



NZSTA Submission
on

**Ministry consultation on
changes to the
Education and Training Act**

16 June 2021

Introduction

1. This feedback is presented by the New Zealand School Trustees Association (NZSTA) on behalf of its member boards.
2. School boards are the largest single group of crown entities in the country, accountable directly to the government and their local community for the effective delivery of education in their school.
3. NZSTA is a national body representing the interests of approximately 2,260 member boards (93 percent of the total number). There are approximately 18,000 people currently serving on 2,426 state and state integrated school boards.
4. As part of its service delivery function, NZSTA provides a comprehensive support service to school boards, including free access to employment and governance advisory services, a full range of professional development and access to an 0800 Advisory and Support Centre. NZSTA is also an active party with the Ministry of Education in negotiating Collective Agreements with unions.
5. NZSTA as a membership organisation surveys member boards from time to time on issues of current or potential significance to school boards.
6. This feedback draws on NZSTA's:
 - ongoing dialogue with individual school boards and principals, and elected representatives of NZSTA member boards at local, regional and national levels
 - experience in supporting boards with governance and accountability issues through our 0800 Advisory and Support Centre, and our national network of professional governance and employment advisers
 - Collective Agreement negotiations
 - formal Professional Development and targeted support for school boards
 - opinion surveys of member boards.
7. We can be contacted at NZSTA, PO Box 5123, Wellington, phone 471 6422, fax 473 4706, email lkerr@nzsta.org.nz.

Executive Summary

8. NZSTA recognises the Education and Training Act 2020 as an important milestone in the transformation of our education system to a 21st-century system that
 - honours and enacts *Te Tiriti o Waitangi*
 - meets or exceeds international obligations and indicators of good practice
 - gives life to the enduring objectives for education.
9. This submission focusses on the interface between the government, the community and the school, in particular
 - The alignment of any proposed changes to the design principles noted above, and
 - The likely effect in practise of how such changes might be framed and worded.
10. Our comments therefore go beyond the technical changes that might be required to the legislative machinery, to question what the purpose of that machinery is, and whether the constructs we are working from are going to move us closer to it or hold us back from it.

Proposed changes to school board elections

NZSTA supports in principle the proposed changes to school board elections.

Requirements to consult

We do not consider that the meaning and purpose of genuine consultation as an expression of partnership between a community and its school has been adequately developed in the consultation document.

Giving effect to *Objective 1: Learners with their whānau are at the centre of education and Te Tiriti o Waitangi* requires more than the generic ‘take it or leave it’ approach to consultation that characterised the education sector in past decades. Further thought needs to be given framing consultation as an ongoing process of dialogue and partnership, rather than an episodic stop-start process.

Co-opting and appointing board members

NZSTA supports this proposal in principle, however we also recognise that a school board is by its nature a small group, that can only approximate the demographics of its community through its membership. Diversity of board membership, both in skills base and in ethnicity or other key characteristics will only ever be one element of the board’s representativeness of and responsiveness to its wider community.

Once on the board, a member’s role is to represent and act in the interests of the whole school community, not a limited constituency within it. Boards may or may not accurately reflect the demographic make-up of their community, but they should always endeavour to represent their interests through a range of engagement strategies.

It will be important to draft these provisions in a way that also recognises the importance of other elements in creating balance and diversity on the school board, such as the use of community members on board committees, relationship-building, Treaty partnerships and ongoing consultative conversations.

Strengthening student voice

NZSTA supports the proposal to remove the requirement to wait until the next annual student representative elections if a board is left without a student-elected member.

It would also make sense to us for the co-option and selection criteria to specifically include the possibility of co-opting or selecting students to the board. This might also allow for the possibility of a board sometimes having two student members, to allow for better succession planning and continuity. This also realises the system's strategic intention that our students are at the centre of all we do.

Clarifying casual vacancy procedures

NZSTA supports this proposal in principle. To ensure that a board is not left unable to function because of unfilled casual vacancies, we propose that there should be an outer limit to how long a vacancy can be left (6 months period leading up to elections notwithstanding).

Amending election timetables

NZSTA supports these proposals

Other minor and technical changes

NZSTA supports these proposals in principle. We would need to see the actual provisions proposed before making a definitive comment.

Police vetting of education employees

NZSTA supports this proposal.

Proposed changes to out of zone enrolment priority categories

We note the Ministry's statement that they have "no strong evidence of a problem with the current balloting categories." That being so, we consider that amendments to these criteria may be premature.

We therefore urge the Ministry to exercise caution in implementing any changes, desirable as they may appear, and to ensure that affected schools and communities have a suitable adjustment period. 

Proposed changes to Teaching Council processes

NZSTA supports the proposal to clarify the Teaching Council's role in enforcing certification requirements

NZSTA supports the proposal to clarify the Teaching Council's role in enforcing certification requirements

NZSTA supports the proposal to remove the restriction on the CAC against making findings of serious misconduct.

Options relating to appeal

NZSTA prefers Option 1: any party adversely affected by a CAC decision can appeal. This option would protect the right of a school board to appeal a decision they consider could compromise their legal or ethical obligations.

Options relating to changing the CAC's powers to resolve cases

We agree that Option 3 (give the CAC power to impose a penalty without agreement and provide for other ways that the CAC can resolve a case including by agreement or mediation) provides the best opportunity to expedite what is an already onerous process.

Options relating to changing the mandatory threshold for cases to be referred from the CAC to the DT

We agree that Option 3 (referral is based on whether the DT may need to consider suspension or cancellation as a starting point) is the strongest option.

[Allowing the Education Review Office to review PLD services](#)

NZSTA supports this change. We strongly recommend that ERO's mandate is extended to cover all teacher professional education and ongoing professional development, including Initial Teacher Education.

[Compulsory student services fees](#)

No comment

[National Student Numbers](#)

No comment

[Enabling NZQA to cancel a Private Training Establishment's registration](#)

No comment

11. Our reasons are given in more detail below.

Analysis and commentary

12. NZSTA recognises the Education and Training Act 2020 as an important milestone in the transformation of our education system to a 21st-century system that
- honours and enacts *Te Tiriti o Waitangi*
 - meets or exceeds international obligations and indicators of good practice
 - gives life to the enduring objectives for education:
 - Objective 1: Learners with their whānau are at the centre of education
 - Objective 2: Great education opportunities and outcomes are within reach for every learner
 - Objective 3: Quality teaching and leadership make the difference for learners and their whānau
 - Objective 4: Learning that is relevant to New Zealanders today and throughout their lives
 - Objective 5: New Zealand education is trusted and sustainable.
13. These are in effect the design principles for any future legislative change.
14. NZSTA's lens on proposed amendments to the Act focusses on the interface between the government, the community and the school. School boards are charged with governing their schools in a way that embodies these principles, while also following the letter of the law and complying with other expectations identified by the Ministry of Education, ERO and other government agencies through legislation, regulation, and guidelines.
15. School boards hold multiple accountabilities – to their school community, to the government, to other education agencies, and to agencies beyond the sector whose work overlaps into the life of the school such as child protection, employment law and health and safety.
16. We have reviewed the consultation document with these matters foremost in our minds, with a view to
- The alignment of any proposed changes to the design principles noted above, and
 - The likely effect in practise of how such changes might be framed and worded.

Proposed changes to school board elections

The key change we are considering is to enable schools to choose whether to run their elections electronically, through hui or through the current process.

17. NZSTA supports amending the legislation to permit alternative school board election processes.

18. In any of the alternate processes identified below, the Returning Officer will need to remain accountable for ensuring that proper process is followed, resulting in a fair and impartial election.
19. We are confident that appropriate processes and protocols can be developed to ensure that Returning Officers are able to fulfil those requirements confidently and competently.
20. These amendments need to be drafted in a way that clearly permits a school to choose a combination of board election processes that meet its perceived needs without prejudice to the process used for other board elections.
21. For example a school may choose to use a hui-based process for parent elections alongside an electronic process for staff elections and a postal ballot for student elections, if that is what seems most appropriate in their school.
22. The legislation should also be drafted to clearly indicate that a board may choose a different combination of approved electoral processes each time. While we recognise that this may result in more complex administration, it will be essential to ensure that the benefits of the proposed change are captured.
23. It will be important that Returning Officers are familiar with all the approved processes, regardless which one/s is/are chosen, and able to make recommendations to the board for subsequent elections in their final report.

Electronic elections

24. NZSTA has already researched options to provide for electronic voting. We are confident that this would be a workable and beneficial alternative to the present process.
25. There are some preconditions for electronic elections to be run successfully, including the level of technical proficiency that maybe required of the Returning Officer, the broadband coverage and bandwidth available in the school community (particularly relevant in rural and remote schools), and the stability of platforms, particularly at 'high use' points in the process. For example, if there is a 12.00noon deadline on the day nominations close, will the system be able to cope with peak loads between 11:45 and 12 noon? If not and the system crashes, will there be provision for extending deadlines?

Hui-based elections

26. NZSTA agrees that hui-based elections have the potential to work well for some school communities.
27. Many governance-oriented organisations, including NZSTA, already have rigorous hui-based voting processes for critical issues such as constitutional changes, election of officers, strategic and financial decision-making in the context of an Annual General Meeting (AGM). We consider that these provisions can also be made rigorous enough to apply to school board elections.
28. We consider that providing for hui-based elections is an important element in enacting the Crown's obligations under Te Tiriti o Waitangi. We therefore recommend that these provisions are framed initially to work in a kaupapa Māori context, and adapted if required for Tangata Tiriti organisations¹.

¹ Rather than being developed initially in a kaupapa Pakeha context and adapted for kaupapa Māori contexts.

Requiring schools to consult students (years 9 and above), staff and their school communities on elections processes.

29. NZSTA strongly supports these changes, as an expression of transparency, partnership and informed consent as expressed in the maxim: *nothing about us, without us*.
30. While the proposed changes are likely to require somewhat more effort on the part of schools and their Returning Officers, we consider that they constitute an important investment in the integrity and underlying strength of the democratic process.
31. These changes also align with NZSTA's own core values of high expectations, high transparency, high trust and high accountability, and our mission *to lead and strengthen school governance in New Zealand*.

Meaningful consultation in 21st-century schools

32. NZSTA considers that adequate and meaningful consultation requires more than the generic 'take it or leave it' approach to consultation that characterised the education sector in past decades.²
33. Traditionally, Ministry documentation (including legislation) has tended to be limited to rather fuzzy, homogenised references to "the school" and "the school community" rather than acknowledging the various stakeholder groups that make up those collectives (boards, teachers, support staff, principals; whānau Maori, hapū and iwi, mana whenua, tangata whenua, Pasifika peoples, deaf students and families, neurodiverse students and their families, disabled students and their families, migrant and refugee students and their families...).
34. The present consultation presents an opportunity to specify that the focus of consultation is between the board and the various stakeholder groups who constitute the school community³. This would signal the expectation that boards will identify and engage with each of those stakeholder groups in an appropriate manner.
35. We also urge the Ministry to ensure that consultation is framed as an ongoing conversation between the various parties, not merely a one-off exercise. Many schools already use tools such as NCER's *Wellbeing at School* survey or *Teaching and School Practices* survey to solicit ongoing feedback about school performance. The Ministry of Education's new Te Rito data repository will add another important feedback mechanism for students and whānau. While none of these in itself constitutes a consultation process as envisaged in this part of the legislation, the provisions should be framed with this model of ongoing consultation in mind.
36. In saying this, we recognise that undertaking genuine consultation of this nature is not a trivial exercise, and will require an expenditure of time, energy and resources on the part of the school to undertake that is currently not factored into schools' funding formulae. A genuine commitment to community partnership and participation through ongoing consultation and dialogue needs to be reflected in funding and other resources to enable schools to undertake the necessary investment in building and maintaining this level of engagement with local communities.
37. Alongside the hui-based, electronic, postal election processes discussed in this feedback, publicity and communication with stakeholder groups needs to be designed to support

² *Twenty-first century Schools* (May 2018); *Tomorrow's Schools Review* (August 2018); *Tomorrows Schools Taskforce report* (April 2019); *Engaging parents in the education of their children* (November 2013);

³ Including staff and students

engagement by a wide range of stakeholder groups in the school's community, including Pasifika, Muslim, Asian, migrant, refugee, parents of neurodiverse students, disability advocacy groups, and parents of pre-school children.

38. This requires us to think about different ways and places of engagement with those groups, that are safe and comfortable for them. It requires us to think about how we might develop genuine partnerships with community elders and other community leaders such as kaumātua, imams, ministers, rabbis, Kindergarten committees, to create consultations and conversations in their place, be it mosque, synagogue, church, marae, or playgroup and how we might conduct those conversations in the language of the community so that they can engage fully in them.
39. Old habits are hard to change, and we have a long-standing habit in New Zealand education of expecting the community to come to us, the 'experts', on our terms and in our safe place. Creating a more genuinely inclusive and representative process for electing school boards can be done to some extent by changing the letter of the law that they operate under. We embrace this.
40. The bigger change, however will come from the shift in hearts and minds that those changes enable and support. Whether or not the legislative reform is effective will depend largely on how well the underlying mental models reflect the future we are working towards.
41. Our comments therefore go beyond the technical changes that might be required to the legislative machinery, to question what the purpose of that machinery is, and whether the constructs we are working from are going to move us closer to it, or hold us back from it.
42. The rest of this feedback should be read in the context of these bigger issues.

Requiring schools to consult students

43. In a student-centred school environment – what we say in theory that we are trying to create - the ideal would be that decisions about the school's democratic processes such as election of the school board are referred to the student body as a matter of course. While this applies most obviously to the position of student-elected board members, there is no clear reason why other aspects of the school's democratic processes should be excluded.

Article 12 of the United Nations Convention on the Rights of the Child recognises that children have a right to be heard...

Children can no longer be perceived as passive recipients of care and protection, or accidental beneficiaries of policy decisions; they cannot be envisaged as not yet persons or adults in the making. Attention must be paid to their inner feelings, thoughts and views. ⁴

44. NZSTA considers that this is essential to *walking the talk* of genuine respectful and reciprocal relationships that underpins the concept of a learning partnership between students, whānau and school.

⁴ Child Participation: Save the Children's Resource Centre <https://resourcecentre.savethechildren.net/our-thematic-areas/cross-thematic-areas/child-participation>

ARTICLE 12 Freedom of opinion

The child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child..⁵

45. Walking the talk in terms of school board elections is an important educational tool, linking the theory of school civics curriculum with the school's own practices⁶. Consulting students about the school's own election process provides a powerful worked example of local democracy in action, in a context that has an authentic and immediate connection to students' lives.
46. In that context, we recommend that the Ministry considers whether an arbitrary restriction of students' Article 12 right to have a say about the things that affect them in their school to Year 9 and above is still appropriate, or whether schools as educational environments should be expected to develop age-appropriate processes for engaging with and seeking the views of (i.e. consulting) all students at the school, from new entrants to school leavers through classroom activities as well as extra-curricular involvement such as student councils or membership of the school board. For example, it is not clear why students in Year 7 & 8 should be denied this right from a developmental or educational perspective. The appropriate form(s) of engagement might be different for junior and middle school students, for example through an older advocate who might or might not be a student representative or a co-opted student advocate position on the board.
47. New Zealand schooling is still far from an ideal or a genuinely student-centred school environment, and as such may not yet be ready for such a radical interpretation of student-centred schooling, or student participation. Even so, if we are serious about developing a genuinely student-centred education system, we must be open to expanding the ways in which we seek student voice and student participation across the life of the school.
48. We do not pretend to have the answer to the question whether student participation in their school's democratic processes is as effective or as accessible as it should be, but we do think that it is an appropriate time to ask the question.
49. There exists a wonderful opportunity here for schools to connect their own election processes into their local curriculum. While we do not see this as an appropriate requirement for legislation, we do consider that enabling and encouraging it should be part of the policy framework that informs these amendments.

Requiring schools to consult the school's Māori community

50. NZSTA strongly supports a requirement to consult the school's Māori community.
51. We acknowledge the obligation that school boards have, as Crown Entities, to enact Te Tiriti o Waitangi, and we consider that the explicit requirement to consult with "the school's Māori community" is an essential component of this.
52. We also acknowledge that current processes remain strongly rooted in the Westminster system, and are not particularly conducive to providing equivalent space for kaupapa Māori either in the election of school board members or the subsequent governance models. We

⁵ The 42 rights of a child: UNICEF <https://www.unicef.org/nz/child-rights>

⁶ Again, while this applies most clearly to the election of student board members, the principles apply also to the wider context of board elections generally.

know that many board members who find themselves the sole Māori board member on a kaupapa pākeha board find the experience difficult and disempowering.

53. On this basis, we believe that this proposed change, particularly in combination with the option to hold hui-based board elections, has the potential to create a significantly more equitable distribution of board members around the table.
54. Achieving those potential changes will however require a re-framing of what the term 'consultation' implies. We note, for example that consultation – even effective consultation - is a long way from the kind of genuine power-sharing required to enact Te Tiriti o Waitangi.

Mana whenua, First nations (Iwi), and “the Māori community”

55. While considering the wording of these provisions, we urge the Ministry to consider that “the Māori community” is in itself a Eurocentric construct that does not fully embrace the way these communities see themselves.
56. Te Tiriti o Waitangi was signed not by one ruler of a homogeneous ‘Maori Nation’ but by the leaders of many Iwi (first nations). Enacting te Tiriti o Waitangi effectively will in the future require us to work with those first nations who signed Te Tiriti separately and collectively. While there is some way to go yet before our society as a whole evolves their understanding to this point, we consider that it is prudent to future-proof new legislation by framing it in a way that reflects this evolving understanding.
57. Specifically, in this instance, the school’s “Māori community” is likely to mean in practise a range of key stakeholder groups including
- mana whenua,
 - tangata whenua (of whom there may be several),
 - parents of Māori students,
 - local whānau
 - local hapū
 - local iwi authorities, with particular reference to any Iwi Education Plans that may be in place.

58. We do not necessarily consider that it is appropriate to legislate a prescriptive list of Māori stakeholders. We do consider that these questions need to be worked through in the policy design and development phase of the proposed legislation to ensure that the eventual framing of the legislation helps schools to develop more nuanced and informed approaches to consultation with their Māori communities. At the very least, we would suggest that the preferred wording changes to “Māori communities” (plural).

Consultation and partnership

59. We caution against conflating the idea of ‘consultation’ with the ideal of ‘partnership’ in the drafting of future legislative changes.
60. ‘Consultation’ as it is framed in the Education Act 1989 and now the Education and Training Act 2020, and generally understood in the education sector is an intermittent activity that boards and principals undertake when it is necessary to gain endorsement for things the school is doing or is planning to do. You go out and consult, then you come back and use the results of that consultation to inform your actions, until it’s time to consult again.

61. 'Consultation' as NZSTA envisions it, is an ongoing process of dialogue and adjustment that supports a partnership of equals between the school, and the various stakeholder groups who are served by the school. (See [Appendix 1: Levels of citizen participation.](#))
62. Even then, we recognise that consultation is not the same thing as partnership. If a school consults often they may genuinely believe that they are *working with* a particular community group but they are not the same thing. So long as there is an imbalance of power in the decision-making process, there may be delegation, or consultation, or accommodation but these all occur at a lower level than genuine partnership.
63. In this context, we have to ask whether the proposed school consultation requirements will be framed as part of a commitment to genuine partnership between schools and their communities, or whether they will be framed, as currently, as an alternative to that commitment, where the Crown requires only the appearance of striving for partnership, while avoiding the scary territory of genuine power-sharing

Requiring schools to consult other stakeholder groups within the school community

64. NZSTA strongly supports this proposal. Empowering and informing the school's stakeholder communities is essential to a robust democratic process around school board elections.
65. We would prefer that the language of the amended legislation changes to recognise the plurality of a school's *stakeholder communities*, in preference to the current (misleading) homogeneous *school community*.

Requiring schools to consult staff

66. NZSTA strongly supports the proposal to require consultation with the school's staff. Engaging with school staff about the board election process is essential to a robust democratic process around school board elections.
67. This consultation should include all staff including ancillary and support staff, regardless of whether they are employed directly by the board, or through the Ministry of Education

Updating the criteria for co-opting and appointing board members so that they are inclusive and better reflect te Tiriti o Waitangi.

68. NZSTA supports this proposal in principle, however board composition is only one of the ways in which a school board is representative of its community.
69. . We recognise and support the intention of this proposal to create a more equitable process for participating in the democratic process of board elections, and subsequent governance of the school.
70. At the same time, we recognise that a school board is by its nature a small group, that can only approximate the demographics of its community through its membership. Diversity of board membership, both in skills base and in ethnicity or other key characteristics will only ever be one element of the board's representativeness of and responsiveness to its wider community.
71. One of the characteristics of a representative democracy such as is practiced in New Zealand is that particularly on small groups such as a school board or other local body, the results of democratic elections do not always result in a group that is the same as its constituency.
72. There are many reasons for this, including the fact that the postal ballot system is strongly aligned to colonial Pakeha norms and a much less comfortable fit with other cultures. Other

proposed amendments to the Act, such as enabling hui-based elections and strengthening the provisions for consultation with key stakeholder groups in the community should go some way to addressing this inherent bias in the system.

73. NZSTA has consistently taught school board members that once on the board, their role is to represent and act in the interests of the whole school community, not a limited constituency within it. Boards may or may not accurately reflect the demographic make-up of their community, but they should always endeavour to represent their interests through a range of engagement strategies.
74. It will be important to draft these provisions in a way that also recognises the importance of other elements such as the use of community members on board committees, relationship-building, and ongoing consultative conversations in ensuring that school boards.

Strengthening student voice by requiring boards, after an unsuccessful 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.

75. NZSTA supports the proposal to remove the requirement to wait until the next annual student representative elections if a board is left without a student-elected member.
76. We note also that increasing the visibility and relevance of school board elections, not only for the student-elected member might also help to ensure that students are willing to make themselves available for this role.
77. It would make sense to us for the co-option and selection criteria to specifically include the possibility of co-opting or selecting students to the board. This might also allow for the possibility of a board sometimes having two student members, to allow for better succession planning and continuity.

Clarifying casual vacancy procedures

78. NZSTA supports this proposal in principle.
79. To ensure that a board is not left unable to function because of unfilled casual vacancies, we propose that there should be an outer limit to how long a vacancy can be left (6 months period leading up to elections notwithstanding).

Amending election timetables to increase flexibility and to allow certain election processes to happen faster

New month-long timetable for student representative elections and staff by-elections

80. NZSTA supports this proposal

Holding student representative elections at a different time of the year

81. NZSTA supports this proposal.
82. We would like to see the provisions reflect the need for consistency within the school, for example we are not convinced for example that it would be good practice for a school to change the time of year of student elections every year.
83. This difficulty also might be mitigated if the Act were to permit for some circumstances where two students could be on the board at the same time. For example,
- (a) Staggered student elections are held every year, for a 2-year term of office
 - A new student representative takes office on 1 January each year.

- The incumbent student representative remains in office until 31 December of the year following their election.

OR

- (b) Student elections are held in Term 2 every year, for a 1-year term of office that runs from 1 January to 31 December.
- The student representative-elect joins the current Student Representative at board meetings for the rest of the year to induct them into the role, but does not have voting rights until they take over as the student representative on 1 January.
 - The new student representative takes office on 1 January the following year (as currently).

84. This would provide

- peer support for student representatives, who may otherwise be isolated and marginalised
- assured continuity for student representatives, through the presence of a colleague who has already been in the role and who has been mentored in their turn by an experienced student representative.

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

85. NZSTA supports this proposal. Particularly in the context of electronic voting, the 3-month timeframe is unnecessary.

86. We can see no obvious reason why distance school election timetables would need to be different from any other school board elections. [what happens with residential schools, boarding schools, health schools? These can be as far away from electors as Te Kura]

Other minor and technical changes.

Simplifying and modernising language, including using gender inclusive terminology and terminology in te reo Māori

87. NZSTA supports this proposal in principle. We would need to see the actual provisions proposed before making a definitive comment.

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;

88. NZSTA supports this proposal in principle. We would need to see the actual provisions proposed before making a definitive comment.

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;

89. NZSTA supports this proposal in principle. We would need to see the actual provisions proposed before making a definitive comment, for example the proposed eligibility criteria.

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

90. NZSTA supports this proposal.

Removing the detail currently provided for in the legislation about what nominees should include in their statements.

91. NZSTA supports this proposal.

Proposed change to Police vetting of education employees

Remove the application period and ensure all employees who require a vet are vetted before they begin work.

92. NZSTA supports this proposal. This would effectively remove (or at least mitigate) the bottleneck that currently occurs.

Proposed changes to out of zone enrolment priority categories

93. We note the Ministry's statement that they have "no strong evidence of a problem with the current balloting categories."⁷ That being so, we consider that amendments to these criteria may be premature.

94. NZSTA endorses the policy objectives of transparency, fairness and equity.

95. We welcome the Ministry's efforts to gather information about parents' and students' experiences of the balloting system, and we would strongly support an evidence-based approach to these questions.

96. While we strongly support consultation on issues such as these, consultation should be seen as additional to sound research methodology, not as a substitute for it. It is not clear to us however that such changes should be proposed to legislation before a more robust research phase is undertaken.

Transparency:

the primary purpose of the priority groups and the ballot process is to ensure that the offer of places to out-of-zone students is carried out in a fair and transparent manner. Ministry guidance states that, to be considered transparent, a process must be freely available, unambiguous and consistently applied...

we consider that legislatively the priority groups and ballot criteria are transparent in that they provide a clear hierarchy for selecting out-of-zone students and clear details of how to select students from within groups in that hierarchy.... We have not carried out an in-depth analysis of how balloting operates on the ground or its accessibility for different communities (such as people with disabilities), so would welcome views on the operation of balloting in practice.

97. We agree that at the level of legislation, the parameters for out-of-zone balloting are transparent however we agree also that this does not necessarily translate into transparency of process in every case for potential parents and students.

⁷ Discussion document: Proposed changes to the priority categories for school enrolment schemes p.2
<https://conversation.education.govt.nz/assets/ETAB-no-2/1250238-Appendix-2-Enrolment-priority-categories.pdf>

Fairness:

to be considered fit for purpose, the ordering of the priority groups must be perceived as fair and justified. Perceptions that the priority categories are unfairly advantaging certain groups would be seen as a failure to meet this principle by the broader community...

Currently, children of board employees and children of board members are fifth priority in the priority groups. We are aware of concerns that this low priority results in teachers being unable to enrol their children at the school where they work. This has the potential to influence where teachers choose to work. We are unable to quantify the extent to which this is considered to be a problem with the current balloting categories. However, one option to address these fairness concerns would be to increase the priority of children of board employees and board members

98. NZSTA considers that the school's key responsibility is to its current and prospective students. The New Zealand State school system is designed on the basis that each school's chief constituency is with its local (geographical) community and only then to other communities of interest associated with the school. We agree that these priorities should be reflected in the priorities for out-of-zone ballots.
99. While we do not consider that the children of staff or board members should be prioritised ahead of potential students from the local community we do consider that there is a strong case for prioritising the children of current staff and board members in the out-of-zone ballot.

Equity:

some children and young people are underserved by the current education system. If the ordering of the priority categories perpetuates this disadvantage or creates additional barriers to access by reducing choice for these learners, then options for improving equity of access should be considered...

The current priority groups place a high value on familial connection to a school, even if that connection was some time ago through a sibling who no longer attends the school or a parent who once attended the school... we consider that there may be a risk that prioritising some family connections, especially links between former students and their children, could contribute to inequity, by removing opportunity for families without these connections from attending some schools.

100. We agree also that historical familial connections to a school are not a good fit to the design principles of the New Zealand State education system. While we are aware of the argument that community can be defined across time as much as across geographical boundaries, the application of this principle in practice contributes to inequity and elitism in the State education system that is inconsistent both with the principle of increasing equity and with the State's obligations under Te Tiriti o Waitangi.
101. While we recognise that there are some schools where the socio-cultural background of students is an important factor in defining the school's character (e.g. Catholic schools,

Jewish schools, Hare Krishna schools) we consider that this should be addressed through the mechanism of designated special character schools. It is not the purpose of the out-of-zone enrolment process.

102. In principle, and subject to the results of our own consultation with member boards and the results of further robust research on the Ministry's part, we would potentially be open to reducing the number of categories for out-of-zone enrolment to four:

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

103. Siblings and children of former students ("old boys" and "old girls") would still be eligible to apply under category 4 but would have no inherent legislative advantage over other prospective students.

Unintended consequences and perverse incentives

104. We are aware of the unintended consequences of enrolment zones for creating local distortions in property markets and inhibiting social mobility due to the perceptions of "elite school" status for some schools. While we consider these effects to be perverse we acknowledge that they are a powerful motivator for some families.

105. Any changes to the enrolment criteria, particularly changes that might help to break down these anomalous effects, are highly likely to create further unintended consequences which may have significant impact both within and beyond the education sector in the short to medium term, for example on local property markets.

106. We therefore urge the Ministry to exercise caution in implementing any changes, desirable as they may appear, and to ensure that affected schools and communities have a suitable adjustment period. 

Proposed changes to Teaching Council processes

Proposed changes to streamline the disciplinary process for teachers

Options relating to changing the mandatory threshold for cases to be referred from the CAC to the DT

107. We agree that Option 3 (referral is based on whether the DT may need to consider suspension or cancellation as a starting point) is the strongest option.

Options relating to changing the CAC's powers to resolve cases

108. We agree that Option 3 (give the CAC power to impose a penalty without agreement and provide for other ways that the CAC can resolve a case including by agreement or mediation) provides the best opportunity to expedite what is an already onerous process.

Options relating to appeal

109. NZSTA considers that Option 1: any party adversely affected by a CAC decision can appeal is preferable.

110. This option would protect the right of a school board to appeal a decision they consider could compromise their legal or ethical obligations.

Removing the restriction on the CAC against making findings of serious misconduct.

111. We support this consequential change.

Proposed change to clarify the Teaching Council's role in enforcing certification requirements

112. NZSTA supports this proposal

Proposed change to clarify the grounds on which professional leaders in tertiary education organisations can have their practising certificates renewed using their recent teaching experience.

113. NZSTA supports this proposal

Proposed change to allow the Education Review Office to review professional learning and development services accessed by schools, kura and early learning services

We are working to strengthen our approaches to the review of PLD through impact reporting in contractual arrangements and the frameworks for schools, kura and early learning services to self-assess their growth within the Ministry's PLD platform. While each of these helps assure that PLD providers are meeting quality standards, we don't have good information about how PLD provision works with other parts of the education system to improve teaching practice and improve learner outcomes –either at a national level, or within individual schools, kura or early learning services.

114. NZSTA supports this change.

This change would not allow ERO to review Initial Teacher Education (ITE), or any other tertiary education courses or programmes that sit within the New Zealand Qualifications Framework because other mechanisms are in place for quality assuring tertiary education provision.

115. We consider that current arrangements for the quality assurance of Initial Teacher Education are ineffective, and not fit for purpose. This is evident in the ongoing concerns voiced by school boards over a number of years about the readiness of ITE graduates to enter the profession as effective teaching practitioners.

116. We strongly recommend that ERO's mandate is extended to cover all teacher professional education and ongoing professional development, including Initial Teacher Education.

Proposed changes to compulsory student services fees

117. No comment

Proposed change to allow National Student Numbers to be used to support work-based learning

118. No comment

Proposed change to enable the New Zealand Qualifications Authority (NZQA) to have discretion to cancel a Private Training Establishment's (PTE's) registration

119. No comment

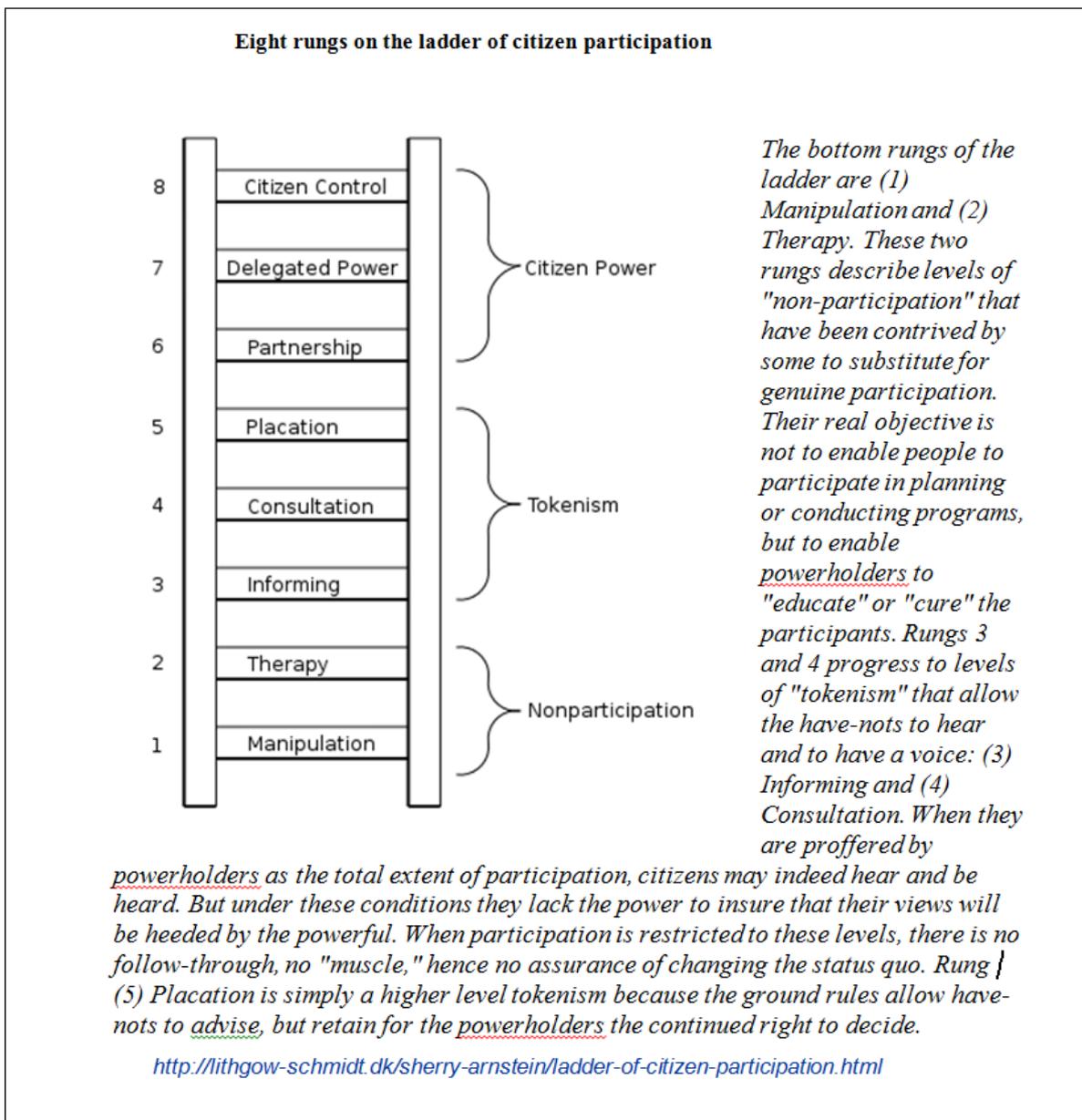
Appendix 1: Levels of citizen participation

(Extract from NZSTA's 2013 submission on Engaging parents in the education of their children, pages 6-8.)

Engagement as participation

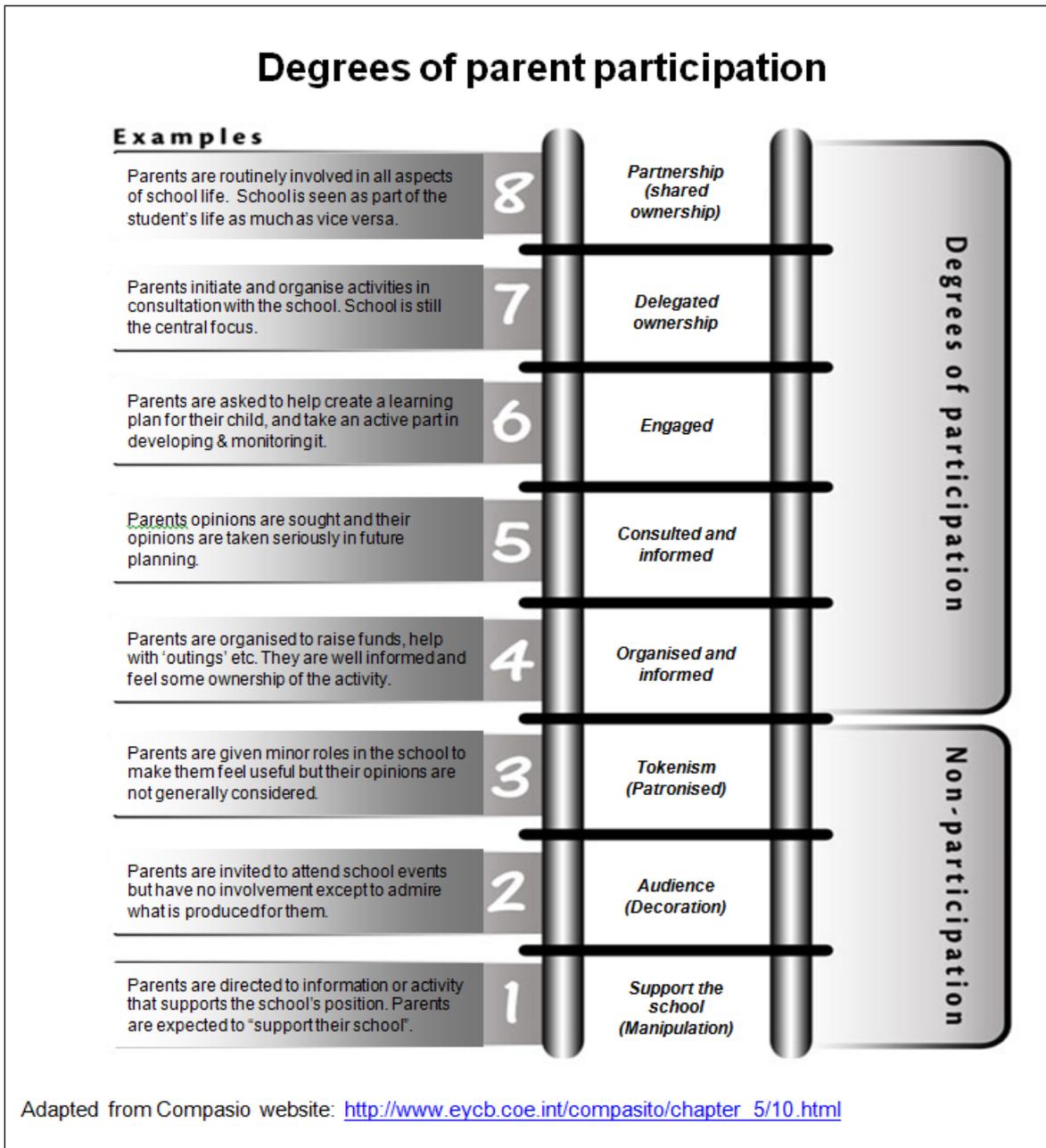
24. The literature recognises eight levels of participation, from manipulation (the lowest level) to control (the highest), typically represented as a ladder. Genuine "engagement" falls at the higher end of the ladder.

Diagram: Eight rungs on the ladder of citizen participation



25. A different version of this diagram, relating the ladder concept to parent participation in their children's schooling might look like this:

Diagram: Eight rungs on the ladder of parent participation



26. On this scale, many schools in New Zealand encourage genuine participation (levels 4-8) but fewer could claim to be genuinely engaging parents (levels 6-8). Many still operate at levels 1-3 (non-participation). Changing this to encourage genuine engagement in children's education by parents, caregivers and the wider community will require a culture change in the New Zealand school system.
27. In order to engage meaningfully, the significant adults in a student's life must be given the confidence to know that their opinions, contributions, values and have a place in the student's life at school. This is a vastly different situation from the traditional C20th *in loco parentis* approach that regards students as "belonging to the school" in the sense that the school has a proprietorial right to them when they are at school or in uniform and only "belonging" to the parents outside of school hours. This culture is changing in some schools, but the default *in loco parentis* assumptions are still strong.

28. There is a difference between the “norms” that primary schools (geared towards Y1-8 students) and secondary schools (geared towards Y9-13 students) tend to operate in this regard. Primary schools are generally more community-oriented and transparent, with higher levels of parent participation. Secondary schools generally tend to be less transparent and less community-oriented, with lower levels of parent participation. This difference is deeply ingrained in New Zealand society.

Partnership, Protection, Participation

29. One model of genuine engagement in the context of New Zealand society is the principles of *te Tiriti o Waitangi / the Treaty of Waitangi*, sometimes given as “the 3 P’s”: Partnership, Protection and Participation.
30. Although these principles have been formulated as specifically relating to the Crown’s obligation to treat fairly with Māori under the Treaty, a genuinely inclusive school culture that engages students and their parents needs to embody similar principles.