

Regulatory Impact Statement

Minimum school opening hours

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Education.

This Regulatory Impact Statement provides an analysis of three options that would give schools more flexibility in setting their opening hours, while still meeting the requirement to be open for the prescribed number of half-days, meeting the needs of their school and community and ensuring that students spend the same time at school as students in other schools.

The Ministry considers this document to be a fair representation of the analysis of available options.

Ben O'Meara

Ben O'Meara, Group Manager, Schooling Policy, Ministry of Education

Context

1. The Education Act 1989 requires a school to be open for instruction on five days a week during the school term. Schools must also be open for a minimum of two hours in the morning before noon and a further two hours after noon. Each block of two hours is deemed to be a half-day. In practice, most schools are open for instruction for a total of five hours a day rather than the minimum prescribed total of four hours.
2. Schools are required to work a set number of half-days in each year, as prescribed by the Minister of Education.
3. Section 65D of the Education Act 1989 enables only the Minister to vary the requirement for a school to be open for instruction for two hours in the morning and two hours in the afternoon. This can be done where the Minister is satisfied that:
 - the school board of trustees has adequately consulted parents, staff and the local community about the proposal and it is generally acceptable, and
 - 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
 - the variation is appropriate in the circumstances.
4. The requirement for schools to be open for a minimum number of hours each day dates back to the first Education Act of 1877. At the time the legislation was established, children and teachers often travelled long distances to get to school on rough and dangerous roads. Children were also expected to carry out chores before and after school, particularly on farms. Within this context, local education boards were able to nominate the opening and closing hours of schools and schools also adjusted their holiday times to take account of local farming needs.
5. In 2015, New Zealand has better transport arrangements and a greater focus on education for children. Technology use in education is also changing how and when education is delivered.
6. The recent Taskforce on Regulations Affecting School Performance recommended that “the flexibility available to schools to set the school year could be increased by specifying a minimum number of half days but removing other requirements which are unnecessarily prescriptive”.¹

Problem definition

7. The requirements set out in the legislation are unduly restrictive and administratively cumbersome. As technology makes learning environments increasingly flexible, schools are likely to value being able to depart from the statutory requirements without prior authorisation.
8. Many schools are seeking a level of flexibility that is not currently catered for in the legislation. Recent news articles have described a number of variations to school hours being adopted by schools. One example is a school which has timetabled most classes before lunch and one class in the afternoon, following a later lunch-break. Another has scheduled fewer classes with each class being 100 minutes long.

¹ *Considering Education Regulation in New Zealand*, MoE, 2014.

9. There may be a number of reasons for schools wanting more flexibility. They may be seeking to meet local needs such as local transport arrangements, the weather or local labour market conditions.
10. Some schools believe that students learn better in the morning and timetable lessons accordingly. Other schools have adopted a later start for teenagers based on a belief that teenagers' sleep cycles are not compatible with an early start. Schools may want to test out such options in the interests of improving student achievement, and more flexibility would allow them to do so.
11. While schools can seek an exemption, as described under 'context' above, the legislation does not allow the Minister to delegate this power. Some schools may not know that they need to seek an exemption. Some schools may be put off asking for an exemption once they learn that Ministry officials, for example the local Director of Education, cannot grant this exemption and that the process requires Ministerial intervention.
12. Attendees at the Minister of Education's Cross-Sector Forum in May 2015 generally supported increased flexibility for schools while expressing concern about the potential impact on families and communities.

Policy objectives

13. The primary objective of this proposal is to give schools more flexibility in setting their opening hours to meet the needs of their school, students and wider community.
14. The secondary objectives are for all schools to meet the requirement to be open for the prescribed number of half-days and to ensure that their students do not spend less time in school than other students in comparable schools.

Options

15. The Ministry considered three options as ways to meet the policy objectives.
16. The three options are:
 - a. Retain the status quo which allows the Minister to vary the meaning of a half-day where specified conditions are met.
 - b. Amend the Education Act 1989 to enable a school board of trustees to determine when the two blocks of two hours are to be taken during the day.
 - c. Amend the Education Act 1989 to remove the requirement for schools to be open for at least two half-days in each day. As a consequence, the requirement to have a half-day in the morning and a half-day in the afternoon would also be removed.
17. Three criteria were used to assess each option's contribution to the policy objectives:

Does the proposal ensure the school is open for instruction for the prescribed number of half-days?

The proposal must enable the school to continue to meet this basic requirement.

Does the proposal enable the school to meet the needs of its students and the wider community?

The proposal should enable the school to be able to respond to the particular needs of its students and wider community in a way that is effective for that school. Such response should be efficient and effective in a cost-neutral way.

Does the proposal ensure that students do not spend less time in school than other students in comparable schools?

The proposal must not disadvantage students by enabling them to spend less total time in school than other students.

Option One: Status Quo

18. Under the status quo, schools must be open for a minimum of two hours in the morning before noon and a further two hours after noon.
19. This requirement may be varied if the Minister of Education is satisfied that:
 - the school board of trustees has adequately consulted parents, staff and the local community about the proposal and it is generally acceptable, and
 - 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
 - the variation is appropriate in the circumstances.
20. Section 65D of the Education Act 1989 enables only the Minister to vary the requirement for a school to be open for instruction for two hours in the morning and two hours in the afternoon.
21. Retaining the status quo provides certainty that no school can open later than 10am or close earlier than 2pm. This certainty is likely to be beneficial to parents of younger children and students with special education needs in particular due to the greater level of supervision required for these groups.
22. Against this, the status quo does not appear to provide the level of flexibility that schools are seeking. The status quo ensures that schools are open for instruction for the prescribed number of half-days as per criteria one. The proposal also ensures that students do not spend less time in school than other students in comparable schools, as per criteria three.
23. This option may not, however, fully meet the second criteria, to meet the needs of its students and wider community. We have anecdotal reports that some schools are operating timetables outside the statutory requirements, indicating that current rules are not meeting the needs of those particular schools.

Option Two: Allow school boards to determine when the two blocks of two hours may be taken

24. This option would continue to ensure the school was open for instruction for the prescribed number of half-days. It would also ensure that students do not spend less time in schools than other students in comparable schools.
25. This option would, however, provide schools with greater flexibility than exists now. It would allow schools to determine how best to order their school day in a way that suits their needs and allow them to vary that to respond to changes through the school year.

26. Schools could vary their times seasonally. For example, Southland schools might benefit from opening later in the winter, allowing students and teachers time to negotiate icy roads and heat schools. Northland schools might benefit from opening earlier in summer, taking advantage of early light and avoiding uncomfortable classrooms in the afternoon's warmer temperatures.
27. Some schools could choose to regularly close early on one day to pursue sporting or community activities that did not meet the requirement that the school was 'open for instruction'.
28. This option would be constrained by the need to consult with the community on any changes. Schools would be required to consult parents, staff and the local community about the proposal and ensure that the proposal was generally acceptable.

Option Three: Require schools to only be open for instruction for the prescribed half-days

29. This option would amend the Education Act 1989 to remove the requirement for schools to be open for at least two half-days in each day. As a consequence, the requirement to have a half-day in the morning and a half-day in the afternoon would also be removed.
30. Schools would simply be required to be open for a minimum number of half-days in the year. The definition of a half-day as a block of two hours or more would be retained because it is used for a variety of purposes throughout the Education Act 1989.
31. Under this option, schools could load instruction into particular days of the week, or into the morning rather than the afternoon or vice versa. Alternatively, schools could alter the makeup of terms, for example, with more learning in the early terms, allowing senior students more time to prepare for NCEA later in the year. Schools would have more flexibility, than in option two, to respond to the weather conditions of particular parts of the country.
32. Schools would still be required to consult with their wider community to ensure that any changes did not impact negatively. Significant change however is unlikely to meet the needs of parents at work, or with children at other schools or early childhood services. A school might spend significant time on considering and rejecting more extreme variations of the school day. Getting out of kilter with other educational institutions can be problematic. This occurred in the early 1990s when schools were able to vary their term dates and led to the Government returning to prescribed dates to ensure consistency across the country.
33. Option three would meet the first two criteria: ensuring the school is open for the required half days and meeting the needs of the wider community. Meeting the third criteria, however, would be dependent on a student remaining in the same school for a whole year. Students who moved during the year when they may have had more or less schooling than other students could be disadvantaged.

Risks

34. Any decision to vary the requirement for a school to be open for two hours in the morning and two hours in the afternoon is likely to impact on students, parents, staff and the wider community.
35. In addition to providing education, schools ensure the safety and supervision of children during prescribed hours, enabling parents to plan work and other activities

knowing their children are well supervised. School hours are entrenched in the country's culture and affect the way we order society, work, socialise and travel.

36. Changing school opening hours could present challenges for parents' participation in work and for the safe supervision of children outside of school.
37. These risks are mitigated by two aspects of the proposal. The first aspect is that all options under consideration retain the total minimum of four hours per day. Secondly, all options retain the existing legislative requirement for consultation, that is:
- "the school board of trustees has adequately consulted parents, staff and the local community about the proposal and it is generally acceptable, and
 - 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
 - the variation is appropriate in the circumstances."²

Summary of options

Option one: retain status quo

Criteria	Retain status quo
School is open for prescribed number of half days	Yes
Meets the needs of the school and the wider community	Some evidence that the status quo is not meeting the needs of all schools and their wider communities
Students do not spend less time at School	Yes

Option two:

Criteria	Schools determine when to take two hour blocks
School is open for prescribed number of half days	Yes.
Meets the needs of the school and the wider community	This option provides more flexibility with which schools may meet the needs of the schools and community.
Students do not spend less time at School	Yes.

Option three:

Criteria	Schools only have to meet prescribed half days
School is open for prescribed number of half days	Yes.
Meets the needs of the school and the wider community	This option provides greater flexibility to meet the needs of the school and the wider community. However it risks inconsistency among schools that is unlikely to get

² Section 65D, Education Act 1989

	community and parent support. It also introduces greater risk of inconsistency of learning for some students.
Students do not spend less time at School	A student who spends the entire year at a school would not spend less time at school than other students. However, depending on the level of flexibility employed, a student who changed schools at a point during the year may have more or less schooling than other students in comparable schools.

Conclusions and recommendations

38. The two alternative options to the status quo both provide more flexibility for schools. Option two enables greater flexibility while still retaining some control over a consistent level of learning and preventing individual schools from adopting significantly inconsistent variations that are likely to be of concern to their communities.
39. Option three, giving even greater flexibility, provides more opportunity to create inconsistency among schools. While the inconsistency may be rejected by the community, the process of consulting on significant changes risks wasting school and community time. This option also risks inconsistency of learning across a year which may impact negatively on students who change schools during the year.
40. Option two is the preferred option because it increases flexibility for schools without risking significant variability between schools. It achieves a balance between the needs of students, the legitimacy of parental priorities and expectations and the consequences for the community of changes to school opening hours.

Implementation plan

41. The preferred proposal could be implemented by amending the Education Act 1989 to remove the requirement that at least one two hour block of instruction should take place before noon and at least one after noon.
42. Once legislation is passed, the Ministry will provide information to schools about the change, and guidance about how schools that are contemplating a change should consult with their communities.
43. The proposal has no fiscal implications.

Monitoring, evaluation and review

44. Ministry officials working directly with schools will be interested in the impact of the legislative change and whether schools are finding increased flexibility helpful. The Ministry could disseminate information on what individual schools are doing through the Education Gazette or other vehicles.