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Committee Secretariat
Education and Workforce Committee
Parliament Buildings
Wellington

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Submission on the Education and Training Bill

The Institute of Directors (IoD) appreciates the opportunity to comment on the [Education and Training Bill](#) (Bill) which replaces all major existing education and training legislation and is intended to be a simpler, more modern and less prescriptive replacement than the current framework. Our submission focuses on provisions in the Bill that relate to school governance.

Education is critically important for children and young people to fulfil their individual potential and meaningfully contribute to their local communities, wider society and the New Zealand workforce. It has been 30 years since the Tomorrow's Schools reforms were introduced and, following the review of the school system to ensure it was fit for purpose, we support the introduction of the Bill to ensure there is up to date, relevant and accessible legislation in place.

About the Institute of Directors

The IoD is New Zealand's pre-eminent organisation for directors and is at the heart of the governance community. We believe in the power of governance to create a strong, fair and sustainable future powered by best practice governance. Our role is to drive excellence and high standards in governance. We support and equip our members who lead a range of organisations from listed companies, large private organisations, state and public sector entities, small and medium enterprises, not-for-profit organisations and charities. Many IoD members are (or have been) trustees on school boards, and boards of other education providers and industry bodies.

Our Chartered Membership pathway aims to raise the bar for director professionalism in New Zealand, including through continuing professional development requirements.

Background and overview of the Bill

The current schooling system has been in place since 1989 and there are approximately 2,500 (state and state-integrated) schools in New Zealand and 19,000 trustees. The student population of these schools is around 800,000 and about a quarter of schools have rolls of fewer than 100 students.

The Bill has been introduced following the final report of the Tomorrow's Schools Independent Taskforce (*Our Schooling Futures, Stronger Together | Whiria Ngā Kura Tūātinini*), and the Government's response to that report (*Supporting all schools to succeed: Reform of the Tomorrow's Schools system*). Last year, we surveyed our members on the current school governance model and

proposed changes in the interim report of the Tomorrow's Schools Independent Taskforce. Their feedback formed the basis of our [submission](#) on the report, which supported the school board governance model.

Currently the Education Act 1989, the Education Act 1964, and the Industry and Training Apprenticeships Act 1992 are the three main Acts that frame how the education system works. Over time these have been regularly amended and updated, resulting in legislation that is difficult to follow and understand. The Bill seeks to address this issue by consolidating the existing Acts into one place and modernising the legislation. It also incorporates the Education (Pastoral Care) Amendment Act 2019 and the Education (Vocational Education and Training Reform) Amendment Bill which is before Parliament.

Our submission focuses on the following issues:

- Duties of trustees
- Objectives of school boards
- Eligibility criteria for principal appointments

Duties of trustees

Duties for school boards and individual trustees are not set out in the Bill. However, the Bill provides that the Minister may issue a code of conduct for members of state school boards that sets out minimum standards of conduct which each member must comply with. Boards will also have the ability to specify additional standards of conduct provided they are not inconsistent with the code. Sanctions in the Bill for failure to comply include censuring a board member for a significant or persistent breach of the code and removal of the board member by the Minister. The sanctions do not apply to principals.

While we support the development of a code of conduct for board members, we believe a minimum set of duties for trustees should be set out in the Bill to also help raise governance standards and improve accountability (eg a duty to act with honesty and integrity). School boards of trustees are the only Crown entity governing body in the education sector that do not have such duties specified in legislation. Duties are set out in legislation for other entities including in the Companies Act 1993 and the Trusts Act 2019 (and are expected in the Incorporated Societies Bill). These duties are not just for professional directors and can be appropriately tailored for trustees taking into account the voluntary and representative nature of the role. The code of conduct could be used to further develop and extend upon the minimum standards including to suit the individual character and culture of the school. It is critical that trustees are made aware of their duties on appointment including through appropriate guidance and training.

We note that the Education Act 1989 currently provides that trustees are not personally liable for certain acts and omissions where they have acted in good faith. These restrictions on personal liability don't appear to have been carried across in the Bill. It is essential that they are clearly provided for in the new Act.

Objectives of school boards

Under the existing legislation a school board's primary objective is to ensure every student at its school is able to attain their highest possible standard in educational achievement. The Bill retains this and refocuses boards on the following additional objectives to ensure:

- the school:
 - is a physically and emotionally safe place for all students and staff
 - gives effect to relevant student rights set out in the Bill, the Bill of Rights Act 1990 and the Human Rights Act 1993
 - takes all reasonable steps to eliminate racism, stigma, bullying, and discrimination within the school
- the school is inclusive of, and caters for, students with differing needs and
- the school gives effect to Te Tiriti o Waitangi including by:
 - working to ensure that its plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori
 - taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori and
 - achieving equitable outcomes for Māori students.

We support the existing primary objective of boards which is clear, impactful and well understood. The proposed additional objectives are critical enablers to achieving the existing primary objective. They could be presented in the Bill as critical enablers to support the primary objective.

Eligibility criteria for principal appointments

The Bill provides for the Minister to issue eligibility criteria that must be met by applicants for appointment to the position of school principal. Boards can develop additional criteria as long as it is not inconsistent with the criteria issued by the Ministry.

We support the development of eligibility criteria, as well as the ability for boards to develop additional criteria. One of the most important functions of a school board is to appoint and manage the principal and to hold them accountable for their performance. Establishing a set of eligibility criteria will help provide guidance and support to boards during the appointment process and will help boards lift the performance of principals. It will also set a clear expectation of the minimum standard of skills and experience applicants are required to meet in order to fulfil the role of principal in New Zealand schools.

Conclusion

We support the introduction of the Bill to ensure there is up to date, relevant and accessible legislation in place. In relation to school governance:

- Minimum trustee duties should be included in the Bill and appropriately tailored for trustees taking into account the voluntary and representative nature of the role to help raise governance standards and improve accountability. We also support the development of a code of conduct for trustees. The existing restrictions on personal liability in the Education Act don't appear to have been carried across in the Bill. It is essential that they are clearly provided for in the new Act.
- We support the existing primary objective of boards which is clear, impactful and well understood. The proposed additional objectives are critical enablers to achieving the existing primary objective and they could be presented in the Bill as critical enablers to support the primary objective.
- We support the development of principal eligibility criteria, as well as the ability for boards to develop additional criteria.

We appreciate the opportunity to comment on the Bill on behalf of our members. We would also welcome the opportunity to further contribute to school governance capability including working with the Ministry on a code of conduct for trustees.

Yours sincerely,

A handwritten signature in blue ink that reads "Felicity Caird".

Felicity Caird

General Manager, Governance Leadership Centre