



# Submission

On

Extending the Notification Period for School Strikes

## About PPTA Te Wehengarua

PPTA Te Wehengarua represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, manual and technology teachers, and community educators.

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

- to advance the cause of education generally and of all phases of secondary and technical education in particular;
- to uphold and maintain the just claims of our members individually and collectively; and
- to affirm and advance Te Tiriti o Waitangi.

This submission is from the PPTA Te Wehengarua Executive and is on behalf of all of our members.

## Recommendation

That the requirement for notification of strikes in s589 of the Education and Training Act 2020 is changed to 'no less than 3 days'.

## Preamble

Thank you for the opportunity to make a submission on the possible extension of the strike notification period in the Education and Training Act 2020 (ETA)

PPTA is in a rare position to respond to this proposal as one of the unions which issues strike notices in the education sector on behalf of secondary principals and teachers and area school principals and teachers.

We note that PPTA did not receive any forewarning of an intention to review this section of the ETA, despite being one of the few unions whose members could be directly affected by a change.

The recent submission from the Law Society Te Kāhui Ture o Aotearoa on the Education and Training Act Amendment Bill 2024 noted that the government has not been following "ideal legislative practice" and the Attorney General has raised concerns about the process of legislative change in her recent letter to the government.

If any proposals for legislative changes result from this consultation, we request that urgency is not used to progress them. The use of urgency for the current Education and Training Act Amendment Bill has been undemocratic and has substantially limited our members' opportunities to have their say in the proposed changes. We hope that the processes relating to any change related to this proposal will be conducted in a more appropriate manner.

## Existing limitations to strike action

The right to strike is an internationally recognised human right; however, striking is the last possible option taken by teachers during negotiations, and it is not taken lightly.

In addition to this, there are already significant limitations to strike action in New Zealand. Strike action can only be taken in relation to collective bargaining or on the grounds of safety or health. If a strike relates to collective bargaining, it must occur at least 40 days after the bargaining has been initiated.

Before a strike can be taken, the union must hold, in accordance with its rules, a secret ballot of its members who are employed by the same or different employers (as the case may be) and who would become a party to the strike; and the result of the secret ballot must be in favour of the strike.<sup>1</sup>

Specific notice periods are required for essential services, public transport and schools.

## Avoiding a breakdown in negotiations

Adjusting the notification period required for strikes does not address the causes of breakdowns in negotiations which lead to strike action. It is dealing with a symptom of a breakdown in industrial relations processes, rather than with the cause.

The government can avoid teacher strikes by not prolonging negotiations, and by taking a genuine approach to addressing the concerns of the workforce.

The 2024 arbitration panel set up to assist with the resolution of the Secondary Teachers' Collective Agreement negotiations criticised the approach taken by the Ministry of Education to negotiations, and suggested that alternative options should be considered to facilitate discussions between the parties outside of negotiations.

By adopting a more proactive approach to preparation and engagement with the union, the Ministry can facilitate bargaining starting with the parties having better understanding of their positions than is currently the case. We note that when the government did pursue a different approach in the early 2000s, there was an extended period when no strike notices were issued.

## Specific consultation proposals

The provisions in the ETA are subject to the requirements under the Employment Relations Act (ERA), and this impacts on the practices of the union and the amount of notice provided to schools.

The notice period in the ETA is specified at three days. However, in practice we give more notice to schools.

The ERA requires that a secret ballot of members is held to approve any industrial action and that this includes the nature, timing and duration of the industrial action. Organising a ballot of secondary teachers requires significant resources and time for the ballot to occur. Sometimes the ballots are held at paid union meetings which require their own 14-day notice period.

Schools are not vacuums. The fact that a strike ballot is happening is usually signalled to the Ministry of Education at the point of breakdown in negotiations, and will be well known to principals (especially if they are also PPTA members). This means that schools will know of the potential for a strike well before any action is taken.

It is also PPTA practice to provide principals with preliminary notice of intent to take industrial action that would require alternative arrangements to be made for students. This was the case for the entire 2022/2023 STCA and ASTCA negotiations round.

This preliminary notice is given well in advance of the strike action, and usually shortly after members have been advised of the results of the strike ballot. It is not unusual for the action to be signalled to schools a half term in advance after the vote to take it has been confirmed.

---

<sup>1</sup> Employment Relations Act 2000 s82A

Once members have been balloted, then a strike will go ahead unless there is a significant change in the position of one of the negotiating parties. This remains the case regardless of whether preliminary or actual notice has been given to a school. They can therefore rely on the preliminary notice just as much as on an actual notice, because it is based on the results of the strike ballot.

There is little to be gained in practice by making the required notice a minimum seven calendar day period. When including weekends, the change would, in practice, be only two more days' notice, and again would be less notice than we give in practice.

Schools also give less than three days' notice to parents of unplanned attendance changes for a range of reasons; local service failures, weather events, inability to cover classes through staff illnesses and lack of relievers, all of which can be more disruptive than a strike notice, but which are more regularly managed by schools.

The greatest level of disruption that occurs in collective agreement negotiations is when (as has happened in previous negotiations) the Ministry of Education elects to make an alternative offer the day before a strike is scheduled to take place. Even with using national media to convert the withdrawal of the notice, this leads to too short a timeframe for schools to be able to relay the change to parents, causing partial attendance or schools to remain closed.

We do agree, however, that on balance the current wording is unnecessarily restrictive on the unions and does not reflect practice elsewhere in legislation where the required notice is usually expressed as 'a minimum of '.

Giving three days' notice, as opposed to 3 working days, aligns with other notice provided for in the Employment Relations Act. Adding the "no less than" aligns with our normal process to provide more notice and aligns with the language used for the required notification for PUMs. In our opinion, consistency of language across the related Acts makes it less likely for there to be misunderstanding, and would reflect good legislative practice.

## Conclusion

We therefore support the requirement in the ETA being changed to 'no less than 3 days' as a reasonable balance between the interests of schools and parents, and the rights of our members.

## Contact:

Rob Willetts  
Advisory Officer – Industrial  
Pou Tohutohu Mo Te Ahumahi  
r.willetts@ppta.org.nz