

Education (Teachers' Code of Ethics) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill replaces the Code of Conduct referred to in section 387 of the Education Act 1989 and replaces it with a new Code of Ethics, in order to reinstate the primacy of a code of ethics for the teaching profession.

A certificated Teachers' Code of Ethics is strongly supported by the teaching profession, which believes such a code has served the profession, employers, employees, learners, and the community well.

The Code of Ethics provision creates an aspirational set of principles which include a commitment to learners, whanau, society and the profession. It also confirms obligations under Te Tiriti o Waitangi and a commitment to Maori as tangata whenua.

Under amendments made by the Education Amendment Act 2015, the Education Council was mandated to establish a binding Code of Conduct for teachers within its first 2 years of operation. Until that time the previous Teachers Council's Code of Ethics functions as its precursor. This Bill reverts to a previous provision for that Code of Ethics and renames the Education Council as the Teaching Council, to indicate the importance of the teaching profession in its own regulation.

The teaching profession is concerned that a Code of Conduct could limit the right and duty of teachers and principals to speak out in the public interest against poor policy that may harm children's learning.

The amendments made by the Education Amendment Act 2015 required that the Code of Conduct "take account" of the State Services Code which limits public servants in core state services that provide advice to Ministers from publicly criticising Government policy. Such a Code might have been used, for example, to prevent principals and teachers from voicing legitimate criticism of the invalid and inaccurate basis of the controversial National Standards policy.

A Code of Conduct could be used as a punitive measure to undermine the principles of the Code of Ethics and to constrain educators' ability to speak out in an area in which they are the experts. This would have a dampening effect on debate about issues that are in the public interest and negatively impact on the development of robust policy. Teachers are highly regarded and respected professionals, with primary schools scoring second only to doctors, according to UMR Research's recent Mood of the Nation survey. Parents recognise the professional expertise of teachers and rely on the right and responsibility of the teaching profession to speak on issues of education policy.

Teachers should be trusted to adhere to a Code of Ethics and professional standards while being able to speak out, in the interests of quality teaching and learning, on education policy and implementation.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Education Act 1989 (the **principal Act**).

Clause 4 amends section 348, an interpretation section, to provide for the references to the Education Council to be read as references to the Teaching Council.

Clause 5 replaces section 387, which relates to the code of conduct, with a *new section 387* which relates to a code of ethics.

Hon Ruth Dyson

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education (Teachers' Code of Ethics) Amendment Act **2017**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

This Act amends the Education Act 1989 (the **principal Act**).

4 Section 348 amended (Interpretation)

(1) In section 348, replace the definition of **Education Council** with: 10

Education Council means the Teaching Council established under Part 32; and every reference in this Act or any other enactment to the **Education Council** or the Education Council of Aotearoa New Zealand must be read as a reference to the Teaching Council

- (2) In section 348, insert in its appropriate alphabetical order:

Teaching Council means the Teaching Council of Aotearoa established under Part 32

5 Section 387 replaced (Code of conduct)

Replace section 387 with:

5

387 Code of ethics

- (1) The code of ethics is binding on all registered teachers and on all authorised persons.
- (2) The Teaching Council must ensure that there is a code of ethics in place at all times that applies to all teachers who hold a practising certificate and all authorised persons. 10
- (3) The code of ethics that the New Zealand Teachers Council prepared and that was in existence immediately before the commencement of section 387 as inserted by section 40 of the Education Amendment Act 2015 is to be treated as the code of ethics made under this section until any amended code is prepared in accordance with this section. 15
- (4) When preparing an amended code of ethics, the Teaching Council must take all reasonable steps to consult those who will be bound by it.
- (5) The code of ethics (and any amendment to it) must be signed by the chairperson of the Teaching Council and the following steps must be taken: 20
- (a) notice of it must be given in the Gazette:
- (b) the notice must say where copies of the code may be obtained free of charge:
- (c) a copy of the code (and any amendments) must be published on the website of the Teaching Council: 25
- (d) the Teaching Council must take all reasonable steps to ensure that those bound by the code are aware of its existence and are able to obtain copies.
- (6) The Teaching Council may amend the code of ethics, and every amendment forms part of the code on the date specified in the notice as the date on which it will come into force. 30
- (7) Any code of conduct prepared by the Education Council of Aotearoa New Zealand that was in force before the commencement of this section is revoked.
- (8) The code of conduct, and every amendment of it, is a disallowable instrument for the purposes of the Legislation Act 2012. 35