

PPTA

NEW ZEALAND POST PRIMARY
TEACHERS' ASSOCIATION

TE WEHENGARUA

www.ppta.org.nz

SUBMISSION

to the

Education and Science Select Committee

on the

EDUCATION LEGISLATION BILL

3 February 2016

ABOUT PPTA

PPTA represents over 17,000 secondary teachers, principals, and manual and technology teachers in New Zealand; this is the majority of teachers engaged in secondary education – approximately 90% of eligible teachers choose to join PPTA.

Under our constitution, all PPTA activity is guided by the following objectives:

- (a) To advance the cause of education generally and of all phases of secondary and technical education in particular;
- (b) To uphold and maintain the just claims of its members individually and collectively; and
- (c) To affirm and advance Te Tiriti O Waitangi.

PPTA is not affiliated to a political party and our members individually support a broad spectrum of political parties in Parliament. However, PPTA have consistently promoted policies that promote progressive economics, social policy and employment relations policy.

GENERAL COMMENTS

This omnibus bill contains a number of measures that are largely technical and will have very minor impact on the sector, but there are a number of areas of the Bill which seem to be more substantive. PPTA is of the view that these should have been included in the Education Act (1989) update process which is running alongside this legislative change. The more substantive measures include allowing principals to be employed by more than one board of trustees and the changes to school opening hours. While we are supportive of these changes, allowing them to be explored in greater depth and discussed with the sector would seem to make sense, as they are both consistent with questions that the update addresses, about flexibilities for boards and collaboration between schools.

PPTA supports some elements of this Bill and strongly opposes others. We believe that there is a lot of room for the Select Committee process to make necessary and important changes, and hope to engage with the Committee to assist with this.

There are a number of elements of the Bill which we are not submitting on, as they relate to parts of the sector which are outside PPTA's area of expertise.

We would like to make an oral submission on the Bill to the Select Committee.

1. CHANGES THAT PPTA IS SUPPORTIVE OF

1.1. Employment of principals by more than one board

1.1.1. PPTA supports this aspect of the Bill, recognising that this may be a useful flexibility for some boards of trustees. There are a number of situations where we could see this option being taken up successfully, such as in small rural schools where it is difficult to recruit suitable candidates, or in schools that are co-located but have separate boards.

1.1.2. However, as one of the parties to the Secondary Principals Collective Agreement, we do note that there are a number of complex employment issues that would have to be resolved to make this work. We have questions about whether the principals would have separate agreements with each board of trustees, and if they would be paid part time by each, or whether there would be a single agreement with multiple employers, and how accountability would work in this regard. These issues will need to be resolved at Select Committee or in later regulation, and this is a process that we would like to be involved in.

1.2. Change to school opening hours without seeking the Minister's consent

1.2.1. PPTA supports this change to the extent it reflects new practices in schools and enables greater use of valuable resources in flexible ways. We note that there is nothing in this change that has an impact on the teaching hours defined in the various collective employment agreements that apply to the sector. This is important because we are moving into a period of secondary teacher shortages and workload is cited as the main reason young people leave teaching. Anything that increases the already unreasonable workload impositions on secondary teachers will impact negatively on retention and recruitment. It may also make the profession less attractive to women who choose teaching because it allows them to complete their work, off site, in the evenings when their children are in bed.

1.2.2. It will be important for the Ministry of Education to develop consultation guidelines for schools that change their hours, as the decision of one school often impacts on other schools in the community and on parents. In the past when schools had such flexibility, there were occasions when the largest school in an area changed its opening times which affected all schools on shared bus routes. Parents with

children at more than one school can end up with complex transport and child care arrangements because there is no consistency around school hours. Students who work after school or who have other cultural sporting or facility responsibilities may also be inconvenienced.

1.3. Use of the national student number for establishing and maintaining student identities

1.3.1. This change appears to be useful and provides for some interesting possibilities for students and schools to collect and develop personal portfolios/evidence of learning throughout their education careers.

1.4. State Services Commissioner to approve terms of employment additional to collective agreements

1.4.1. PPTA is supportive of this change, with some provisos. Our understanding is that this change creates a legal structure around a practise that already exists, that of the Secretary for Education approving additional terms and conditions (known as 'concurrence') which are above, but consistent with, the applicable collective agreement. The power that the new section 75(1) of the State Sector Act grants the State Services Commissioner, we understand, will be delegated to the Secretary for Education.

1.4.2. However, we are unclear where and how this delegation is established in the Act. If this means that the State Services Commissioner, rather than the Secretary for Education, will now be responding to requests for concurrence from boards of trustees it seems unnecessarily complex and removes a current role that sits, in our view properly, with the Secretary for Education.

1.4.3. Furthermore, we are concerned about why the phrase 'or any class of employees' is included in this change. The current practice is that concurrence is applied for on an individual basis by the employing board of trustees, and this is a practice that we believe should continue. Additional payments made or conditions granted to large groups of teachers or principals should be part of the relevant collective agreements, with the transparency, security and due process that that provides. The rationale and intent of the addition of this phrase should be explored by the Select Committee, and it could possibly be removed.

1.5. Changes to payroll service provisions of Education Act

- 1.5.1. PPTA understands the rationale for the change, and is pleased to see the retention of the requirement for the Secretary of Education to maintain a payroll service, and we note that maintenance of sufficient staff and resources to run it is implicit. A national payroll service is one of the crucial ways in which central government supports boards of trustees to fulfil their obligations as good employers, and its smooth functioning, as demonstrated in 2013, should be a high priority for the Ministry of Education.

2. CHANGES THAT PPTA DOES NOT SUPPORT

PPTA is opposed to all of the proposed changes that relate to charter or 'partnership' schools. Each of them is described in detail below.

This submission will not cover the familiar ground of PPTA's principled and consistent opposition to charter schools.

2.1. Allowing tertiary education institutions to be sponsors of charter schools

The opposition to tertiary institutions running partnership schools is based on the following:

2.1.1 Financial risk to the crown

- 2.1.1.1. With the intention of the charter school policy being to bring non-state actors into delivery of education, part of the rationale for this was transferring risk of failure from the crown to private providers. If public institutions, such as a university or wānanga, were to sponsor a partnership school, this undermines the initial position, as it's the public who are bearing the risk again.
- 2.1.1.2. Furthermore, the 2015 changes to the funding formula for charter schools were partially intended to make the sponsors put in more capital up-front than they did in the initial nine schools, into which none of them put any capital at all. If public tertiary institutions are putting capital into partnership schools it would undermine this goal.
- 2.1.1.3. The risks of this are noted by the Treasury in their report on the *Education Amendment Bill 2015: Education Portfolio Proposals*, of June 2015. This report notes that, "It will alter the risk sharing model of partnership schools as the financial risk relating to the schools will no longer sit outside the Crown."

- 2.1.1.4. With an increasing number of tertiary institutions under financial pressure, as a December 2015 report from the TEC demonstrated, this proposal does not appear to be either timely or wise.

2.1.2 Moving aspects of public institutions' function out of the remit of the Official Information Act and State Sector Act

- 2.1.2.1. The changes proposed here are pernicious and risky. While it may on one level appear to make the operation of partnership schools run by tertiary institutions consistent with those run by private sector organisations, the notion of having entirely publicly owned and funded organisations delivering services in the public interest, and then exempting them from these crucial pieces of legislation is a dangerous one.
- 2.1.2.2. The recent reports on tertiary institutions that have had to repay significant sums to the Tertiary Education Commission demonstrate that strong public oversight is valuable in regard to the actions of tertiary education institutions. These provisions would weaken that oversight.
- 2.1.2.3. There is no sound rationale for carving off sections of publicly owned, publicly funded organisations into quasi private entities that do not have the same transparency and standards of practice in a range of areas, from employment (e.g. Part 7 and 7A of the State Sector Act) to transparency (e.g. application of the Official Information Act).

2.1.3 Confusion of the role of tertiary institutions

- 2.1.3.1 While there may be a perception amongst supporters of this change that tertiary institutions will have the expertise and capacity to do a good job of running schools for students of younger ages than they are used to teaching, this is not necessarily the case. A comparison may be drawn to the discussion around schools boards of trustees running early childhood education institutions. This has been suggested, but rejected until now as it may risk diluting the focus of the board on their core business and navigating the different funding, management and accountability regimes are seen as potentially demanding and onerous.
- 2.1.3.2 While the government is focused on 'lifting the impact of tertiary education', as described in Treasury's *2014 Briefing for the Incoming Minister of Finance*, it would appear to be inconsistent

to be permitting these same institutions to indulge in ‘mission creep’. Furthermore, the Ministry of Education’s Tertiary Education Strategy 2014-2019 includes six priorities for tertiary education, none of which would appear to be consistent with tertiary institutions running schools in competition with the public education system. Indeed, the declared intention to get schools and tertiary institutions to work together more would appear to be undermined by setting them up to directly compete for students of the same age groups.

- 2.1.3.3 The complete absence of any discussion on running a charter school in the five year tertiary education strategic plan invites speculation that the proposal is pork-barrel politics designed to appease a particular individual or organisation that wishes to access the generous taxpayer funding that the charter school experiment provides.

2.2. Allowing payments to sponsors under section 79 of Education Act

There are several reasons why this change should not be made, and we urge the committee to consider altering this.

- 2.2.1. Firstly, if charter schools are not public institutions (which is the thrust of the argument for not having oversight of the OIA, Ombudsman and so forth) then why would the sections of the Act that is used to make payments to school boards, which are Crown entities, be used to make these payments. The assertion that charter schools are not public entities is one that is made consistently throughout the cabinet papers discussing the policy, such as one from February 2015 about allowing them to access Gateway funding. In this paper, signed by the Minister of Education, it is noted that ‘Eligibility for Gateway funding is limited to state and state integrated schools in the Gateway funding determination issues under section 159L of the Education Act 1989. Partnership Schools and independent schools are not currently eligible for Gateway funding as they are outside of the state system.’

- 2.2.2. If this is the case, S79 of the Education Act, which authorises payments to Boards of Trustees, would not be a logical place to authorise payments to non-public entities. If the committee believes that authorising payments under this section is the correct approach, then it would seem sensible and logical that the other sections of Part 8 (financial) of the Education Act (1989) should also apply, which relate to such things as the payroll service, audits and annual financial statements.

2.2.3. Furthermore, there is already a section of the Act under which payments to sponsors of charter schools can be made, which is S 321. This section permits grants to educational bodies. Another suggestion is that payments made to charter school sponsors is moved to section 35N, Grants to Private Schools – with the clauses proposed for section 79 moved to there. This would be a more appropriate location for the authorisation of these payments, as the school types are more closely aligned.

2.3. Provision to allow sponsors of charter schools and Boards of Trustees to agree for students enrolled at one school to be taught at another

2.3.1. The provision in section 19 of the Bill (amending Section 158 of the Education Act (1989)) gives clarity for sponsors and boards that they can make agreements to teach students from a charter school in a public school. PPTA does not support this being added to the Act.

2.3.2. There are three fundamental reasons why charter schools should not seek to have their students taught at public schools. First, the premise of partnership schools is that local public schools are not delivering an adequate education to their students, and they can do a better job. It makes a mockery of this rationale to then seek to use local public schools' teachers and facilities. Second, the evaluation of partnership schools is compromised if teaching is taking place in public secondary schools. To what extent can charter schools be considered innovative and held responsible for their students' outcomes in this scenario? Finally, charter schools are generously funded to deliver the whole curriculum. The base grant to secondary charter schools in particular is high to reflect the base curriculum staffing resource that secondary schools are given to provide a comprehensive and broad education to their student.

2.3.3. If secondary charter schools cannot deliver a broad curriculum with the funding and facilities they have and need to be propped up by surrounding public schools, it raises questions about the quality of decision-making on the Authorisation Board. Rather than seek to distract public schools from the students that are their prime responsibility, the Authorisation Board ought to be ensuring that they are not giving approval to establish schools that cannot do the fundamental task of a school: deliver the curriculum.