

Regulatory Impact Statement

Compulsory attendance for five year olds once enrolled

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Education (the Ministry). It provides an analysis of options to ensure children under the age of six attend school consistently from the time they first enrol.

This is one of a suite of RISs on amendments to update the Education Act 1989 (the Act). The analysis and resulting policy proposals focus on meeting the needs of schooling and early childhood education now and into the future.

The Ministry undertook a public consultation on the policy proposals for updating the Act between 2 November and 14 December 2015 and received over 1800 submissions. A report on the submissions is available on the Ministry's website.

There are no significant gaps, constraints, or uncertainties affecting this analysis.



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Status quo and problem definition

1. Under the Education Act 1989 (the Act), students have the right to free enrolment and education at a state school from the age of five, but are only legally required to be enrolled by the time they turn six.
2. Section 25 of the Act states that every student who is required to be enrolled at a school must attend when that school is open. Section 20 provides that a person is required to be enrolled at a registered school at all times during the period beginning on their sixth birthday and ending on their 16th birthday.
3. The legislation does not clearly require that students enrolled in school prior to their sixth birthday regularly attend. Some parents have interpreted this to mean that it is acceptable for their child to attend school irregularly until their sixth birthday.
4. Rates of poor and intermittent attendance are higher amongst new entrant (Year 1) students than Year 2 and 3 students. The table below compares the absence rates across these year levels. Justified, unjustified and total absence rates are the average percentage of students absent on any given half day. Students are classified as being persistent absentees if they are absent for 15 percent or more of school time (i.e. absent for at least six weeks in a school year).

Absences across Years 1, 2 and 3

| | Total Roll | Justified absent (%) | Unjustified absent (%) | Total absent (%) | Persistent absent (%) |
|---------------|-------------------|-----------------------------|-------------------------------|-------------------------|------------------------------|
| Year 1 | 49,506 | 6.2 | 2.9 | 9.1 | 19.7 |
| Year 2 | 50,346 | 5.6 | 2.7 | 8.3 | 16.8 |
| Year 3 | 47,876 | 5.0 | 2.5 | 7.5 | 14.5 |

5. Poor attendance is particularly significant amongst Māori and Pasifika Year 1 students, with approximately 31 percent classified as persistent absentees.

Year 1 absences by ethnicity

| | Total Year 1 roll | Justified absent (%) | Unjustified absent (%) | Total absent (%) | Persistent absent (%) |
|-----------------|--------------------------|-----------------------------|-------------------------------|-------------------------|------------------------------|
| Māori | 12,208 | 7.5 | 5.0 | 12.4 | 31.2 |
| Pasifika | 4910 | 7.1 | 5.5 | 12.7 | 31.0 |
| Total | 49,506 | 6.2 | 2.9 | 9.1 | 19.7 |

6. Research shows that regular attendance in the first year of school supports effective transitions to school, and is important for developing positive dispositions to learning and student engagement, progress and achievement. Irregular attendance can establish poor attitudes to learning and school and hinder progress and achievement. The irregular

attendance of some students can also impact the learning and achievement of others.¹

7. The Ministry of Education has guidance available to parents that encourages regular attendance in school once a child has enrolled. However, the messaging within the legal framework is inconsistent and does not support schools to engage with parents about their child's attendance before that child has turned six.
8. Often children with special education needs attend school part time until they turn six, as part of a managed transition process. The current law allows for this. A New Zealand Council of Educational Research (NZCER) report on successful transitions from early intervention to school-age special education services found that generally the most effective transitions were staggered.² The Advisory Group on Early Learning also noted that many children with special education needs benefit from a longer, more flexible transition programme, with multiple visits between Early Childhood Education (ECE) and school. This gives them time to adjust to changes in routine, and to form relationships with key people in their new support team.

Objective

9. The objective is to clarify requirements that children under the age of six attend school consistently from the time they first enrol in school, while allowing transition arrangements that meet the needs of students with special education needs.
10. Consistent attendance will support successful transitions to school and the development of positive dispositions to learning, providing a sound foundation for future learning and achievement.
11. Four criteria were used to assess how the options considered to address the problem definition would meet the objective:
 - clarity of messaging on attendance
 - likelihood that they will lead to a change in behaviour
 - flexibility for children with special education needs
 - cost.

Options and impact analysis

12. Three options were considered in terms of their strengths and weaknesses in meeting the criteria. These were:
 - **Option A:** Maintain the status quo
 - **Option B:** Legislate to make attendance in school compulsory once a student has enrolled, even if they are not yet six years old, with an exception for children with special education needs if specified in their managed transition plan.
 - **Option C:** Strengthen communications with parents and communities about the importance of regular attendance in school, including investing in specific information and social influencing campaigns

¹ Chang and Romero, *Present, Engaged and Accounted For: The Critical Importance of Addressing Chronic Absence in the Early Grades* (The National Centre for Children in Poverty, 2008).

² Jacky Burgon and Joanne Walker, *Successful transitions from early intervention to school-age special education services: Report to the Ministry of Education* (Wellington: NZCER, 2013).

| | Status quo | Regulatory option | Non-regulatory option |
|--------------|---|--|---|
| Descriptions | Students may enrol in school any time from their fifth birthday, with compulsory attendance beginning from age six | Legislate to make attendance in school compulsory once a student has enrolled, even if they are not yet six years old, with an exception for children with special education needs if specified in their managed transition plan | Strengthen communications with parents and communities about the importance of regular attendance in school, including investing in specific information and social influencing campaigns |
| Strengths | Provides flexibility for children with special education needs to attend part time in the first year of school, as part of a managed transition process | <p>Sends a clear message to parents of the importance of regular attendance in the first year of school</p> <p>Legal framework would support other work in this area (for example, guidance to parents, initiatives to support attendance)</p> <p>Gives schools greater authority to engage with parents about their child's attendance, and at the extreme gives Attendance Services the same power to enforce attendance as they do for students aged six and above</p> <p>Provides for staggered transitions to school where this would be beneficial due to a child's special education needs</p> <p>Would not require additional investment - allows existing investment to be more effectively leveraged</p> | <p>A cultural shift in attitudes may be more effective in addressing the problems of intermittent attendance between the ages of five and six, in certain communities. Examples include using opinion shapers and social marketing campaigns which draw parallels to a community's commitment to regular church attendance or to sports practices</p> <p>Encouragement and engagement may be more likely to help establish good patterns for attendance and learning than legislated sanctions</p> |
| Weaknesses | <p>Sends mixed messages about the importance of consistent attendance for students under the age of six by interrupting continuity of learning and acquisition of foundational skills</p> <p>Does not empower schools to enforce compulsory attendance among new entrant students</p> | <p>May be perceived by some parents as a strong stance for the state to take. Parents may think they are acting in their child's best interest by allowing them to stay home when they are tired or struggling to adjust to school</p> <p>May not improve or remove barriers to attendance for students with intermittent attendance. Parents of these children may not be using the current legislation to justify poor attendance</p> | <p>Guidance to parents on the importance of new entrant attendance has been available for some time, but poor attendance of new entrants (particularly Māori and Pasifika) continues to be of concern. Achieving a shift in behaviour would require significant additional investment, including specific campaigns</p> <p>May not go far enough to ensure that students attend school regularly once they have enrolled, as it doesn't give schools any further authority to compel attendance</p> |

13. Under the regulatory option, schools would have similar obligations to ensure attendance of five year olds as they do for students aged six to sixteen. Parents of five year olds would be subject to the same sanctions for irregular attendance as applies for six to sixteen year olds. As is the case with irregular attendance by students aged six to sixteen, we would expect sanctions to be used only rarely.
14. A potential effect of the regulatory option is that a greater number of parents may choose to defer their child's enrolment when they are not confident that the child is ready for full time attendance at school. If the child is in early childhood education, then a later transition to school based on a judgment about the child's maturity and readiness for school is likely to support better educational outcomes than an earlier transition in which the child then attends school only sporadically.
15. This amendment would not lead to an increase in funding to schools. Schools are funded for a student once they are enrolled. Students are only removed from the roll if they have an unjustified absence of 20 consecutive school days.

Consultation

16. The Ministry ran a public consultation on the update of the Education Act 1989 between 2 November and 14 December 2015. The public were invited to respond to a discussion document, and Directors of Education ran a series of workshops and hui across New Zealand. In relation to attendance of five year olds, the discussion document asked:

"What do you think about making attendance compulsory for children once they have started school or kura before they turn six years old?"
17. 1,852 submissions were received, 1,134 (61 percent) of which responded to this question. Approximately two thirds of these respondents supported making attendance compulsory for children who have started school, including the New Zealand Educational Institute Te Riu Roa (NZEI Te Riu Roa), the New Zealand Principals' Federation and the New Zealand School Trustees Association.
18. Support for the proposal was lower among parents (56 percent) and whānau and family of learners (48 percent) than teachers (69 percent) and members of boards of trustees (82 percent).
19. Many submitters commented that compulsory attendance should be flexible to cater for individual or special needs. Some suggested that there should be provision for five year olds to return to ECE if that would be more beneficial for them than staying in school.
20. Some submitters questioned whether compulsion would really help improve attendance, suggesting that ensuring learning was engaging and addressing social barriers to attendance would be more effective strategies.

Conclusions and recommendations

21. We consider that the regulatory option is to be preferred over the non-regulatory option. The legal framework would then clearly signal the importance of regular attendance, removing the existing ambiguity in messaging. This would enable the current investment in guidance to parents, in engagement by schools with parents, and in the attendance service to be more effectively leveraged to change behaviour..
22. Significant additional expenditure is likely to be needed for the non-regulatory option to lead

to a material change in behaviour. Further, the effectiveness of an information campaign and social marketing approach is likely to be improved through complementary changes to the regulatory framework (as proposed under the regulatory option).

23. We therefore recommend amending the Act to make attendance compulsory once a child has enrolled in school, with an exception for children with special education needs if specified in their managed transition plan. This specific amendment would clarify the requirement on parents to ensure that their child attends school regularly once they are enrolled, while permitting staggered transitions for children with special education needs.

Implementation

24. The provisions would come into effect upon assent of the Bill to update the Education Act 1989.
25. We will proactively communicate the change in legislation to stakeholders, particularly principals, through:
 - a notice in the Ministry Bulletin for School Leaders and Early Learning Bulletin
 - updating Ministry guidance and resources relating to attendance, including information on <http://www.parents.education.govt.nz>
 - briefing Directors of Education and Attendance Services.
26. Schools will be implementing the changes if they see fit to begin cohort entry.
27. It is likely that there will be some costs incurred by schools for consultation on establishing cohort entry.

Monitoring, evaluation and review

28. The impact of this amendment will be assessed over time through analysis of available attendance data.
29. Feedback from schools and boards will be used in assessing the effectiveness of the changes.