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Governance support resources

Guidelines re varying school opening hours

The Education Legislation Amendment Act came into effect on 29 October 2016. It includes an amendment to section 65B of the Education Act 1989. School boards of trustees can now vary their opening hours without approval by the Minister of Education. However, Boards must first consult with parents, staff and the community.

The change in legislation does not affect the default legal position for boards of trustees regarding school opening hours: schools must still be “open for instruction” for a minimum of four hours a day, including a minimum two-hours in the morning (a “half-day”) and another minimum two-hours in the afternoon. But, the change in legislation means that the board of trustees can decide to vary when the 2 hour periods are taken without approval from the minister, subject to certain requirements including consultation and written notification.

The change has been made because schools are seeking more flexibility in how they operate their timetables, to fit in with the wider range of learning options available to their students. This is all with the overall aim of lifting student achievement.

‘Flexible hours’ does not mean reduced hours. Students must still spend the same amount of time in school over the year as students in “comparable and other local schools”. Boards will also still need to meet any requirements notified by the Minister, including that they have to be open for a specified number of half-days per year.

Please note the conditions that a board must meet before the power to vary its opening hours is exercised. The board must:

- adequately consult parents, staff, the local community, and any other person who the board considers may be affected, about the proposed variation and it is generally acceptable; and
- be satisfied that the adoption of the proposal will not result in the students of the school spending less time in school than other students in comparable schools and other local schools; and
- have taken all reasonable steps to notify students and parents in writing of the board's final decision on the proposed variation.”

The legal requirement for boards to adequately consult is critical before a board decides to vary its school hours. Consultation requirements come from legal decisions and the principles of Natural Justice. There are no hard and fast definitions but boards are already required to consult on a number of matters and should have processes to do this. Boards are reminded that anyone affected by and unhappy with the change can challenge the school via the Office of the Ombudsman or an application for judicial review in the High Court.

More information

Further information about the reasons for the law change can be found at: <http://www.education.govt.nz/ministry-of-education/legislation/education-legislation-amendment-act/varying-school-opening-hours-at-a-glance/>

Further information about other changes in the Education Legislation Amendment Act 2016 can be found at: <http://www.education.govt.nz/ministry-of-education/legislation/education-legislation-amendment-act/>

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