Te Tāhuhu o te Mātauranga
Ministry of Education

Regulatory Impact Statement: Amending section 45 of the Education and Training Act

Decision sought	This analysis is produced for the purpose of informing Cabinet decisions on the changes to the *exemption of student from attendance for a period of no more than 5 days* (Section 45 of the Education and Training Act (the Act)). Any changes to these sections are planned to be progressed through the Education Reform Bill No 1 (ERB1). The changes will: • Amend section 45 of the Act (*Exemption of student from attendance for a period of no more than 5 days*) so that principals are only able to exempt attendance in line with new rules. • Create the authority for the Secretary to make these rules that set out the conditions for which principals are able to exempt attendance. This will include when an absence can be exempted and what evidence would be needed.
Agency responsible	*Ministry of Education*
Proposing Ministers	*Hon David Seymour, Associate Minister of Education*
Date finalised	*11/08/2025*

Briefly describe the Minister's regulatory proposal

As part of the Government's action plan for attendance, the Associate Minister of Education has agreed to:

- amend section 45 **Exemption of student from attendance for a period of no more than 5 days,** so that principals are only able to exempt attendance in line with new rules**.** This is because section 45 has become a catch-all for a broad range of exemption situations and its use has become inconsistent and likely outside of what is permissible.
- Create the authority for the Secretary to create new rules that set out conditions for principals only being able to exempt attendance for the grounds prescribed in rules. This will include when an absence can be exempted and what evidence would be needed.
- The Minister is also seeking Cabinet approval to repeal two sections of the Education and Training Act 2020. These are:
    - Section 44: Exemption from attendance because of walking distance to school or some other reason; and
    - Section 46: Secretary may require enrolment of certain children at distance school.

Both sections 44 and 46 are remnants from previous versions of the Act and have had little to no use over the last 5 years. The Ministry has received a Regulatory Impact Statement exemption from the Ministry for Regulation for these two sections on the basis that this repeals already redundant legislative provisions, with no or only minor economic, social, or environmental impacts.

Section 45 provides the mechanism for exempting absence by enabling principals to exempt absences of students aged between 6-16 for no more than 5 days. Removing section 45 would remove that exemption ability by introducing rules that set the grounds for exemption and what

evidence should be provided. However, it is important to note that it would also mean that every absence would be illegal if section 45 was removed. This is due to the requirements on parents that they ensure their child attends school every day it is open as set out in section 36 of the Act[1], and that prosecution is possible through section 244 of the Act. Advice to the Minister proposed that if section 45 is removed it will need to be replaced with an alternative to overcome the issue of reasonable absence not being able to be exempted. The preferred option was for section 45 to be amended and supported with rules that set out:

1. grounds on which a principal may grant an exemption from attendance;
2. types of evidence a principal must receive before granting an exemption from attendance; and
3. duration of any exemption a principal may grant.

Summary: Problem definition and options

What is the policy problem?

School attendance is associated with educational achievement and better life outcomes. New Zealand is experiencing low rates of regular school attendance (as shown in Table 1 below), and the Government has made attendance a key priority through its attendance action plan.

Table 1. Regular Attendance rates compared between Term 1 2019 and Term 1 2025.

Yearly Term 1 Regular Attendance (%)[2]	2019	2020	2021	2022	2023	2024	2025
	73.1	67.9	66.3	46.5	59.0	61.4	65.9

Exemptions from attendance have undergone considerable change

Section 36 of the Act sets out a requirement for parents to ensure their child attends school every day it is open (prosecution is possible through section 224), and that schools have a key role in ensuring students attend school and a legal obligation to take steps to ensure they do so (further information on Section 36 is provided below). However, reports from the Education Review Office (ERO) suggest that some schools aren't effectively or consistently responding to address the diverse causes of non-attendance. Part of that inconsistency is the use of exemptions from attendance. These exemptions provide an important balance in the system as many absences are often reasonable and should not be considered as being illegal.

Section 45 of the Act enables a principal to exempt a student from attending for no longer than five consecutive school days if the principal is satisfied that the reason for absence is justified. This provision has existed in some form since the Education Act 1964. During this time, certificates of exemptions were a key part of the framework and could be issued for up to a year. Specific exemptions included walking distance, sickness, severe weather, sudden and serious illness of a parent, and travel disruptions.

The five-day exemption was intended to be used in exceptional situations where there was not an existing exemption. As the legislation has been replaced and amended, the specific exemptions have been removed, and section 45 has become a catch-all for all exemptions to attendance.

Currently almost 2,500 principals have to use their discretion to consider an absence and determine whether it is justified. While there is guidance on how and when to use the different attendance codes there is little in the way of a robust framework that supports principals to determine whether an absence can be justified. As a result there is anecdotal, and some empirical, data that there is not always consistent decision making, and consistency is variable across the schooling system.

[1] This legal obligation applies to all students aged 6 to 16.

[2] https://www.educationcounts.govt.nz/statistics/attendance

Principal's discretion

Principals currently have discretion about how they consider and then exempt different absences. These are often contextual in nature and can be localised depending on their nature. The discretion is currently guided by the use of attendance code guidance and rules from the Ministry while section 45 provides the power to exempt. This enables a significant amount of flexibility for schools to be able to consider a broad, diverse, and often contextualised range of reasons for a student's absence. This broad nature means that "if satisfied that a student's absence is justified, the principal of the school may exempt the student from attending the school for a period of no more than 5 school days." Principals just need to be satisfied that the absence is justified and applies the guidance from the Ministry to test this assumption. The guidance in this situation is about applying the proper attendance code to each absence. In the case of using section 45, which principals will be using daily, it will be determining if the absence is a justified absence or not. Guidance for this is provided through the Ministry's Attendance Code Guidance.[3] However, this is only guidance, and schools are not required to have to follow this. Furthermore, the guidance recommends that schools should have policies that consider the thresholds for discretion and any limitations of discretion (including timeframes) for justified absences. We do not know how many schools may have these policies or how consistent they are across the system.

There are inconsistencies in the current application of discretion

Engagements with kura and schools[4] highlighted a disconnect between the legislative provisions in the Act, attendance data codes, operational guidance, and school practice when it comes to recording attendance. While there is great flexibility in the current discretionary power it has also led to inconsistent application across the system and does not always mean that all students are treated consistently or equally. For example, although not supported by law, we have heard instances where schools have used this exemption provision to ask parents of students with disabilities, high learning support needs, or behavioural issues to keep their child home. With the expectation that all students between the ages of 6 – 16 are at school this type of use means that that not all students are being treated equally.

We have also heard from principals through the Attendance Expert Advisory Group (AEAG) that there is some frustration that further evidence beyond a parent or caregiver cannot not be requested when an illness only seems to occur every Friday and Monday. From the start of next year schools will be using the AMP system and will have evidence of these types of patterns. If there is substantive reason to investigate some of these patterns it seems reasonable that further evidence may be required in certain situations that validates the absence.

The current attendance codes and guidance cannot, by themselves, overcome these inconsistencies. This is why we are proposing to introduce a set of rules that will set out the grounds for when an exemption from attendance is acceptable and what evidence may be required to give the exemption. While still to be determined the rules will likely set out the grounds already given as examples in the Ministry guidance eg. sickness, illness, injury, bereavement, natural event such as earthquake or flooding and so on. Evidence required for an exemption will likely be similar to what is outlined in the Stepped Attendance Response (STAR).

What does the data tell us?

Data identifying all the reasons for justifying absence is limited about, as there are only four codes that require a principal's justification (stood down or suspended, exam leave, illness or medical, and explained and approved). Most of all recorded justified absences are for illness or medical or explained and approved. We can look at the use of justified absences and whether this impacts on different groups of students and whether there are differences within schooling contexts.

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[3] https://web-assets.education.govt.nz/s3fs-public/2025-01/Attendance_Guidance_v02B.pdf?VersionId=en.x8nIC1VewxLJ3dQSw5u9WCIHnrIbc

[4] Refers to engagement with schools on the attendance codes in 2021 and 2024.

The table below shows the total justified absence half-days (%) for Term 1.[5]

	Māori	Pacific	Asian	MELAA	European/Pākehā	All
T1 2022	10.3	10.5	7.3	8.0	8.6	8.8
T1 2023	7.6	6.8	5.0	5.5	6.4	6.4
T1 2024	7.7	7.6	5.3	5.4	6.4	6.4
T1 2025	7.4	6.6	4.4	5.3	5.8	5.8

As the data shows while there is an overall decline in the number of justified absences, Māori and Pacific students continue to receive proportionately higher numbers of justified absences. This trend is mirrored in Māori medium settings where the use of justified absence is also higher for Māori students, as seen in the table below.

Māori Students half days justified absence (%) in MME, Mixed Medium Education and EME, T1 2022 - 2025[6]

	Māori medium	English and Māori medium	English medium	All
T1 2022	10.9	11.0	10.2	10.3
T1 2023	8.6	7.4	7.6	7.6
T1 2024	8.1	7.0	7.5	7.4
T1 2025	9.1	7.4	7.3	7.4

Finally, these trends in increased use of justified absence are also seen in EQI schooling groups, as seen in the table below.

Justified Absence half days (%) by EQI Group, T1 2022 - 2025[7]

	Fewer	Moderate	More	All
T1 2022	7.9	9.1	10.2	8.8
T1 2023	5.5	6.8	7.2	6.4
T1 2024	5.1	6.5	6.9	6.0
T1 2025	4.8	6.1	7.1	5.8

As the above table shows schools facing greater equity challenges have higher rates of justified absences. Even though these rates of absence are declining the difference between the groups of schools remains. There will be many reasons for this, but some could be due to:

- higher rates of sickness and illness amongst these students;
- more diverse, contextualised and/or cultural reasons for not being able to attend school that are deemed justified; or
- different interpretations of what constitutes a justified absence.

What is the policy objective?

The key objective of this change is to develop an effective legislative and regulatory environment to remove the discretionary nature of section 45. This includes the introduction of rules that clearly set out the grounds for when an exemption from the requirement to attend can be applied and the evidence required to do so. This will mean schools will be more likely to be effectively and consistently responding to agreed grounds for when an absence is reasonable and what evidence is needed. This contributes to all students being treated fairly and equally.

[5] (%) Based on number of half days students were justified as absent not numbers of students. Source Education Counts.

[6] (%) Based on number of half days students were justified as absent not numbers of students. Source Education Counts.

[7] (%) Based on number of half days students were justified as absent not numbers of students. Source Education Counts.

Section 45 is used every day in schools as principals can exempt student absence for no more than 5 days. This covers all forms of absence including illness, injury, bereavement, and natural events. However, due to its discretionary nature, section 45 can be applied across a broad and diverse range of contextual situations that can make consistency of thinking about reasonable absence, and applying an exemption, challenging.

Section 45 plays an important role in the system as Section 36 ***Students of registered schools required to attend whenever schools are open*** states:

- S 36 (1) Except as provided in this Act, a student is required to attend a registered school whenever it is open if the student—
  a) is required to be enrolled at a registered school
  b) is aged 5 years and is enrolled at a registered school.
- S 36 (2) A board or sponsor must take all reasonable steps to ensure that the school's students attend the school when it is open.

Section 36(2) applies to the Board and applies to all students. Section 36(1) does not require students aged 16 or older to attend (because they are not required to be enrolled under section 35).

If a student (aged 6-16) does not fulfil this requirement to attend then section 244 **Offence relating to irregular attendance** states that "A parent of a student commits an offence if the student, —

(a) while enrolled at a registered school, does not attend the school as required by sections 36 and 42; or

(b) while enrolled at a distance school, does not do the work of the course in which the student is enrolled.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $30 for every school day on which the offence occurs.

Section 45 enables a principal to exempt a student's absence if it is deemed reasonable. Removing it will mean that all absences would be illegal, and parents could potentially face breaking the law with no way of exempting reasonable absence.

The key policy objective is to provide advice and options about how the Minister can achieve the removal of principal discretion as to what is an acceptable reason for absence and replace that with clear rules. These will set the grounds for this as well as the evidence required, while keeping a balance in the system that ensures that reasonable absence (sickness, injury, bereavement, weather and other natural events) is not seen as illegal and exposes people to potential prosecution.

What policy options have been considered, including any alternatives to regulation?

Across two reports (METIS 1341284, and 1350406 refers) the Minister has received a number of options for considering the section 45 exemption and the associated risks involved in changing or removing it. These have ranged from:-
Options on circumstances a student can be exempt from attendance (Re-orienting the system METIS 1341284)
Several options were presented in this paper that asked the Minister if further advice was wanted about:

- Under no circumstances can an absence be exempted – removing the power to exempt attendance
- Under specified circumstances (recommended) - keeping the power to exempt but only in specific situations

- Under broad circumstances – maintaining the status quo

Who in the system should have the power to exempt a student from attendance? (Re-orienting the system METIS 1341284)
Several options were presented in this paper that asked the Minister if further advice was wanted about:-

- Maintain the status quo of both the principal and the Secretary having power to exempt but with tightening of the circumstances of when the powers can be used
- Secretary only powers - shift the power to exempt attendance out of schools to the Secretary, with administration done by Ministry staff. The Secretary would have the sole power to exempt attendance and principals would have none
- Principal only powers (recommended) – remove the Secretary's powers and keep principals with tightened situations for when they can use it.

No options were agreed to in this paper.

The following options were put to the Minister in *School attendance – Options for removing walking distance and principal exemptions* (METIS 1350406)

Remove section 45 from the Act:- two options were provided for how this could be achieved.

Option one (recommended): amend section 45 to set out new conditions for principals only being able to exempt for the grounds prescribed in rules. (The conditions in this instance would be when an exemption can be given and what evidence is needed for that exemption).
OR
Option two remove section 45 in full, with the AMP and STAR policies (i.e., thresholds) guiding responses to absence, including decisions to consider prosecution.

The Minister agreed to Option One

Other options analysed but not put forward to the Minister.

Create clear examples of when Section 45 should be used; and
Using the exemption power for the Secretary "for any other reason" in section 44, as an addition to the 5 days available in section 45 to create a new section with a clear two-tier approach (Principal 5 days and the Secretary 7 days on application – not put forward to the Minister.

What consultation has been undertaken?

There has been limited sector engagement. The Ministry engaged in late 2024 with a range of key stakeholders that included Te Rūnanga Nui o Ngā Kura Kaupapa Māori o Aotearoa, Ngā kura ā Iwi. Youth Law, and the Attendance Expert Advisory Group (AEAG) to look at a range of legislative changes being considered at the time. This included looking at sections 44 and 45 of the Act however it did not propose options for removing section 45.

The Ministry also met with the AEAG in June, this year and did discuss with them the possibility of removing section 45. The AEAG are opposed to the removal of section 45 in full. They can see there may be a need to change section 45, for example by creating a connection to the STAR. They felt this would create consistency without removing the decision-making authority of a school principal. We have also been trialling the STAR directly with schools and discussing with them the AMPs that will be coming and that they will have some regulations with them. Feedback from that process will be inputted into the development of the rules and the options outlined in this Regulatory Impact Statement (RIS).
We will continue working with the sector to ensure initiatives are fit for purpose and workable in all settings and for all learners. Some of this risk may also be mitigated through Select Committee processes and detailed implementation planning that will inform the design and content of any rules that are introduced following enactment.

The Ministry has advised the Minister that the new rules being proposed should go out for wide consultation with the sector and provide appropriate lead in time for schools to make adjustment to the final rules. Advice is with the Minister [METIS 1352148] about that and a decision is still pending before this final submission of the RIS.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?
Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)
Monetized costs
Amending the section 45 exemption and tightening its use by developing rules that clearly outline the grounds for when an absence can be exempted and the evidence required to do this may require some additional monetary costs for the Ministry. This is because the exemption will continue to exist, but more attendance codes may need to be developed. While reasonably straight forward this takes some resource and time to do. Also, guidance will need to be updated. Any changes to attendance codes will mean (School Management System (SMS) providers will have to make changes in their software to ensure schools are able to enter the new codes in their SMS.

In turn there may be some administrational time needed for schools to adjust to the new requirements and ensure that they are using any new codes properly.

There are potential non-monetised costs
Principals currently have discretion about how they consider and then exempt different absences. These are often contextual in nature and can be localised depending on their nature. It will not be possible to create rules that cover all these types of possibilities. There is the potential that principals will no longer be able to exempt some absences that local families have come to expect. This could strain school and family relationships and possibly contribute to poorer attendance outcomes.

The changes could see some absences that were previously considered as being justified become unjustified. This could inadvertently make the overall number of students in the unjustified category even greater than what there is now.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)
Schools have a key role, alongside parents, in ensuring students attend school and both have an obligation to do so under the Act. However, reports from the ERO show that some schools aren't effectively or consistently responding to address the diverse causes of non-attendance.
Amending section 45 and tightening its use by developing rules that clearly guide when and how it should be used will provide the following additional benefits:

- Greater consistency across schools in managing non-attendance and meeting their obligations under section 36 of the Act - *A board or sponsor must take all reasonable steps to ensure that the school's students attend the school when it is open.*
- More discerning use of exemptions from absence that are followed up as part of a school's AMP and the responses it has to each students' absence
- The rules will provide greater clarity on how and when it should be used through supporting rules. This should help reduce uncertainty and confusion about how and when to apply exemptions.

- Schools will have greater certainty as to when they can exempt reasonable absence and know the evidence required to do this. This should lead to greater consistency across the schooling system and potentially making it fairer for all students rather than having principal discretion create differences between schools for possibly the same type of absence.
- Principals will now have clear guidance through the rules about applying an exemption and be confident in knowing that they are acting appropriately and that this will be consistently applied across the schooling system.
- Clearer and more transparent use of the exemption will mean more absences are surfaced and investigated to understand the best ways to support students to return to regular attendance

There is no impact on competition.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Benefits

Amending section 45 and creating the power for the Secretary to make new rules governing the use of exemptions, is expected to have low monetised costs for schools and any costs for the Ministry are expected to be absorbed through Vote Education.

The new rules will bring certainty as to what grounds and exemption can be made and any supporting evidence that should be required. For some schools this certainty will enable them to make decisions about absences without having to weigh up every decision and use discretion. This will likely reduce transactional time and remove pressure from principals.

For some principals it will mean that they are able to challenge explanations for some absences where they have strong doubts about its validity. This could result in getting support to people who need it and getting more students back into regular attendance.

Schools, students and parents will have better clarity than what exists now about what types of absences will be exempted and the evidence expected to validate the absence. This will mean all students will be treated fairly and consistently in a way not possible when about 2,500 principals were making decisions at their absolute discretion.

Costs

While the costs are low there will need to be a bedding in period and adjustment will need to be made for the new rules and this will include the Ministry, SMS providers and schools. This will cost will likely be time and administration.

There is the potential that the tightening up could create issues between schools and families where prior absences will no longer be deemed reasonable in any requirements under the new rules. This could cause anger and frayed relationships between some schools and some of their families. This will likely be a short-term issue until the new amendment and rules are embedded.

Rules will not be able to cover all the different situations where principals have had to consider an absence and weigh up their discretion as to justify the absence or not. It is likely that some instances that will be considered justified to some people will no longer be so under the new rules.

The benefits of greater clarity and consistency about absence from school and what can be exempted, for all students and their families, is a compelling reason for this change. Discretion, while helpful in dealing with diverse and often very contextual reasons for absence could also be open to interpretation and different decisions for different students with seemingly similar situations. Having approximately 2,500 principals making decisions with only attendance code guidance to support them does raise a genuine question about consistency and transparency about exempting different absences.

On the other hand, rules will not be able to cover every possible reason that is justifiable under particular situations and contexts. In this regard principals are best placed to understand those nuances and make what they consider to be the best decision for a student and their family. Losing that ability has the potential to upset students and parents who may have had an exemption before but will not under the new rules. It also means that more students could show up in unexplained absences totals and possibly even face prosecution.

Without having been able to consult it has been challenging for the Ministry to determine how big a problem the lack of consistency is but some anecdotal evidence would suggest that there are sometimes decisions made that lack evidence or are not in the best interests of students for example the using of section 45 to keep some students with learning support needs at home until they are deemed ready to come back to school.

Conversely, we do not have a strong understanding of what the true impact of removing discretion and placing rules in the system may have as we have not been able to talk to those who may feel these changes the sharpest. Our data suggests that this could be most keenly felt by those students and families already at the margins of the system and more vulnerable to not returning to school regularly.

The balance is very even between the costs and potential benefits. It is possible that some of the benefits may not be realised due to the lack of credible data.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

- The Ministry of Education will support schools to implement the regulatory changes. School boards are accountable for meeting any legislative or regulatory requirement. The Ministry of Education along with ERO will monitor the implementation of the changes and the Ministry has the power to intervene where schools are identified as not meeting these requirements through section 171 of the Act "Interventions in State schools by Secretary or Minister". This sets out the interventions the Secretary or Minister may undertake if there are reasonable grounds for concern about the operation of a school or the welfare or educational performance of its students.

- The implementation risks are that some schools may refuse to heed the amended section 45 and its governing rules. This could be amplified amongst Kaupapa Māori and Māori medium providers who may see the tightening of the section as removing their right to manage non-attendance through a Te Ao Māori approach that does not align with 5 days exemption and tighter use of it.

- We have worked with Māori Peak body representatives and updated them on aspects of what the possible legislative changes could be but we have not discussed these proposed changes.

- As stated above, all school boards are responsible for complying with legislation, regulations and rules and there is a range of interventions available for the Ministry if schools do not comply.

- While a time has not been confirmed yet it is expected that the amended section 45 will come into place in about July of 2026 as it is being carried through the legislative process as part of the Education and Training (System Reform Part 1) Amendment Bill (ERB1).

- The Ministry is supporting the implementation of the AMPs and will utilise its regional staff in supporting this process along with adapting any practice with the use of section 45, with resources and guidance for schools.

Limitations and Constraints on Analysis

Commissioning constraints

The key limitation for the development of this RIS has been progressing the work at pace so it is ready in time for inclusion in the Education and Training (System Reform Part 1) Amendment Bill

(which is expected to come into effect by mid - 2026). Given the timing for final decisions to be made, and the sequencing of the advice to Cabinet on the proposed new changes to the Act discussed in this RIS, there have been some constraints for the Ministry's analysis, including:

- **Policy process.** The timeframes have meant that the any changes must be made and enacted to meet the tight timelines of ERB1.
- **Limited sector engagement.** The Ministry has not engaged with the education sector directly about the proposed changes in this RIS or any new rules due to time constraints. We have met and shared what we were able to about the changes with the Attendance Expert Advisory Group (a group of education experts established to provide advice for the wider suite of Attendance Action plan initiatives). We have also been trialling the STAR directly with schools and discussing the AMPs with schools as part of this. Feedback from that process has been used in the development of the rules and the options outlined in this RIS.
- We will, when possible, continue working with the sector to ensure initiatives are fit for purpose and workable. Some of this risk may also be mitigated through Select Committee processes and detailed implementation planning that will inform the design and content of any rules that are introduced following enactment.
- **Constraints on Te Tiriti analysis.** The Crown has an obligation to give effect to the Treaty of Waitangi | Te Tiriti in its decision making. For reasons already outlined in this RIS, not all impacts can be fully understood from a Te Tiriti perspective.

I have read the Regulatory Impact Statement, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:
Sela Finau
General Manager, Learner Success and Tiriti Policy
13 August 2025

Quality Assurance Statement	
Reviewing Agency: Ministry of Education	**QA rating:** Fail
Panel Comment: The Ministry of Education's RIA QA panel considered this statement and assessed it as failing to meet the Cabinet's quality assurance criteria for impact analysis. This assessment corresponds to the limited evidence available to support robust analysis of the impacts, cost and benefits of the proposed options, and lack of consultation on the proposals imposed by the timeframe. Given these constraints we consider that insufficient information and analysis has been provided to support decisions.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

New Zealand has low rates of regular school attendance

1. School attendance and achievement are known protective factors, with a well-established body of data linking education and earnings. Students who have been chronically absent are two times less likely to achieve NCEA Level 2 and five times less likely to achieve University Entrance than the general population. At 25, these students earn $40,000 less than other 25-year-olds, and almost half of them receive a benefit compared with 20% of the total population. These young

adults are twice as likely to be charged with an offence by age 25, are more likely to be victims of crime, and are more likely to live in social and emergency housing as adults. By age 20, they cost the Government three times more than students who attend school regularly.[8] [9]Evidence shows that regular attendance at school is a critical factor for supporting learning and later life outcomes.

2. In Term 3 2024, only 51.3% of students attended school regularly. That means 393,924 students were not attending school regularly. Around 80,000 students are chronically absent per term, missing over 30% of school time. Around 20,000 students become non-enrolled each year. This is a long way from our target of 80% of students attending school regularly, which will require ongoing investment and oversight to achieve.

Schools and parents have responsibilities to make sure that enrolled students attend

3. Schools are required under section 36 of the Act to take all reasonable steps to ensure that the school's enrolled students attend school when it is open.

4. Section 36 of the Act also sets out a requirement on parents to ensure their child (aged between 6-16) attends school every day it is open (prosecution is possible through section 224). Section 45 of the Act enables a principal to exempt a student from attending for no longer than five consecutive school days if the principal is satisfied that the reason for absence is justified. This section is an important feature as it provides the balance between the obligation of parents to get their children to school each day which is set up in 36 and then made enforceable through section 224. If section 45 were removed altogether then effectively all absences would be illegal.

This Government has launched the attendance action plan to respond to non-attendance and this includes reviewing the legislative and regulatory levers

5. In March 2024, the Government announced its attendance action plan which identified immediate actions and committed to investigating more systemic change that should have meaningful impact.

6. Tightening section 45 is part of a wider legislative suite of changes designed to make the responsibilities and response to attendance clearer, more transparent and more supportive for schools, students and parents.

What is the policy problem or opportunity?

Exemptions from attendance have undergone considerable change

7. Section 36 of the Act sets out a requirement for parents to ensure their child attends school every day it is open (prosecution is possible through section 224), and that schools have a key role in ensuring students attend school and a legal obligation to take steps to ensure they do so (further information on Section 36 is provided below). However, reports from the Education Review Office (ERO) suggest that some schools aren't effectively or consistently responding to address the diverse causes of non-attendance. Part of that inconsistency is the use of exemptions from attendance. These exemptions provide an important balance in the system as many absences are often reasonable and should not be considered as being illegal.

[8] https://evidence.ero.govt.nz/documents/left-behind-how-do-we-get-our-chronically-absent-students-back-to-school

[9] The relationship between chronic absence and poorer outcomes later in life is correlational. Poor attendance is often a symptom of underlying educational, social and economic drivers, which are also associated with poor future outcomes.

8. Section 45 of the Act enables a principal to exempt a student from attending for no longer than five consecutive school days if the principal is satisfied that the reason for absence is justified. This provision has existed in some form since the Education Act 1964. During this time, certificates of exemptions were a key part of the framework and could be issued for up to a year. Specific exemptions included walking distance, sickness, severe weather, sudden and serious illness of a parent, and travel disruptions.

9. The five-day exemption was intended to be used in exceptional situations where there was not an existing exemption. As the legislation has been replaced and amended, the specific exemptions have been removed, and section 45 has become a catch-all for all exemptions to attendance.

10. Currently our almost 2,500 principals have to use their discretion to consider an absence and determine whether it is justified. While there is guidance on how and when to use the different attendance codes there is little in the way of a robust framework that can be used for principals to determine whether an absence can be justified. As a result there is anecdotal and some empirical data that there is not always consistent decision making and consistency is variable across the schooling system.

There is an opportunity to strengthen school responses to non-attendance through tightening schools' use of exempting student absence and more consideration is needed in understanding the absence and responding more effectively

11. Section 45 enables principals to exempt attendance for no more than 5 days if they consider the absence is for a justified reason (e.g. sickness, bereavement, injury, etc). The five-day exemption was intended to be used in exceptional situations where there was not an existing exemption. As the legislation has been replaced and amended over time, the specific exemptions have been removed, and section 45 has become a catch-all for all exemptions to attendance.

There is inconsistency about the grounds for which principals can exempt absence

12. This broad nature of the exemption power means that "if satisfied that a student's absence is justified, the principal of the school may exempt the student from attending the school for a period of no more than 5 school days." Principals just need to be satisfied that the absence is justified and applies the guidance from the Ministry to test this assumption. The guidance in this situation is about applying the proper attendance code to each absence.

13. In the case of using section 45 principals will be determining if the absence is a justified absence or not. Guidance for this is provided through the Ministry's Attendance Code Guidance.[10] However, this is only guidance and schools are not required to have to follow this. The guidance provides some examples of when a justified code could be used but this is not exhaustive and leaves a high level of discretion with principals.

14. Furthermore, the guidance recommends that schools should have policies that consider the thresholds for discretion and any limitations of discretion (including timeframes) for justified absences. We do not know how many schools may have these policies or how consistent they are across the system.

[10] https://web-assets.education.govt.nz/s3fs-public/2025-01/Attendance_Guidance_v02B.pdf?VersionId=en.x8nIC1VewxLJ3dQSw5u9WCIHnrIbc

15. There is no guidance that currently outlines what evidence should be acceptable for a justified absence to be exempted. This may have been expected to be evident in a schools policy (as outlined in para 10) but there is nothing to support principals to be able to draw on that enables them to confidently make a decision if they are uncertain about the absence.

16. Introducing some rules that set out the types of evidence that should be presented in different situations may help support principals to make more confident decisions knowing that they will be following nationally determined rules. For example, we have heard from some principals who have wanted to be able to investigate further into different types of illness or sickness or if there are continuing patterns of say every Monday and Friday the student is sick but the parent or caregiver continues to provide a sick note. In these cases, it may be appropriate for principals to be able to request a medical certificate that verifies an illness and provides a date of when a student will be able to return to regular attendance.

17. Regardless of the clarity concerns, the exemption provides an important balance in the system to enable reasonable absences to not be considered as being illegal.

Variability in the application of exempting and absence is compounded by not all parents seeing the value of their child being at school every day

18. A recent ERO report[11] found that not all parents see the value in having their children attend school every day.

19. The report highlights the importance of parent's attitude to attendance. ERO's 2022 attendance report found that many parents and students do not understand the importance of going to school. The report found that four in 10 parents (41 percent) are comfortable with their child missing a week or more of school a term, or almost a year of their schooling by the time they are 16. This year ERO will identify whether parent and student attitudes towards attendance have changed, and what is most critical in shifting them.

What objectives are sought in relation to the policy problem?

20. The key policy objective is to provide a legislative and regulatory environment that:
    - raises the threshold for exemption by being clearer about what grounds are or aren't considered reasonable
    - establishes more consistent application of the exemption and creates greater clarity and transparency for schools, students and parents,
    - ensures that reasonable absence (sickness, injury, bereavement, weather and other natural events) are not illegal and exposes people to potential prosecution.

What consultation has been undertaken?

21. There has been limited sector engagement. The Ministry did not engage with the wider education sector directly about the proposed changes to attendance legislation in ETAB2 due to time constraints or propose to for these rules. We have met and shared what we were able to about the ETAB2 changes and the rules, with Māori schooling peak bodies. This included looking at the section 45 but there was no discussion about removing or tightening the section. The Education Advisory Group (EAG; a group of education experts established to provide advice for the wider suite of Attendance Action plan initiatives) has been kept informed of these developments and a

[11] Missing Out: Why Aren't Our Children Going to School? Published 2022.

subgroup of the principals from the EAG gave us feedback on tightening the exemption or removing it.

22. The EAG group were varied in their support of only being able to exempt under certain grounds and new rules to support this. Some principals said there was no issue with the current discretionary settings and that they were best placed to do so now and into the future. Other principals said that rules would help them to better challenge situations where they had good reason to challenge the excuses that were given by some parents and that more evidence (e.g. a medical certificate) in some situations would be beneficial in getting some students back into regular attendance.

23. The Ministry is keen to ensure that there is opportunity for consultation in the development of the new rules to support the amendment to section 45.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

24. The Ministry has assessed options for tightening up exemptions from attendance requirements.

Criteria	Description
Effectiveness	The extent to which the options are likely to achieve the policy objectives.
Consistency	The extent to which the option encourages consistent and predictable approaches in how schools identify and respond to exempting attendance.
Flexibility/Innovation	The extent to which the option allows flexibility for schools to respond to attendance issues in a way that addresses the unique needs and context of their school community and enables innovative approaches to be tried.
Costs	The extent to which the option poses fiscal costs and administrative burden on schools, students and parents, and implementation costs for the Ministry and any other Government agencies.

What scope will options be considered within?

25. There was limited time to provide a full array of options for analysis on the section 45 exemption amendment.

Removing or amending section 45

26. We considered two different levels of regulatory options as well as a non-regulatory option, which is the status quo.

27. These refer to potential changes to the Act through ERB1. The options considered for changing section 45 needed to find a balance between improving consistency across current school approaches to exempting non-attendance, while also ensuring enough flexibility for schools to shape their approaches to fit their local school context and community.

What options are being considered?

28. We considered three options

Option 1 – *Status Quo – principals decide whether the reason for an absence is justified and may be exempted*

29. Currently, section 45 of the Act gives principals the ability to exempt a student's absence for a period of no more than 5 days if the principal thinks the reason for absence is justified.

Option 2 – *Remove section 45 altogether and have no exemption making power*

30. This option will see no further changes being made to the Act following the removal of sections 45 in full. This will mean that the AMPs and STAR framework would govern school responses to returning students to regular attendance and, if all reasonable actions have been taken, to consider prosecution.

31. This would mean that all absences are illegal. However, prosecution would only be considered in line with the school's responses, using the AMP and the STAR, to return the student to regular attendance.

Option 3 – *Amend section 45 so that it provides for principals only being able to exempt on the grounds prescribed in rules*

32. This would include creating a new rule making power, enabling the Secretary for Education to develop rules that specify when the exemptions can be used and what evidence is required. This is different to the current guidance for the attendance codes that gives a brief description and one or two examples. Also guidance is recommended practice but it is not binding of schools to have to follow it.

33. This option strongly tightens what is currently in place. It removes the justification aspect of the current section 45, enabling principals to only be able to exempt absence in certain situations. It also provides the opportunity to set out the instances an exemption can be made, and the evidence required (with these being set out in rules).

Preferred option – Option 3

Key for assessing options

Significantly better than the status quo	+++	Much better than the status quo	++
better than the status quo	+	Similar to the status quo	0
Worse than the status quo	-		

How do the options compare to the status quo/counterfactual?

Analysis – Options for removing or amending section 45

Criteria	Option 1- Status Quo – principals determine on what grounds and what evidence they use to exempt reasonable absences	Option 2 - Remove section 45 altogether and have no exemption making power	Option 3 - Amend section 45 so that it provides for principals only being able to exempt on the grounds prescribed in rules
Effectiveness	Under the current section 45, principals are able to exempt what they consider reasonable absence for no more than 5 consecutive days. While there is guidance on the use of attendance codes, this has not always been aligned to the exemptions in the Act and this is a causes of confusion. There are no specific regulations or rules to guide decision making or determine what should or should not be exempted or what the 5 days entails currently. As a result, principals have full licence to deal with a broad and diverse range of absences. **0**	Removal of attendance exemptions will mean there is no exemption pathway for any absence, regardless of reason. Removal of a principal's ability to exempt an absence will likely create confusion, at least initially, about the illegality of non-attendance and what this means for parents and students. This option would require an acceptance and tolerance of any absence from school being illegal, as there will no longer be any way to exempt any form of absence. This would also be a departure from the principle that a criminal offence should be clear about which conduct is intended to be prohibited. *The Legislation Design and Advisory Committee (LDAC)* advice included that the current regime provides for myriad life circumstances (resulting in absence) to be	This option strongly tightens what is currently in place. It removes the justification aspect of current section 45, enabling principals to only be able to exempt absence in certain situations. It also provides the opportunity to set out the instances where an exemption can be made, and the evidence required (with these being set out in rules). This option also enables an exemption making process for principals to deal with situations of genuine absence that can be exempted, rather than become unlawful due to parents not meeting their obligations under section 36 of the Act. The grounds for exemption and when they can be used will be set out in rules. By tightening this exemption making power, we intend to send a clear signal to parents and schools that every day at school counts and only certain, well documented absences, with

		responded to using the principals' discretion enabled by section 45. If section 45 were to be removed, it would need to be replaced with something, such as a list of reasons that absence from school is acceptable. -	reasonable evidence, will be exempted. This should result in parents thinking that one to two weeks a term being missed is not okay and that, unless the reason is explained and accepted, then absences could be deemed illegal and action such as prosecution could be taken if other interventions do not result in more regular attendance.+
Consistency	A lack of strong guidance for exempting absence has led to inconsistency of the application of the powers in s45 and confusion about its use. **0**	If there are no decisions to be made about whether an absence can be exempted, then all absences will be treated the same no matter who you are or where you are. This will help principals where they are facing pressure to exempt some students' absence, but have to make their own judgement with little guidance apart from which attendance codes they should attributing any absence to. These codes do not all align well with section 45, which can cause confusion. ++	With a set of clear rules that set out the grounds for when an exemption can be made and what evidence is required to make the exemption, we anticipate far greater consistency in the use of the exemption power moving forward. The tightening of section 45, and providing greater clarity for how and when it should be used, will support schools in making more consistent and transparent decisions when exempting student absence. It will also make it clearer for parents what their obligations in supporting their children in attending school regularly are. Although not supported by law, we have heard instances where schools have used this exemption provision to ask parents of students with disabilities, high learning support needs, or behavioural issues to keep their child home. This issue has been raised by the Ministry of Health and Whaikaha, and both agencies wanted to ensure this work addressed issues with attendance for disabled learners and learners with health problems that impact attendance.[12] Introducing new rules that take situations like this into account will ensure

[12] Education Review Office. (2022). Thriving at school? Education for disabled learners in schools.

			greater consistency and a reduction in this type of practice. ++
Flexibility	Highly flexible but has made consistency of approach challenging. Has the potential to be applied more broadly that is useful in an environment where regular attendance is poor. **0**	There would be no flexibility to meet local contexts. -	While this option tightens the current exemption process available to principals, it has the potential to restrict the ability of the Act to meet what are often highly contextual and localised situations relating to non-attendance, that a set of rules will struggle to be able to cover in totality. -
Costs	At present there is little compliance cost for schools or the Ministry. **0**	Removing section 45 would likely have operational and fiscal impacts on the Ministry's work on attendance prosecutions (see METIS 1324793 and 1341217). This is because the method for initiating the prosecutions process requires investigation and selection of candidates to be considered for prosecution from all absences, rather than using absences currently marked as unjustified. In effect, to manage potential prosecutions within its resources (or even significantly increased resources), the Ministry would need to introduce a system for determining which absences to prosecute that replicates the concept of a justified or acceptable reason for absence. -	It is challenging to know what impact making changes to section 45 may have as our data collections do not provide information on the use of the exemption, aside from noting justified absences. This means that we do not know the basis on which principals are accepting absence as justified. We expect that there will be a compliance cost to schools as they adjust to any new rules. This could include things such as: • Following up on absences that were once able to be exempted but will no longer be under the new rules • Gathering any evidence that the new rules may require that is beyond what is normally sought This should be low but will be dependent on the rules and the new expectations that they will set. Compliance costs will fall on students and families because they will become the regulated parties, which is contextually very different to the current situation.

			For example, the new rules would be clarifying what evidence will be needed to support an exemption. A medical illness or injury that extends for a prolonged period may require a medical certificate or other medical evidence. This could create additional costs for families and put increased strains on GPs and Emergency Departments in hospitals. Principals are likely to react to any changes that may reduce the way they use the 5-day exemption in section 45 unfavourably. This is because they use s45 exemptions to meet a wide range of absences, some of which are very contextual to individual circumstances. This uncertainty means there could be some cost in time and adjustment as the new section and rules are implemented. -

Te Tiriti o Waitangi/Treaty of Waitangi Analysis

34. The Crown has a duty to actively promote and protect Tiriti/Treaty rights and interests and to develop education settings in a way that supports Māori-Crown relationships. The following summary of Te Tiriti/The Treaty implications consider the ways in which this policy may intentionally or unintentionally impact Māori and assesses each option against articles 1-3 of Te Tiriti/The Treaty. While separate columns have not been included for the preamble and Article 4 of Te Tiriti/The Treaty, provisions relating to these, such as the extent to which options protect from harm, enable cultural customs, or recognise wairua, mauri, rongoā and tikanga, have been considered where relevant.

Key: Each option is ranked based on the following criteria.	**Poor**	**Limited**	**Fair**	**Excellent**
	Little or no consideration of the article.	**Limited** consideration of the article.	A **fair amount** of consideration of the article.	**In depth** consideration of the article.

	Little or no evidence can be provided to answer questions. **Significantly more** consideration of the article **is needed.**	**Limited** evidence can be provided to answer questions. **More** consideration of the article **is needed**.	**Sufficient** evidence can be provided to answer questions but **there are gaps.** **More could** be done to ensure consideration is excellent.	**Sufficient** evidence is provided to answer all questions with **no gaps.** **Still potential** for more development**.**
	Article 1: Kāwanatanga	**Article 2: Tino Rangatiratanga**	**Article 3: Ōritetanga**	
Interpretation	The Crown has the right to govern (kāwanatanga). Good governance must protect Māori interests and ensure equitable Māori engagement and/or leadership in priorities and decisions.	Provides Māori with tino rangatiratanga or absolute sovereignty over all their whenua, kāinga and taonga.	Promises to Māori the benefits of royal protection and full citizenship. This Article emphasises the rights of Māori to live as Māori in a manner consistent with whānau, hapū and/or iwi values and traditions.	
Relevance to problem definition	The Crown's Kāwanatanga commitments include engaging with Māori when making decisions that will affect them. Genuine engagement with Māori representatives on any new requirement is critical to supporting Māori-Crown relationships and meeting our partnership responsibilities. This is explicitly referenced in section 4 of the Act.	Māori have rights and interests in relation to how they manage their own affairs including matters relating to attendance and achievement of tamariki Māori in schools. For an option to uphold Article 2, Māori should be given flexibility to address the diverse causes of non-attendance in a way that works for them. This is particularly relevant as there is some evidence that Māori view the issue of attendance in a unique way and therefore may want to tailor their responses differently.	The Government has an obligation to actively protect Māori students to ensure that they have equitable learning outcomes, in this instance, achievement, in the education system. Evidence shows a strong correlation between attendance and academic achievement for Māori in English medium education. While this may not be a significant factor for achievement in kaupapa Māori education settings and Māori medium schools, there is still a correlation. Effective and consistent responses to address the diverse causes of non-attendance are central to lifting attendance rates and, to varying degrees, achievement rates, for Māori. Māori in English medium schools may also have differing needs from other students which will need to be acknowledged, understood and taken into account by schools when dealing with their attendance.	
	Limited	**Fair**	**Limited**	
Amend section 45 so that it provides for principals only being able to exempt on the grounds prescribed in rules	Timeframes for meeting ERB1 timelines mean we will not be able to engage with Māori to inform the removal of this section before Cabinet considers the proposals. Prior engagement was conducted with Te Rūnanga Nui o Ngā Kura Kaupapa Māori o Aotearoa and Ngā kura ā iwi on a review of exemptions however these specific options were	It is likely, under this preferred option, kaupapa Māori and Māori medium education settings may have some reduced flexibility in being able to exempt students from non-attendance. This is because there will be rules developed that will set the grounds for when an exemption can be made	There has been no direct consultation with Māori on these proposals due to tight time frames for delivering these proposed changes. Requiring schools to adhere to the changes in exemptions of non-attendance could address the variation in school responses and therefore be a step towards addressing the inequities that exist in	

	not part of that review. This risk will be partially mitigated by some engagement through Select Committee processes.	and what evidence schools will be required to give the exemption. The current settings mean that principals have discretion over how they use the section 45 exemption. This means that they have great flexibility to try and meet the often diverse and contextually rich situations that can cause non-attendance from school or kura. No set of rules can hope to capture all of these situations. The rules will help to improve consistency of application, transparency for students, schools and parents as to what is deemed to be a reasonable absence, and improve fairness of decisions. However, it will reduce flexibility which could have a greater impact on students who are presenting as being frequently absent, of which Māori students currently remain overrepresented. For this reason, kaupapa Māori and Māori medium providers may feel this tightening of flexibility more than other providers. This in turn may constrain kura and principals from English medium schools with akonga Maori from exempting attendance on cultural grounds, which could raise Treaty of Waitangi concerns over tino rangatiratanga. TRN highlighted the nature of the relationship between whānau and kura, and the power of whānau in determining the future of their children. Due to this relationship, TRN told us that they want discretion to be guided by whānau, not limited by Government.	attendance and educational achievement for ākonga Māori. Young Māori are overrepresented in non-attendance statistics. Setting out the grounds for what absences constitute fair and reasonable reasons for non-attendance that can be exempted, and the evidence required to do that, may support parents and students in returning to regular attendance. However, if they do not take into account identity, language, and culture as contexts that will make an absence unique, then the rules could create an unintended barrier. Kaupapa Māori and Māori medium providers may feel this tightening of flexibility more than other providers. This in turn may constrain kura and principals from English medium schools with ākonga Māori from exempting attendance on cultural grounds, which could raise Treaty of Waitangi concerns over tino rangatiratanga. This will need to be carefully considered when designing and consulting on the rules associated with this option.

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

We recommend the following option

Option 3: Amend section 45 so that it provides for principals only being able to exempt on the grounds prescribed in rules

35. After assessing the options against the above criteria, we consider that option three (Amend section 45 so that it provides for principals only being able to exempt on the grounds prescribed in rules) would result in the highest net-benefit.

36. Option two had the better consistency score but that is only because there would be no exemptions and therefore no principal judgement required. While there will still be some judgement that principals will need to make, it will be against rules that will set the grounds for what can be exempted and what evidence will be required to do so. Principals currently have the discretion to mark any absence as justified without clear guidance on when it is appropriate to do so. The Ministry has published guidance on Attendance Codes, however all that is required to mark an absence as justified is that the "absences that are explained and approved by the principal". [13]

37. It is important to note that flexibility of principals to meet the diverse and contextually rich situations that can cause absence will be restrained by option 3. While we have heard from some principals that they have wanted better guidance and support about what they can and can't exempt, and the rules will help this, the rules will not be able to provide an exhaustive list of situations. This means there may still be uncommon but genuine reasons for absence that are not included in the rules.

38. The key issue with option 2 was that, without an exemption in the system, every absence would become illegal as section 36 of the Act sets out a requirement for parents to ensure their child attends school every day it is open (prosecution is possible through section 224). Creating that situation would not have been a good legislative process as noted by the Legislation Design and Advisory Committee (LDAC) who said in their feedback *"If section 45 were to be removed it would need to be replaced with something, such as a list of reasons that absence from school is acceptable*."

39. Option 3 enables a tightening of a process that has great flexibility but is used inconsistently and appears to not be well understood. Signalling what are acceptable reasons for absence also means that these will be able to be recorded and no longer simply justified. This will mean that the data will be richer and provide a greater understanding of what is driving non-attendance.

40. While Option 3 is the best of these options it has been challenging to gather data and evidence that fully supports it. There is anecdotal evidence of some inconsistency in the use of the current exemption and there is some empirical evidence that the exemption has been used incorrectly for some student with high learning needs to keep them at home when they could be at school.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

[13] Attendance_Guidance_v02B.pdf, page 4 and 11.

41. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

42. The table below sets out the costs and benefits of each against the status quo.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (eg, compliance rates, risks.)*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups (State school boards and school principals) Parents, students and whānau	Amending section 45 will mean that principals are no longer going to be able to exercise discretion as to how they exempt any absence. They will have to follow a prescribed set of grounds for what they can exempt and what evidence will be required to verify the absence. There may be an adjustment needed for schools and principals as they adjust to the new requirements. There may be some administrational changes required as part of that adjustment. The principal will no longer have the broad discretion that they currently do. This could impact on the relationship between school and parent. While it is difficult to ascertain the impact this might have it could create unintended outcomes in the system. One of these could be that it if some absences, that were being exempted prior to the new rules coming into effect, are now deemed unreasonable and therefore not exempted, parents could become angry and their relationship with schools become even more distant than it is now. An additional cost for parents and students may occur through regulating what evidence will be required for an absence to be exempted. In some cases, where an illness or injury, for example, has occurred for a prolonged period of time, a medical certificate or other medical evidence may be required (this is still to be decided but it could be a possibility). We know that getting a doctor's appointment can take a lot of time in some areas and that the cost of a visit can be inhibitive for some families. There is also	Low Low	Medium Medium

	evidence that increased visits to ER departments has occurred over the last several years and part of that could be because of rising costs to see a GP. We will need to carefully consider whether the requirement for medical evidence could drive more people to already overwhelmed ER departments.	Medium	Medium
	The changes to section 45 may have compliance costs. Tightening the use of exemptions, the grounds for them, and evidence required through the rules will mean that not all exempted absences in the past may be eligible for exemption in the future. We expect that there will be a compliance cost to schools as they adjust to any new rules. This should be low but will be dependent on the rules and the new expectations that they will set. This could cost some families and whānau more than others. For example, a trip that a family may have made each year that extended a week into term time may no longer meet the new requirements for exemption. This could mean that, if not exempted, then those days would be an illegal absence that could potentially meet the threshold for prosecution. This could impact groups of families and students who are least able to mitigate this type of cost. There will need to be clear notification of the changes and the possible outcomes if absences are not exempted because they do meet the grounds for a reasonable absence. There will be another potential cost in that it will be likely that some absences that have been exempted in the past at a principal's discretion will no longer be able to be exempted. This could cause anger, a degree of mistrust, and feeling let down by the school. This could result in pushing families further away rather than supporting them to return their children to regular attendance. Students and families/whānau may need time to adjust to the new way of being. If they don't and the absences are not exempted, then they will effectively be acting illegally and potentially prosecutable.	Low - Medium	Low - Medium
Regulators (Ministry of Education)	Amending section 45 will means schools will have to adjust to a new way of exempting absences and this may require	Low	Low

	support. The Ministry is already gearing up to support schools to implement the soon to be mandatory AMP regulations and support on the 45 amendments can be done alongside this.		
Others (e.g., agencies such as ERO)	No known cost.	Low	Low
Total monetised costs	No cost from the removal of sections 44 and 46.	Low	
Non-monetised costs	There may be some time cost in removing the sections and updating but this will be part of BAU for Government.	Low	
Additional benefits of the preferred option compared to taking no action			
Regulated groups (school principals) Others (e.g., parents, students, whānau)	Schools will get greater clarity about what is expected of them regarding using the exemption power and they will be supported by rules that will give them that certainty. By responding to the rules rather than using judgement and discretion, the principal will effectively assume the role of a regulator.	Low	Medium
	Schools are likely to be clearer about their expectations and therefore be likely to take better measures when exempting reasonable absences. Parents and students, as the regulated groups, will also know that the decisions are fairer and have greater transparency than always leaving it up to the discretion of the principal. Parents of disabled students have raised instances where schools have used this provision to ask parents of students with disabilities, high learning support needs, or behavioural issues to keep their child home.[14] This issue has been raised by the Ministry of Health and Whaikaha as well. Introducing rules that clearly set out when different absences can be exempted could impact positively on these children.	Low	Medium
Regulators (Ministry of Education)	There will be increased transparency from the requirement on schools to follow new rules for making any exemptions. This will highlight where exemptions are working and where schools may still be adjusting to the new section 45 requirements.	Low	Medium
Total monetised benefits		Low	Low

[14] Education Review Office. (2022). Thriving at school? Education for disabled learners in schools.

Non-monetised benefits		Medium	Low

Section 3: Delivering an option

How will the proposal be implemented?

43. The amendment to section 45 will likely come into effect in the middle of 2026. This is because these changes will be progressed as part of ERB1 and that is the timeline for that legislative process.

44. There are two options for the Minister to consider for the implementation. The first is that the amendment to section 45 and the new rules – Principal exemptions – will come into effect at the same time about mid-July. This option is not the Ministry's preferred option as it means that the development of the rules will be shortened and will mean that any consultation would have to be time limited and targeted.

45. Option 2 which is the Ministry's preferred option is to delay the introduction of the amended section 45 and its rules until the start of the 2027 school year. This will give greater time to consult more widely about the rules and give the sector time to make changes and ready itself for the new changes.

46. There is a risk to implementation however from the rules being developed independently of the proposed legislative amendments and additions to the Act through ERB1. If ERB1 is held up, then the rules cannot be made until the Act has been passed.

47. The Ministry is also exploring whether changes may be needed to the absence codes as a result of principals no longer having broad discretion. Furthermore absence codes will need to become clear for parents in the future as removing the one broad category of justified absence will likely mean that new codes will be needed so that it is clear to all concerned about what was the reason for absence and why it was, or wasn't exempted.

48. The relationship between principals and parents will change as principals will now be regulators and students and parents regulated in regard to absences.

49. To mitigate this risk, clear and timely communications will need to be developed for both schools and parents about any changes to absence codes, and what the new rules will mean about what are reasonable absences that will be exempted and what are unreasonable and won't be exempted.

How will the proposal be monitored, evaluated, and reviewed?

50. How we monitor schools compliance with the amended section 45 is yet to be developed. The Ministry is working with ERO to investigate how the two agencies can provide assurance that boards are complying with the new proposed requirements for having an AMP and responding to it effectively. The use of exemptions could be considered in that same space. Should a school show inconsistencies in the use of the exemptions, then the Ministry would have grounds for using the intervention framework already set out in section 171 of the Act.

51. Monitoring of the proportion of justified and or unjustified absences changing will give an indication as to whether the policy is achieving its objective.

52. Regional Ministry staff will also play a monitoring role as well as enforcement if needed.