

Charter Schools (Application of Official Information and Ombudsmen Acts) Bill

Member's Bill

Explanatory note

General policy statement

This Bill aims to restore transparency in New Zealand's education system by ensuring that partnership schools kura hourua ("charter schools") are subject to the same level of public scrutiny as existing state schools. Charter schools are exempt from the provisions of the Official Information Act 1982, despite being government funded.

This Bill seeks to bring charter schools under the provisions of the Official Information Act 1982 and the Ombudsmen Act 1975 so that they can be held accountable for their use of public funds. In doing so, it brings the legislation into line with the recommendations of the Ombudsmen. The ability to request information under Official Information Act 1982 also provides parents and communities with important oversight of charter school operations and the ability to hold them to account for the quality education of children.

Exempting charter schools from the Official Information Act 1982 does nothing to improve the quality of education provided to students. Instead, it risks poor quality education being covered up and action for improvement delayed.

The lack of transparency appears to be motivated by a desire to protect private and commercial interests. The Labour Party does not support a system that puts profit before kids and the interests of the community. And it is not alone. Allowing charter school sponsors to profit from the public funds provided for the education of our young people is not supported by the majority of New Zealanders.

The Bill is an omnibus Bill introduced by virtue of Standing Order 263(a). It is intended that the Bill will be divided into separate Bills at the committee of the whole House stage.

Clause by clause analysis

Clause 1 contains the Bill's title.

Clause 2 describes the commencement date.

Clause 3 states that *Part 1* amends the Official Information Act 1982 ("OIA").

Clause 4 amends the definition of **organisation** in section 2 of the OIA. The effect of the definition currently is that the Parliamentary Service, mortality review committees, and sponsors of charter schools, while included in some circumstances in the application of the Ombudsmen Act 1975 ("OA"), are excluded from the application of the OIA. The amendment changes this by taking sponsors out of the exclusion.

Clause 5 states that *Part 2* amends the OA.

Clause 6 repeals section 2(5) of the OA. Section 2(5) explains what Schedule 1, Part 2, of the OA means when it refers to sponsors "performing a standing-down, suspension, exclusion, or expulsion function". The explanation is no longer necessary because *clause 7* deletes that language.

Clause 7 amends Schedule 1, Part 2, of the OA. Part 2 lists organisations to which the OA applies. The list's entry for sponsors of charter schools reads "Sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing a standing-down, suspension, exclusion, or expulsion function". The amendment deletes the words "when performing a standing-down, suspension, exclusion, or expulsion function".

The effect of *clause 7* is that sponsors of charter schools will be subject to the OA in relation to all their activities and, because the list of organisations in the OA is used for the OIA as well, will also be subject to the OIA in relation to all their activities.

Hon Nanaia Mahuta

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Charter Schools (Application of Official Information and Ombudsmen Acts) Act **2016**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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Part 1

Official Information Act 1982

3 Principal Act

This Part amends the Official Information Act 1982 (the **principal Act**).

4 Section 2 amended (Interpretation) 5

In section 2(1), definition of **organisation**, paragraph (a), replace “, mortality review committees, or sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing functions under the Education Act 1989 or a partnership school contract (within the meaning of section 2(1) of the Education Act 1989)” with “and mortality review committees”. 10

Part 2

Ombudsmen Act 1975

5 Principal Act

This Part amends the Ombudsmen Act 1975 (the **principal Act**).

6 Section 2 amended (Interpretation) 15

Repeal section 2(5).

7 Schedule 1 amended

In Schedule 1, Part 2, item relating to Sponsors, delete “when performing a standing-down, suspension, exclusion, or expulsion function.”