



James Watson
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Tēnā koe James

Thank you for your email of 20 January 2021 to the Ministry of Education requesting the following information:

1. *Can I please have copies of all correspondence and reports or other material referring to s 9 of the Education and Training Act 2020.*

Your request has been considered under the Official Information Act 1982 (the Act).

Reports or other material referring to s 9 of the Education and Training Act 2020.

There is a substantial amount of material publicly available online in relation to section 9 of the Education and Training Act 2020 as per the following links:

- Education Report - Proposed approach to reflect the Treaty of Waitangi in the Education and Training Bill: <https://www.education.govt.nz/assets/Uploads/R-21-1184856-ER-Hipkins-Redacted.pdf>
- Education Report - Education and Training Bill: Proposals to give better effect to the Treaty of Waitangi: <https://www.education.govt.nz/assets/Uploads/R-34-1200361-ER-Hipkins-Redacted.pdf>
- Cabinet paper – reform of Tomorrow’s Schools: [R-2-Paper-2-Redacted.pdf](https://www.education.govt.nz/assets/Uploads/R-2-Paper-2-Redacted.pdf) ([education.govt.nz](https://www.education.govt.nz))
- Cabinet paper – approval for introduction: <https://www.education.govt.nz/assets/Uploads/R-E+T-185-191-Redacted.pdf>
- Regulatory Impact Analysis (Refocusing Boards’ role): <https://www.education.govt.nz/assets/Documents/Ministry/Legislation/ETB/Refocusing-the-role-of-school-boards-of-trustees.pdf>
- Initial Brief: https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/52SCEW_ADV_93294_EW6786/education-and-training-bill-initial-brief
- Departmental report to the Education and Workforce Select Committee: <https://www.parliament.nz/resource/en->

[NZ/52SCEW ADV 93294 EW8040/a2d721d4fdcaed0f21dfd6599ded2f9f5af70a70](https://www.legislation.govt.nz/bill/government/2019/0193/latest/versions.aspx?search=ts_act%40bill%40regulation%40deemedreg_education+and+training+bill_resel_25_a&p=1)

- Versions of E&T Bill:
https://www.legislation.govt.nz/bill/government/2019/0193/latest/versions.aspx?search=ts_act%40bill%40regulation%40deemedreg_education+and+training+bill_resel_25_a&p=1

Some of the reports and material referring to section 9 of the Act were considered by the Legislation Board, which is an internal board that provides oversight of the Ministry's legislative programme including the progress of all bills and regulations. This Board includes key members representing the Ministry's business groups and meets on a regular basis to consider policy issues that may require regulatory changes.

The Ministry's officials brought to the Legislation Governance Board three papers that considered the inclusion of a Tiriti o Waitangi clause in the Education and Training Act Bill:

- Education and Training Bill: Proposed Project Plan dated 25 January 2019 which included a draft high-level structure of the Education and Training Bill
- Education and Training Bill - first round of Cabinet policy approvals dated 13 February 2019
- Reflecting the Treaty of Waitangi in the Education and Training Bill, dated 1 April 2019

We are not releasing the paper "Education and Training Bill: Proposed Project Plan" to you as it does not specifically reference section 9 and therefore falls outside of the scope of your request. We are, however, providing you an excerpt from the Annex of this paper (**document 1**) which sets out the draft high-level structure for the Education and Training Bill and noted the possible inclusion of a Tiriti clause.

We are releasing relevant excerpts of the paper dated 13 February 2019 and the minutes of that Board meeting (**document 2**) in part with some information withheld under section 9(2)(g)(i) of the Act, to maintain the effective conduct of public affairs through the free and frank expression of opinion.

We are releasing the 1 April 2019 paper (**document 3**) to you in part with some information withheld under section 9(2)(h) of the Act to maintain legal professional privilege and under section 9(2)(g)(i) of the Act to maintain the effective conduct of public affairs through the free and frank expression of opinions. We are also releasing the relevant minutes of that meeting to you in full (**document 4**).

Where information has been withheld under section 9 of the Act, we have considered the public interest in its release. We have identified no public interest considerations sufficient to outweigh the need to withhold this information at this time.

The information being released is provided in the attached **Appendix A**.

Correspondence referring to s 9 of the Education and Training Act 2020. We are refusing your request for *all correspondence* under section 18(f) of the Act due to the substantial collation and research required to provide a response. We have identified that there is a minimum of six email accounts that would need to be checked for information within scope of your request and a scan of one account alone has identified in excess of 100 pieces of correspondence potentially in scope of your request. As required under sections 18A and B of the Act, we have considered whether extending, charging, or inviting you to clarify for your

request would remove the need to refuse it. However, we do not consider any of the mechanisms sufficiently mitigate the administrative burden associated with attempting to provide a response. In reaching this conclusion we have been mindful that the majority of the correspondence covered by your request relates to the drafting of papers that have already been made publicly available or that we propose to release in the future and that much of that information would be legally privileged. Those documents that aren't of this nature, are likely to be largely administrative (such as arranging meetings to discuss various issues).

Please note, the Ministry now proactively publishes responses under the Act on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to info@ombudsman.parliament.nz or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'D. Schöllmann', written in a cursive style.

Dr Andrea Schöllmann
Deputy Secretary
Education System Policy