff and principals are expected to attend work and will be paid. Non-union teachers carrying out their usual work are expected to attend work and will be paid.

- School closed for instruction

Decide as a Board whether the principal is expected to work as usual. A principal is expected to work unless the Board decides otherwise. They will be paid regardless.

Decide whether or not support staff will be required to work as usual, or whether they will be sent home for the day. Support staff would normally be expected to work. They will be paid regardless.

Decide whether or not non-union teachers will be requested to work as usual on the day of the strike, even if the school has to close for instruction. They cannot be required to attend work. They will be paid regardless.

Inform the principal, non-union teachers and support staff of the Board's decisions accordingly.

¹ Section 74AC(1) State Sector Act 1988.

1.3 **Plan when and how to notify families**

Give parents and caregivers as much notice as possible of a strike and outline whether the school will be open for instruction or will close. If the school is closed for instruction, advise whether supervision will be offered.

Consider how to ask parents to indicate which students are likely to arrive at school if it's closed for instruction but providing supervision (if it's open for instruction students must attend as usual).

Appendix B has a sample letter to parents and caregivers in case of a full strike resulting in closure (or closure but with supervision offered).

1.4 **Plan communications with staff**

Inform all staff, including non-striking staff, of the Board's expectations for the school's arrangements on the day of a full strike.

1.5 **Plan communications with your local Ministry office**

Please inform your local Ministry office whether you will be closed or open for instruction as soon as the Board has made this decision.

- Advise your local Ministry office whether your school will be open or closed for instruction for the duration of a full strike.
- If your school will be closed for instruction, please also indicate to your local Ministry office whether you will be providing supervision for students who turn up to school.
- Local Ministry office email contact details can be found at Appendix A.

1.6 **Plan school transport**

Discuss strike arrangements with the school transport provider, including the Board's decision about whether the school

- (a) remains open for instruction;
- (b) is closed for instruction but with supervision offered; or
- (c) is closed;

and inform parents about transport implications with the maximum amount of notice.

2. **What to do during and after a full strike**

2.1 **Safety and administration**

On the day of a full strike ensure the safety of your students. Please refer to paras 3.2 and 3.3 below.

2.2 **Fill out information for payroll on EPL's Strike Action Spreadsheet**

On the day of a full strike (or earlier) Education Payroll Ltd. (EPL) will send the principal of each affected school a Strike Action Spreadsheet listing the school's union members who are covered by the strike notice (i.e. those covered by the STCA).

Here's what the spreadsheet looks like (in the actual spreadsheet for your school columns A, B, C, D, E and F will be pre-populated already).

	A	B	C	D	E	F	G	H
1	School No:	Employee No:	Job No:	Employee Name	Award	Tenure	Mark with 'X' if did not participate in Strike	Part Time Employees Only: Hours Normally Worked on the strike day between 7.00am & 7.00pm (H:MM)
2								
3								
4								

(a) **Identify union members who weren't striking**

It is the Board's responsibility as employer to ensure the spreadsheet is filled in correctly. However, the principal or another Novopay authorised user are the only staff who can return the spreadsheet to EPL with the necessary security and privacy controls in place. The spreadsheet is password protected with the principal's MoE number to ensure privacy. The spreadsheet must indicate which union members did **not** participate in the strike for reasons such as sickness or bereavement leave.

Union members covered by a strike notice are deemed to be on strike unless they are identified on the Strike Action Spreadsheet as not striking.² Identifying the union members who are **not** striking ensures they are paid as usual and reduces the administrative burden on schools. Any such union members need to be informed accordingly.

Because of where some of the strikes fall in the pay cycle, some striking staff will be overpaid, rather than having deductions made in the pay period of the strike. EPL will automatically recover those overpayments from all staff covered by the strike notice unless they are identified in the spreadsheet as not being on strike. Affected staff will be informed before the overpayment is recovered. See paragraph 5.3 for more details.

(b) **Provide the hours worked by part-time union members scheduled to work that day**

List the hours that part-time teachers who are striking would have usually worked on strike day. This ensures that regardless of the duration of the strike they will only have pay deducted/recovered for their normal work hours. If the part-time teacher would not usually have worked on the day of the strike, insert "0".

Note: The definition of a part-time teacher is any teacher who is employed for a FTTE load of **less** than 1.0. A full day is 8 hours. If a part-time teacher would normally have worked a full day on the day of the strike, insert "8".

Examples: A strike occurs on a Wednesday. A part-time teacher:

- doesn't work on a Wednesday. Insert "0" in the part-time hours column of the spreadsheet
- works on a Wednesday from 1pm to 2:30pm, i.e. 1.5 hours. Insert "1.5" in the part-time hours column of the spreadsheet
- works on a Wednesday from 9am to 12 noon, i.e. 3 hours. Insert "3" in the part-time hours column of the spreadsheet
- works a full day on Wednesday. Insert "8" in the part-time hours column of the spreadsheet

(c) **Identify part-timers who aren't striking**

If a part-time teacher is covered by the strike notice they will be listed on the Strike Action Spreadsheet, regardless of whether the strike day is one of their usual days

² State Sector Act 1988, section 74AC(4).

of work. If they are absent from school for a non-striking reason, such as sick or bereavement leave or the strike day not being a day they would usually work, indicate on the spreadsheet that they did **not** participate in the strike.

(d) **Add the names of short-term relievers who are union members and are participating in the strike**

Short-term relievers will not have been listed on the spreadsheet by EPL. If they are union members and were booked to work at your school on the day of the strike and are participating in the strike, add their names on the 'Relievers & Others' tab of the spreadsheet that you will receive. Please do not submit a timesheet for them for the hours that they were on strike. The Ministry will need to record their participation in the information that it is required to send to the Ministry of Business, Innovation and Employment (MBIE) one month after the strike in terms of section 98 of the Employment Relations Act 2000.

2.3 Record unauthorised strike action

Non-union teachers aren't allowed to strike. If the school remains open for instruction during a strike, and a non-union teacher who was scheduled to work withdraws their labour, record this as an unauthorised absence and notify EPL in the normal way for leave. They won't be paid and the Board or principal (with the appropriate delegations) will need to address it with the teacher. Such an action could be an unlawful absence and disciplinary action could follow. Contacting NZSTA for advice in such a case would be a prudent course of action.

3. Further information about strikes

3.1 The Secretary's delegated powers: suspending striking employees

- (a) During the bargaining process for a new collective agreement, the Secretary for Education ('the Secretary') takes on some of the responsibilities and powers of the employer. This includes the power to suspend employees in the case of a strike.³
- (b) It is the Secretary, not Boards of Trustees, who decides whether to suspend striking employees. After the strike has commenced the Secretary informs the union of the suspension, and the union then tells the employees concerned. Boards don't need to do this. The suspension continues until the strike ends, unless it is revoked earlier. Teachers who are not union members will still be paid as normal.
- (c) It is the Secretary, not Boards of Trustees, who decides whether or not striking principals and teachers will be paid. Boards of Trustees do not have the power to override the Secretary's decision and pay striking workers.

3.2 Expectations for instruction, supervision, student safety and school closures

(a) Teaching

Principals and current non-union teachers, including day relievers who were already scheduled to work, can teach students whose usual teacher is on strike if they agree to do so.

(b) Supervision

Supervision is not teaching. Current teachers, including day relievers who were already scheduled to work and any support staff who have been safety checked⁴ and whose role normally involves supervision of students e.g. teacher aides, can supervise students who are not being instructed.

³ Under delegation from the State Services Commissioner, under sections 74A and 74AA State Sector Act 1988.

⁴ Under the Children's Act 2014.

Arrange for extra supervision, if needed, from day relievers who aren't striking. Day relievers who were not already scheduled to work on the day of the strike can only be hired for health and safety reasons.⁵ Costs can be charged to teachers' salaries (TS) or operational funding (BG).

Boards can see how many teachers and teacher aides may be available for supervision on the day of a strike by checking their Staffing Usage and Expenditure (SUE) report. The 'collective agreement' column in the SUE report shows whether an employee is covered by the agreement and is a union member. Union teachers will be on strike, non-union teachers will not but are not required to attend work if the school is closed for instruction, unless formally required to under the provisions of clause 5.4 of the Secondary Teachers' Collective Agreement. No support staff will be on strike.

(c) Student safety

During a strike, staffing will be reduced so there may be safety concerns. The health and safety of children and staff is paramount. If a school believes it can't safely stay open for instruction due to lack of staff, it may close the school (a "strike closure") and ask parents and caregivers to keep students at home. Note that under the Education Act 1989 you cannot partially close a school (e.g. for Year 9 only).

If it's not feasible to have staff at school to supervise students who attend, you'll need to ensure every student's parents or caregivers are aware that the school will be closed and will not be providing supervision of students.

(d) School closure

A strike closure should be a last resort. Some caregivers may struggle to keep students home during school hours. For health and safety reasons, the Secretary expects schools to supervise students who do attend.

Supervision can be given by:

- principals who are expected to be at school unless directed otherwise by the Board;
- teachers, and already scheduled day relievers, who aren't union members and therefore aren't striking and who have agreed with a request to come to school
- day relievers hired to supervise during the strike (day relievers can be hired to supervise for health and safety reasons but not to teach⁶);
- support staff, under supervision from a teacher, who normally interact with children.

(e) Strike closures can't be implemented under section 65E Education Act 1989. That only covers epidemic, fire, flood or other natural disasters.

(f) Once a decision is made by the Board, please advise the Ministry of the decision without delay.

3.3 Learning Support students in dedicated units of secondary schools

These students will need particular care. If the school is open for instruction it cannot require learning support students to remain at home. The Board is responsible for putting in place specific arrangements for such students. The school should discuss arrangements in respect of every learning support student with that student's parents or caregivers. It is strongly suggested that in such cases a Board also discusses proposed arrangements with NZSTA, and informs the local Ministry office of proposed arrangements.

⁵ Section 97 Employment Relations Act 2000.

⁶ Section 97 of the Employment Relations Act 2000 sets out the limitations on an employer's power to employ or engage another person to perform the work of a striking employee.

Secondary school

3.4 **If you can't stay open for instruction, it won't affect the length of your school year**

If a school is closed for instruction because of a strike, it won't impact on the length of the school year.⁷ The Board won't need to make up the shortfall of half days even if it closes the school but provides supervision.

3.5 **What to do with the unused staffing entitlement**

A teacher strike creates an unused staffing entitlement which Boards can use later in the year, or to employ relieving teachers during the strike.

3.6 **After the strike the Ministry sends details to MBIE on behalf of Boards**

Section 98 of the Employment Relations Act 2000 requires employers to report every strike to the Chief Executive of the Ministry of Business, Innovation and Employment (MBIE). The Ministry of Education will do this on behalf of Boards, using the information supplied by Boards on the Strike Action Spreadsheet (see para 2.2). MBIE records the numbers of all union members striking and the hours and salaries lost.

There is a similar but quite separate process required by Boards for reporting on the "partial strikes" planned for weeks 6, 7, 9,10. This is detailed at Appendix C

3.7 **Advice from NZSTA and the Ministry**

For guidance during a strike, or advice on closing a school, contact the NZSTA Advisory and Support Centre or your regional Ministry office. See Appendix A for NZSTA and Ministry contact details.

3.8 **Legal support and indemnity for Boards**

(a) **Support with legal actions**

If the Board is threatened or served with legal action as a result of the Secretary suspending striking staff and directing that they not be paid, the Ministry may give advice and advocacy services to the Board. If required, it will conduct any litigation on behalf of the Board in consultation with the Board's insurer. If threatened with legal action the Board should immediately notify:

- the Employment Relations Unit of the Ministry;
- its own insurer; and
- NZSTA.

See Appendix A for Ministry and NZSTA contact details.

(b) **Board indemnity for costs or damages**

If a Board becomes liable for costs or damages arising out of the Secretary's decision to suspend and not pay striking employees, the Board is indemnified. But the indemnity doesn't apply if, in the reasonable opinion of the State Services Commissioner, the costs or damages were due to Board conduct which was engaged in without reasonable care or was not in good faith.

4. **Specific advice on students participating in Activity Centres / Gateway / STAR / Alternative Education / Teen Parent Units or similar programmes off site**

4.1 Many secondary schools offer off-site vocational programmes for students, particularly at senior levels. In the case of a strike affecting students in those year levels, generally there is no reason why the normal operation of those programmes should not proceed during a strike, as the programmes are not delivered by PPTA members. Please note that no striking teacher can be required to do any work to support the off-site programme, during the strike, but non-striking teachers can, with their agreement.

⁷ Section 65A(2A) Education Act 1989.

Secondary school

5. Final requirements for a full strike

5.1 Return strike action spreadsheet to Education Payroll Ltd.

The strike action spreadsheet must be filled in and returned **electronically in the same format as it was sent to you** to returns.industrialaction@edpay.nz (even if there are no changes) by 5pm on the day after a full strike.⁸ The spreadsheet must also be printed and signed by the principal⁹ or Board Chairperson, then archived in the school's official records. (Please do not send EPL the signed version or a PDF as these cannot readily be processed).

5.2 Communicate with non-striking union members

Notify each union member who did not participate in the strike (e.g. due to sickness or other leave) that they are recorded on the non-participation list and will be paid as normal.¹⁰

5.3 EPL will recover any overpayments made to striking union members

Wherever reasonably practicable, salary not payable as a result of a strike is automatically deducted so that an overpayment does not result. However, due to when some of the planned strikes occur in the pay cycle this is not always practicable. Therefore, EPL will automatically recover those overpayments from all teachers covered by the strike notice in a subsequent pay period unless they are identified in the spreadsheet as not being on strike.

When a teacher has been overpaid while on strike and suspended:

- The teacher will be given written notice that they were overpaid and that the overpayment will be recovered.¹¹
- EPL will recover the overpayment within two months of the notice.

⁸ Section 74AD State Sector Act 1988.

⁹ Assuming the principal has the appropriate delegations from the Board.

¹⁰ State Sector Act 1988, s74AD(1)(b)

¹¹ The overpayment is recovered under section 6 Wages Protection Act 1983.

Secondary school

Appendix A: Contact details

For operational questions about strike action in your school, please get specific advice from NZSTA.

NEW ZEALAND SCHOOL TRUSTEES ASSOCIATION (NZSTA)

- 0800 STAHELP (0800 782 435)
- Email: eradvice@nzsta.org.nz or govadvice@nzsta.org.nz

MINISTRY OF EDUCATION

Closure notifications are to be sent to your local Ministry of Education office:

- **Tai Tokerau:** enquiries.whangarei@education.govt.nz
- **Auckland:** enquiries.auckland@education.govt.nz
- **Waikato:** enquiries.hamilton@education.govt.nz
- **Bay of Plenty, Waiariki:** enquiries.BoP-Waiariki@education.govt.nz
- **Hawke's Bay, Tairāwhiti:** enquiries.napier@education.govt.nz
- **Taranaki, Whanganui, Manawatu:** enquiries.whanganui@education.govt.nz
- **Wellington:** enquiries.lowerhutt@education.govt.nz
- **Nelson, Marlborough, West Coast:** enquiries.nelson@education.govt.nz
- **Canterbury, Chatham Islands:** enquiries.christchurch@education.govt.nz
- **Otago, Southland:** enquiries.dunedin@education.govt.nz

You can notify your local Ministry office as soon as the decision to close the school is made.

Ministry of Education Employment Relations Unit

- Email: employment.relations@education.govt.nz

Education Payroll Limited (EPL)

- Email: info@educationpayroll.co.nz

Appendix B: Sample letter to parents if a full strike closes a school for instruction

Dear Parents and Caregivers

The Board of Trustees can't provide teaching for students during the upcoming teacher strikes by PPTA

The PPTA has advised the [Y] Board of Trustees that teachers at our school will be taking strike action from [time] on 29 May to [time] on 29 May 2019, and from [time] on [date] to [time] on [date] June 2019.

The Board has carefully considered the availability of teaching staff, and unfortunately decided that we can't provide the normal teaching services during the strike so the school will officially be closed for instruction during the above times. [Accordingly it's important that you make appropriate alternative arrangements for the care of your child/children during the period of the strike as no supervision can be provided. [Delete if closed for instruction but providing supervision]

If this is difficult we can still supervise a small number of students if required. Please contact the office or send a note to indicate if your child/children will need this. [Delete if all teachers are on strike so no supervision can be provided.]

School transport will be [add information discussed at 1.6 or delete if it doesn't apply].

I know that this is inconvenient for parents and students alike, but please be assured that student safety is our main concern.

Thank you for your understanding. Please contact [name] if you have any queries relating to this decision.

Yours sincerely

Chair Board of Trustees

Appendix C: Process for managing and reporting on *partial strike* action (“rostering home” of students) and required reporting procedures

1. In addition to the full strike on 29 May, and rolling regional full strikes during the week of 17-21 June, partial strikes will take place (the “rostering home” of students). These partial strikes will affect only those members who teach students at a particular year level, on a particular day in each of Term 2 weeks 6, 7, 9 and 10. This would be one year group per week; in other words it would be one day of action per week.
2. The considerations for such a partial strike by year level are essentially the same as for a full strike affecting the whole school.
 - (a) The top priority is student safety.
 - (b) Schools cannot close for instruction because a year level “partial” strike is underway.
 - (c) Schools need to ensure that parents know about the year level strike and are required to send their children to school since the school will be open for instruction.
 - (d) Boards are legally required to provide instruction if they can, and supervision if they can't for any student who turns up. Boards are still responsible for students' health and safety.
3. The Ministry will send a partial strike action spreadsheet to boards to be returned by the school. You will need to show those teachers who did not participate in the strike, which in the case of a partial strike relating to one year group only, may be the majority of the teaching staff at school. Boards have a legal obligation to provide this information under s 74AD of the State Sector Act 1988. Providing the information will also enable the Ministry to report the strike accurately to the Ministry of Business, Innovation and Employment.
4. **The partial strike action spreadsheet is to be returned to the Ministry on the last day of the partial strike (2 July) or by 5pm on 3 July at the latest.**
5. A key difference between a partial and a full strike is that legislation does not allow the Secretary to deduct/recover salary in respect of a partial strike. The strike action spreadsheet, as detailed in para 3 above, is required to meet the Ministry's statutory reporting requirements to MBIE.
6. Teachers may take the opportunity to publicise the strike, outside the school entrance, during time when they would normally teach the affected year level students, and Boards should consider how to deal with the impact this may have on students.