

14 May 2019

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Education (Solicited Voluntary Payments from Parents) Amendment Bill**

1. We have considered whether the Education (Solicited Voluntary Payments from Parents) Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 22136/1.6). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends the Education Act 1989 to include a new category of grant for school boards called discretionary grants. The Bill enables the Minister of Education to make discretionary grants to boards if they agree to comply with certain conditions upon choosing to participate in the school donations scheme that is being established for schools of a 1-7 decile rating. All discretionary grants are subject to the condition that the board must not seek or receive any solicited voluntary payments from parents or guardians. The Minister may also make discretionary grants subject to other conditions (except the condition that it will be used for the purposes set out in the grant).
4. The Bill also allows the Minister to consider non-compliance with the conditions of earlier discretionary grants when determining the amount of any grant, supplementary grant, or discretionary grant in or for a financial year. Where a board has failed to comply with any or all conditions of a discretionary grant in 1 or more earlier financial years, the Minister may, after consulting the board, recover the amount by reducing a future grant, supplementary grant, or discretionary grant paid to the board.
5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Jeff Orr  
**Chief Legal Counsel**  
**Office of Legal Counsel**