



# Submission

On the

Education and Training Amendment Bill

## About PPTA Te Wehengarua

PPTA Te Wehengarua represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, manual and technology teachers, and community educators.

Under our constitution, all PPTA Te Wehengarua activity is guided by the following objectives:

- to advance the cause of education generally and of all phases of secondary and technical education in particular;
- to uphold and maintain the just claims of our members individually and collectively; and
- to affirm and advance Te Tiriti o Waitangi.

This submission is from the PPTA Te Wehengarua Executive and is on behalf of all of our members.

## Key Recommendations

The Regulatory Impact Statement itself notes that “there is little evidence to suggest long-term improvement in education achievement” through the introduction of charter schools<sup>1</sup>.

PPTA Te Wehengarua is unequivocally against the reintroduction of charter schools and calls for the withdrawal of this Bill.

If the government proceeds with this legislation, then PPTA Te Wehengarua recommends:

1. That the requirements for school boards to give effect to Te Tiriti o Waitangi under section 127 s1 (d) of the Education and Training Act also apply to charter schools as a required charter school contract provision.
2. That a wider consultation process be undertaken by the Ministry of Education, the Charter School Agency, and the Authorisation Board before approving applications from sponsors.
3. That charter schools are subject to the Official Information Act.
4. That the Authorisation Board be required to prioritise feedback from the school community when considering applications from sponsors.
5. That charter schools, as private contract providers on government contracts, be required to report quarterly on the use of funding provided by the state.
6. That charter schools are required to teach the NZ Curriculum.
7. That charter schools are required to have a principal, who has functions of both management of the charter school and responsibility for leadership of teaching and learning, and this position has a requirement to hold a full practising certificate (category one or two).
8. That all contractual and legislative obligations that relate to property are required to be included in annual reporting.
9. That clause 40 of the Amendment Bill is amended to remove the ability to convert state schools to charter schools.
10. That provisions are made in the Bill for charter schools to revert to state schools and that clause 212(F) includes a minimum five-year period between applications to convert an existing state school to charter school.

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<sup>1</sup> Ministry of Education, 'Regulatory Impact Statement: Reinstating a New Zealand Model of Charter Schools', Wellington: Ministry of Education, 20 March 2024, Accessed 16 July 2024: [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/April-2024/RIS-A-new-framework-for-charter-schools\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/April-2024/RIS-A-new-framework-for-charter-schools_Redacted.pdf)

11. That the provision enabling a single community member to initiate the application process is amended to a petition of no less than 10% of the parents of current students at the school.
12. That the transfer provisions in clause 119 of the Bill are removed in order to allow any teacher in a state school that is undergoing conversion to access the relevant employment protections in their current employment agreement and the Employment Relations Act.
13. That no new category of Limited Authority to Teach (LAT) is created, and that the ability to appoint a LAT in a charter school is on an annual basis, rather than permanent.
14. That the ability to make a profit from charter schools is removed, and that any sponsor agrees not to draw profit from the school.
15. That there is a cap on potential management fees that can be drawn from charter schools.
16. That the Ministry of Education work to improve the pathway for new schools to become established, or for state schools to convert to designated character status as a viable alternative to charter schools.

## Introduction

PPTA Te Wehengarua is a member driven union that represents the professional and industrial concerns of secondary teachers, with robust democratic structures to formulate and endorse our policy positions. Our Executive are current classroom teachers elected by the teachers in their regions around the motu. Our ideas on education are based on research and on the lived experience of schools. Our professional and industrial advocacy is an important part of the education ecosystem.

Our members have a long-standing opposition to privatisation. We reject the notion that the funding of public services is wasteful and inefficient, and the creation of for-profit models funded by the public purse is against our core values and anathema to the belief in equitable outcomes for our rangatahi.

As a profession we believe that each and every person deserves free quality public education as a human right, and as a public good which must be accessible to all; the right to education and life-long learning are the cornerstones of healthy democratic societies.

Along with our international education union partners, we also believe in the right to decent work and collective bargaining, and we work to promote and protect that right in secondary education in New Zealand and to advance the rights and status of the teachers who work to deliver that education. Consequently, we are a voluntary organisation with very high membership.

## Te Tiriti o Waitangi

**Recommendation 1: PPTA Te Wehengarua recommends that the requirements for school boards to give effect to Te Tiriti o Waitangi under section 127 s1 (d) of the Education and Training Act also apply to charter schools as a required charter school contract provision.**

PPTA Te Wehengarua holds, as one of its constitutional objectives, the imperative to “affirm and advance Te Tiriti o Waitangi”. Our vision is for schools to reflect a commitment to Te Tiriti o Waitangi, through which staff and students are supported to be bilingual and at home in Te Ao Māori.

PPTA Te Wehengarua is committed to embedding and affirming Te Tiriti through a partnership approach. Our actions over many years have demonstrated this commitment through sharing power, resources and decision-making; building relationships that uphold rangatiratanga; and decision-making that values both tāngata whenua and tāngata Tiriti world views.

It is with this context that we are dismayed to note that there is no requirement for charter schools to comply with the Crown’s obligations under Te Tiriti o Waitangi. It seems cynical that charter schools share equal status in the title of this Bill with ‘kura hourua’ and an equally jarring commitment to partnership, while ignoring the most important partnership that exists in this country – that between Māori and the Crown.

Our members have been overwhelmingly committed to the work undertaken by the Ministry of Education and other sector bodies such as the Teaching Council’s ‘Unteach Racism’ programme.

It is then confounding that this Bill would not also include clauses from the Education and Training Act s127, that apply to our school boards and require them to work to ensure that planning, policies and curriculum reflect “local tikanga Māori, mātauranga Māori, and te ao Māori” as well as taking “all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and achieving equitable outcomes for Māori students”<sup>2</sup>.

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<sup>2</sup> Education and Training Act 2020, S127 s 1(d)

We note also that in clause 2010 (duties of sponsors) there is a requirement to have “regard to any statement of national education and learning priorities (NELPs)”<sup>3</sup>. While this includes specific wording that requires schools to “meaningfully incorporate te reo Māori and tikanga Māori into the everyday life of the place of learning” as well as the reduction of barriers for all, but especially Māori and Pacific learners, there is no guarantee that this government will not change the NELPs in future. We do not feel that this inclusion is enough to protect our ākongā.

No intervention in our education system can ensure a raising of achievement for our young people without a commitment to “local tikanga Māori, mātauranga Māori, and te ao Māori”<sup>4</sup>. The Regulatory Impact Statement warns about the potential to “reinforce existing inequalities experienced by ākongā Māori, particularly if the school’s leadership lacks the skills needed” to address these issues<sup>5</sup>. This is an area that needs *more* oversight, not less.

## A lack of true consultation and a paucity of evidence

**Recommendation 2: PPTA Te Wehengarua recommends that a wider consultation process be undertaken by the Ministry of Education, the Charter School Agency, and the Authorisation Board before approving applications from sponsors.**

### The legislative process

We are flabbergasted that this Bill has been brought to the House under urgency. Despite two extensions of the deadline, this has been a cynical attempt to limit the number of submissions from the public and teachers on the matter. The fact that the deadline had to be extended for a second time due to last minute drafting additions to the Bill just shows how haphazard the process has been.

We agree with the Attorney General that “*rushing legislation and skipping steps increase the risk that we get it wrong*” and with her warning that “[t]he time needed to deliver good legislation is often underestimated. This results in time pressure and can have a critical impact in multiple areas including clear identification of the policy objective, good policy development, and the processes to test and quality assure legislation to minimise the risk of errors and unintended consequences.”<sup>6</sup>

In advice to potential sponsors, the Charter School Agency states that “legislation will include the mandatory factors the Board must take into account” and we implore the Select Committee to consider our submission when making recommendations on the Bill.<sup>7</sup>

There has been no community consultation on charter schools, and the short timeframe for submissions seems rushed and is concerning. Add to this the fact that applications have opened before the select committee process has begun, which leaves the impression that the government has a closed mind to the feedback of its constituents and a disdain for the primacy of the House.

<sup>3</sup> Education and Training Amendment Bill, 2010, (f)(i), (g). Accessed 16 July, 2024.

<sup>4</sup> *ibid.*

<sup>5</sup> Ministry of Education, ‘Regulatory Impact Statement: Reinstating a New Zealand Model of Charter Schools’, Wellington: Ministry of Education, 20 March 2024, accessed 18 July 2024: <https://www.treasury.govt.nz/sites/default/files/2012-08/ris-minedu-cs-aug12.pdf>, p.3

<sup>6</sup> Hon Judith Collins, Attorney General, Letter to Christopher Luxon and all Ministers, “Delivering effective legislation and regulatory schemes”, accessed 22 July 2024: <https://www.documentcloud.org/documents/24853120-rushed-letter>

<sup>7</sup> <https://www.charterschools.govt.nz/about-charter-schools/key-features/> accessed 19 July 2024

We are also aware that the political motivations in the earlier iteration of charter schools led to serious issues with the processes around approvals and operations<sup>8</sup>.

In its briefing notes to the Minister, the Ministry of Education states that “[i]deally, a new school should be given at least 12 months to open after being established<sup>9</sup>”. It is concerning to note that “ERO also found that the timeframes meant partnership schools started operating before readiness reviews were completed and lack of readiness was linked to later problems”<sup>10</sup>.

It appears that lessons have *not* been learnt and we are concerned for the students in new charter schools that are already being set up to fail.

We suspect that the ground is being rushed to allow the establishment of large networks of charter schools, such as the UK multi academy trust (MAT) model.

### **Reliance on flawed international evidence**

This is a political rather than an educational imperative. The information being made available by the Charter Schools Agency and the Ministry is flawed and one-sided and is evidenced by the inclusion of the flawed 2023 CREDO report “As a Matter of Fact: The National Charter School Study III 2023”.

The study was published by the conservative ‘think tank’ CREDO (Centre for Research on Education Outcomes) which has a home at The Hoover Institute, based at Stanford University. Funding for the report came by way of donors The Walton Family (the founders of Walmart) and The City Fund (founded by Netflix founder Reed Hastings and former ENRON billionaire John Arnold). The Gates Foundation has also contributed millions in funding.

The CREDO founder and research fellow, Margaret Raymond, has described the centre as being in partnership with the Walton Family Foundation and Pearson Learning Systems (the corporation that owns the online charter management organisation Connections Academy) to study charter schools.

The bias is clear – featured research’ by the CREDO is named ‘Charter Schools and Their Enemies’.

The Network for Public Education (NPE) in the US has done its own critique of the 2023 Hoover Institute study: IN FACT OR FALLACY? An In-Depth Critique of the CREDO 2023 National Report<sup>11</sup>. The NPE states that “to look at the funders whose identities have been disclosed, the CREDO report is akin to a study of the safety of tobacco funded by the tobacco industry”.

The study does not need to meet any particularly accepted methodologies, as they do not subject themselves to the rigours expected from a university publication. As the NPE critique states:

*CREDO reports do not appear in academic journals where they would be subject to rigorous peer reviews. CREDO studies do not provide a literature review, nor do its reports typically provide a clear summary of limitations, as scholarly journals require. Scholars do not have access to data beyond what CREDO chooses to share.*

The review’s authors concluded that the report had “little if any value.” They suggested that CREDO was more interested in “serving the needs and agenda of funding agencies (i.e., The Walton Family Foundation and Fischer Fund) than in providing sound policy advice.”<sup>12</sup>

<sup>8</sup> Ministry of Education, Briefing Note: Lessons Learnt and International Evidence on Partnership Schools, Ministry of Education, Wellington, 2023, p.5, accessed 18 July 2024, [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/December-2023/1319868-Lessons-Learnt-and-International-Evidence\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/December-2023/1319868-Lessons-Learnt-and-International-Evidence_Redacted.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Network for Public Education, IN FACT OR FALLACY? An In-Depth Critique of the CREDO 2023 National Report, NPE, New York, 2023. Accessed 17 May 2024, <https://networkforpubliceducation.org/wp-content/uploads/2023/07/In-Fact-or-Fallacy-CREDO-Report-1.pdf>

<sup>12</sup> IN FACT OR FALLACY? An In-Depth Critique of the CREDO 2023 National Report, p.10

Perhaps most important, it appears that many large for-profit school networks have been left out of the study and while there is no way to know what the results might have shown – the obscuring of these companies should be of concern if you are looking to have your “data” considered as credible.

The inclusion of the United Kingdom and the academy system also includes the statement that “more than 7 out of 10 academies, which were found to be underperforming as council-run schools, changed to having a good or outstanding rating as academy schools”. Our peers in the UK have stated that this is partly due to the changing of the ratings system after schools are converted to academies.

In advice given to Minister Stanford in September 2023, we can see that the median proportion of students reaching the expected standard is 67 percent for council-run (the equivalent of our state) schools and 65 percent for Multi-Academy Trusts (MATs)<sup>13</sup>.

However, MATs have a greater variation in performance. In 2017 research found that the higher performing MATs perform better than the better performing council-run schools; the lower performing MATs perform worse than the worst-performing council-run schools. So, in effect, what we see is a clear lack of support for the millions of dollars of public money going into these educational experiments.

The Charter School Agency and the Ministry of Education also include the Swedish Free Schools system despite the Swedish Minister of Education labelling them a failure in November 2023, “calling into question a model in which profit-making companies run state education” and going on to say that “Free Schools tend to give higher grades than municipal schools. That risks that in the end it could be that the municipal schools give higher grades, and that in turn is very bad”<sup>14</sup>.

The decision to reintroduce charter schools did not come from a neutral evaluation of research evidence and we have seen the Minister struggle in front of the Committee in Scrutiny Week to explain the inadequacies of the CREDO ‘evaluation’.

Finally, when considering comparative data, we must also remember that the US context is very different to our own. The US public system is in crisis, and the education system is chronically underfunded. Our schools are already self-governing and are generally doing well despite the criticism of vested interest groups.

### **Recommendation 3: PPTA Te Wehengarua recommends that charter schools are subject to the Official Information Act.**

It is of concern that there is such a veil of secrecy around these schools, where millions of dollars of public money will be handed over to private companies and will be exempt from the Official Information Act. As PPTA Te Wehengarua President Chris Abercrombie says, “Once a school becomes a charter school it’s a massive black hole”.

For the most part, any documents relating to the operation of a school funded from the public purse should be available to the public for those accountability reasons.

<sup>13</sup> Ministry of Education, ‘Briefing Note: Lessons Learnt from Academy Schools in England’, p. 6. Wellington, Ministry of Education, 21 September 2023. Accessed 16 July 2024: [BN-1320405-For-Proactive-Release-Lessons-Learnt-from-Academy-Schools-i-Redacted.pdf \(education.govt.nz\)](#)

<sup>14</sup> The Guardian, ‘Sweden’s School’s Minister Declares Free Schools “System Failure”’, 10 November 2023, accessed 3 April 2024, <https://www.theguardian.com/world/2023/nov/10/swedens-schools-minister-declares-free-school-system-failure>

The Cabinet paper, 'Charter Schools for departmental and Ministerial consultation', included the recommendation that "for public accountability reasons, the Official Information Act 1982 should apply to charter schools"<sup>15</sup>.

As we know, from the somewhat monumental effort required by us to obtain official briefing notes and papers provided from the Ministry to the Minister, it is possible to redact any specific or sensitive information that is not in the *public interest*.

PPTA Te Wehengarua has had to complain to the Ombudsmen over the complete lack of transparency around the process and documents were still being released mere days before the deadline for this submission.

## Community consultation and governance

**Recommendation 4: PPTA Te Wehengarua recommends that the Authorisation Board be required to prioritise feedback from the school community when considering applications from sponsors.**

Currently, our school boards are elected to their governance roles on a three-yearly basis, giving direct representation of the community in the direction of its local school. This is something that is valued by our communities.

Converted charter schools will take autonomy and decision-making away from communities by removing these democratically elected members overnight and putting in their place an unelected sponsor or group of sponsors. There is no requirement in the Amendment Bill for a sponsor in Aotearoa New Zealand to have parent representatives.

If a sponsor does choose to have a community voice but is replaced, then any parent representation would be at the discretion of the new sponsor.

Without the oversight and input from parents, the risk of schools failing their students and communities is increased.

### Two systems working in opposition

Of great concern are the constructed differences between two systems – that of the state school network, and that of charter schools.

One area of interest is the new section 237A (Attendance Records). This section requires that principals ensure attendance data is kept for every student, and report to the Ministry of Education. The same is not expected of charter schools.

This is not the model that the government has favoured in the past and is contrary to the approach that the government has taken towards Te Aka Whai Ora, the Māori Health Authority, disestablishing it under urgency in February of this year on grounds that separate systems for the same government-funded public function is duplicative and inefficient (and possibly discriminatory).

### Transparency and lack of true consultation

State schools are required to consult with their communities to develop their school's annual report, strategic plan and annual implementation plan. These documents must all be publicly available and

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<sup>15</sup> Ministry of Education, 'Cabinet Paper – 'Charter Schools for departmental and Ministerial consultation, February 2024, p.7, accessed 17 July, 2024: [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/1323482-ER-Cabinet-paper-Charter-Schools\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/1323482-ER-Cabinet-paper-Charter-Schools_Redacted.pdf)



show how boards will meet the objectives set out in the Education and Training Act 2020. For state schools, community representation, through the school board, is mandatory.

There will be no requirements for new charter schools to consult with impacted or interested parties – such as nearby local schools. Unlike public schools, charter schools will not be subject to the Official Information Act. There is a huge amount of information that will be contained in the contract meaning that the operation of the school, with full taxpayer funding, will not be transparent to the community or the public.

The only external person that will be able to access this information, outside of the charter schools agency, is the Chief Review Officer.

Information in contracts and not available to the wider public will include:

- Education performance measures
- Objectives and key accountabilities
- Curriculum performance standards
- Minimum number of specified roles to be held by qualified teachers
- Distance education requirements
- Performance outcomes, measures and targets
- Areas of non-performance requiring escalated interventions
- Triggers for interventions
- Property maintenance rates for parents
- Requirements for complaints and independent review process
- Transition process for converting schools
- Tolls and data used to measure each performance outcome area
- Reporting requirements
- Curriculum
- Qualifications offered
- Provisions for termination of contract
- Provisions for renewal of contract
- Hours and dates students required to attend
- Requirement to participate in national and international studies
- Performance information and frequency
- Person or body responsible for independent review of complaints
- Intervals at which to inform parents of student progress
- Progress updates on implementation plan
- Transport for students

The lack of information on the funding model for charter schools is also concerning. The Ministry noted that in the previous iteration charter school funding was eventually set at a level that would encourage it to seek funding from a third party to maintain its operations (and presumably to boost sponsor profits from the venture). If the same logic has been applied to the current funding model, then the risks of third-party (internal and overseas) interference in the curriculum of publicly funded schools, and the education of our students, cannot be ignored nor assumed to be benevolent. We believe this is an area that the Committee needs to investigate further.

## Self-auditing

The requirement of the sponsor to have a complaints policy and a procedure for independent reviews of complaints is also one that lacks sufficient external oversight, and we believe is ripe for abuse.

It is alarming that these schools are able to undertake an annual self-audit which includes negotiated 'performance targets and outcomes' (Section 212L) without any external accountability or reporting. It is also of concern that this remains a part of the contract negotiations process rather than having these expectations within the Bill.

The Ministry of Education has warned the Minister that when there is a contractual (financial) relationship the contracted entity will tend to be focussed on its contract rather than on the wider (public good) matters.

With a high level of secrecy, it is entirely possible that a sponsor would purposefully under-promise in the negotiations process, thus being able to show the meeting (or exceeding) of targets.

The outcomes for any charter school should be no less (and potentially more) than those expected from our state schools. In a report to the Minister, it is noted that while "the charter schools model is designed to maximise flexibility, innovation and choice...this comes with a higher degree of risk to the safety and wellbeing of learners"<sup>16</sup>.

## Specific learning needs

Students with special education needs have the right to a quality and well-resourced education.

There is no evidence from the New Zealand 'trial' that charter schools enrolled the expected proportion of students with learning support barriers, and we have concerns that charter schools will find ways to discourage the parents of students with specific learning needs from enrolment.

Students who have needs that are significantly more expensive in terms of either human resources or other physical requirements may find themselves excluded from a for-profit model without tagged funding to ensure their success.

Indeed, the more than \$153 million being put into this iteration of charter schools would be better spent providing supports in our current public schools for students with such needs.

While it is possible that there may be charter schools whose focus is exclusively on students with specific learning needs, the per-student funding that will be made available for a relatively small group of students would be better spent across the network in our state schools. If there is an identified need, support could be given to establish designated special character schools and attached units using current legislation.

**Recommendation 5: PPTA Te Wehengarua recommends that charter schools, as private contract providers on government contracts, be required to report quarterly on the use of funding provided by the state.**

## Accountability and Interventions

The Associate Minister of Education has already agreed that the financial oversight of the previous charter schools was not good enough – but how will we know that *these* lessons have been learned? The

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<sup>16</sup> Ministry of Education, Education Report: Performance management, auditing and intervention frameworks for Charter Schools | Kura Hourua, p.12. Accessed 18 July, [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/February-2024/ER-1319872-Signed-Seymour-Performance-management\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/February-2024/ER-1319872-Signed-Seymour-Performance-management_Redacted.pdf)

establishment of charter schools involves (more than) \$153 million of taxpayer money potentially being handed out to private interests.

Assessment of the 2014-2017 pilot of charter schools notes that the self-reporting approach had the potential to create perverse incentives. Reporting was often lacking detail, required data was disputed and it was unlikely the Ministry would have been able to identify misreporting<sup>17</sup>. The Ministry noted that tying funding to performance outcomes is “difficult to reconcile” with the need to manage risks to students<sup>18</sup>.

The Ministry also noted that previous experience was that where sponsors fell below performance standards, interventions were rarely used, and the Advisory Group (now the Authorisation Board) regularly failed to meet the government procurement standards<sup>19</sup>.

This indicates a risk that for political reasons charter schools may be less accountable than state schools.

### **An insufficient intervention framework**

The proposed intervention framework is insufficient for a number of reasons. Only one trigger is specified in legislation despite policy documents indicating that at least two additional triggers will be consistently included in contracts with sponsors including concerns raised by the Education Review Office<sup>20</sup>.

Interventions will also be managed by the Authorisation Board rather than the Minister or Ministry. While this may create some distance from political imperatives it also risks significant inconsistency and is less transparent. Based on previous experience with the Advisory Group for Partnership Schools we have significant concerns about the ability and process of the Authorisation Board to appropriately manage interventions with these schools.

Additionally, the Minister has directed that sponsors’ annual reports, the intervention trigger provided for in legislation, will *not* include reporting against compliance with property obligations, and that annual rather than quarterly financial reporting will be required<sup>21</sup>. Furthermore, the annual reporting process is by way of self-audit reports.

Under the previous iteration of charter schools there were instances of financial mismanagement, unsafe and unfit property arrangements, insufficient oversight and application of accountability mechanisms. The arrangements as provided for in this Bill do not give us confidence that these issues will not be repeated this time around.

We also query the lack of a specific intervention providing for the re-conversion of a school to a state school. This is of particular concern to PPTA Te Wehengarua given some of the other points raised in this submission, including the treatment of LATs and the impacts on the schooling network in future.

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<sup>17</sup> Briefing Note: Lessons Learnt and International Evidence on Partnership Schools, p. 3

<sup>18</sup> Ibid, p. 4

<sup>19</sup> Ibid.

<sup>20</sup> Ministry of Education, Cabinet Paper – Charter Schools for departmental and Ministerial consultation, February 2024, accessed 18 July 2024, [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/1323482-ER-Cabinet-paper-Charter-Schools\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/1323482-ER-Cabinet-paper-Charter-Schools_Redacted.pdf)

<sup>21</sup> Ibid, p.2

**Recommendation 6: PPTA Te Wehengarua recommends that any and all contractual and legislative obligations that relate to property are required to be included in annual reporting.**

**Property**

In the Cabinet paper, 'Charter Schools for departmental and Ministerial consultation', it is noted that the Minister will not include "compliance with contractual and legislative obligations relating to property, and that sponsors are not required to provide quarterly financial statements<sup>22</sup>". We think that this is a mistake. It is also contrary to normal practice when government agencies contract services involving significant taxpayer funding.

The last time charter schools were introduced, unsafe and unfit properties were a highlighted issue across multiple schools. Some of these schools had lease issues which only came to light at the point where they were returned to the state system. The speed with which this legislation is being rushed through does not give confidence that these kinds of mistakes will be avoided this time.

Carrying on with the theme of apparent lack of 'lessons learned', we do not see any protection against short term lease arrangements which could mean possible further disruption to the education of our ākongā.

State schools have a 'greater good' understanding of the wider curriculum (that which goes beyond what can be assessed in examinations) that cannot easily be covered (or even valued) in a contracting relationship. Under this Bill there is no requirement for charter schools to provide appropriate outside space such as playing fields or playgrounds and wider curriculum opportunities. We would like to see this included in the legislation.

With the proposed conversion of state schools there are now new concerns. The implementation of property fees for capital works can be used to create a barrier to access for some whānau, and we are concerned that these fees could be used to 'price out' some students, while at the same time allowing for private capital gain at the expense of these families<sup>23</sup>.

Including property arrangements, such as capital works and community access, in sponsor contracts and lease agreements means these will not be transparent and available for public oversight.

Maintenance and improvement requirements, and the responsibility for any associated costs, will be set out in these secret contracts - removing public accountability for public assets. It is unclear where liability for the removal, or rectification of defects, of property works undertaken by the sponsor will fall in future.

We have previously mentioned the impacts of this scheme on the school network, and we believe there is serious risk of both under- and over-investment in crown education property with the disruption to the network by the creation of new, or the conversion to, charter schools.

Lack of access to a local school could also result in unforeseeable increased enrolments in neighbouring state schools. The lack of consultation and consideration given for the establishment of new charter schools within existing state school zones could equally lead to roll decreases, meaning property is underutilised.

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<sup>22</sup> Ibid.

<sup>23</sup> Education and Training Amendment Bill, 2024, 212V

## Our Own Curriculum

### **Recommendation 7. PPTA Te Wehengarua recommends that charter schools are required to teach the NZ Curriculum.**

We advocate for teachers and education support personnel to be directly involved in shaping education systems, so that their professional experience and expertise inform all teacher and education policies.

Our current curriculum works on both a national and local level. Teachers around the motu have enjoyed recent direction to include local narratives and knowledge from Te Ao Māori. Our firm wish is that, should schools be able to use their own curriculum, that this curriculum is at least equivalent to that for other state (or private schools).

We know that in some international jurisdictions, the use of imported and expensive curricula has been of great concern. In the UK, there are instances of proprietary curriculum programmes being traded across and between the Multi-Academy Trusts. The UK model saw government funding being available to prepare these programmes, which many schools then intended to make available at cost to other schools<sup>24</sup>.

A research briefing on school curriculum in the UK noted that “Academisation is controversial, partly because of the freedom these schools have over curriculum content and delivery. Some are also concerned about the potential for reduced external accountability”<sup>25</sup>.

Anecdotes of such standardised teaching and learning do not fill us with any sense of security. Minister Seymour has been vocal about charter schools being able to “raise overall educational achievement, especially for students who are underachieving or disengaged from the current system”<sup>26</sup>.

In the briefing provided to Minister Stanford, about the previous partnership school iteration, the Ministry of Education and ERO stated that they were “unable to draw sound conclusions from student achievement data because it did not provide visibility over the achievement of priority 9(2)(a) Proactively Released 2 learners, and the degree to which these learners were better served by a partnership school model in comparison to the State system”<sup>27</sup>. Despite there being a paucity of evidence, the government seems irrationally bent on striding ahead.

There have also been plenty of claims about charter schools bringing innovation into our education system. International evidence, however, shows that concern around the curriculum being offered in charter schools is not uncommon.

Ofsted National Director Sean Harford said that “Many people would see [academisation] as a widening of opportunities for schools; some might see it as a disintegration of structure...[h]owever you see that process, the reality was the curriculum started to suffer, and it started to suffer in a number of ways.”<sup>28</sup>

We are concerned about this happening here – especially if schools are reliant on results to ensure their contracts are continued. Internationally we have seen that many charter schools focus on extremely stripped back curricula and standardised, or rote, learning. This is the opposite of innovation.

<sup>24</sup> <https://schoolsweek.co.uk/academies-prepare-to-sell-curriculum-programmes-after-2-4m-government-pilot/>

<sup>25</sup> <https://researchbriefings.files.parliament.uk/documents/CBP-9834/CBP-9834.pdf>

<sup>26</sup> David Seymour, 'Media Release: Charter schools to lift educational outcomes', Wellington: Beehive, 14 May 2024. Accessed 18 July 2024: <https://www.beehive.govt.nz/release/charter-schools-lift-educational-outcomes>

<sup>27</sup> Briefing Note: Lessons Learnt and International Evidence on Partnership Schools, pp. 1,2

<sup>28</sup> <https://www.tes.com/magazine/archive/ofsted-curriculum-suffered-because-academisation>

## The future is unknown

Covid-19 lockdowns interrupted and affected many of our communities. We have lauded the recent findings that NZ students are among the most creative – yet we do not extend that courtesy to our schools and their teachers who have guided them on these learning journeys<sup>29</sup>.

Our future as a South Pacific Island nation depends on our ability to meet the effects of climate change. We need a locally created curriculum that works to ensure our societal response to such events.

Our future is ‘unknown’ and many of the [supposedly] soft skills that our young people will need to develop to traverse an unknown future are not to be found in an internationally developed curriculum.

## School Leadership

**Recommendation 8: PPTA Te Wehengarua recommends that charter schools are required to have a principal, who has functions of both management of the charter school and responsibility for leadership of teaching and learning, and this position has a requirement to hold a full practising certificate (category 1 or 2).**

The Bill states that the sponsor must appoint someone to be the “chief executive” of the charter school and must also ensure that a person responsible for teaching and learning (PRTL) is appointed who is appropriately qualified and has a practising certificate. This may be the same person but does not have to be.

There is no specification that the PRTL should hold a full practising certificate; a PRTL could be a relatively new teacher with a Provisional Practising certificate or a teacher who has returned to the workforce holding a Returning to Teaching Practising Certificate. There is no definition of appropriately qualified, although we note that to hold a practising certificate a person must have a teaching qualification.

Under the Aotearoa New Zealand Principal Eligibility Criteria all principals appointed to state schools must hold either a current Full Practising Certificate (Category One or Two).<sup>30</sup>

In state schools, the principal is the board’s chief executive with complete discretion to manage the school’s day-to-day administration as they think fit, as long as they comply with the board’s general policy directions. Principals have specific powers set out in the Act, such as for stand downs and suspensions.

Contrast this with charter schools where the sponsor holds complete discretion to control the management of the school. They also hold the responsibility of the ‘employer’ for mandatory notification of disciplinary and competency issues to the Teaching Council. Sponsors have broad discretion to delegate although delegations can be revoked at will in writing.

The proposed leadership structure for charter schools creates potential for a significant imbalance in power between the sponsor, chief executive, any other person with delegated powers, and the PRTL.

We have grave concerns about the ability of a charter school to function and maintain the wellbeing and safety of students *without* the decision maker having longstanding and significant experience in the running of a school as well as a professional teaching background.

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<sup>29</sup> Radio New Zealand, ‘NZ teens score highly for creative thinking’, RNZ, 20 June 2024. Accessed 18 July 2024: <https://www.rnz.co.nz/news/national/520056/nz-teens-score-highly-for-creative-thinking>

<sup>30</sup> Once the criteria have been formally issued by the Minister for Education, they will become a legal requirement to use.

The Bill assigns specific powers and responsibilities to the PRTL in a charter school that are the same as state school principals. These include:

- The power to release from tuition for religious or cultural grounds.
- The power to release from tuition in specified parts of the health curriculum.
- The power to preclude a student from school if there are reasonable grounds to believe they have a communicable disease.
- Powers and duties relating to stand downs and suspensions.
- The requirement to ensure good guidance, counselling and career education.
- The authority to inform a student's parent of matters that are preventing or slowing the students' progress through the school or are harming the student's relationships with teachers or other students.

This list of powers and responsibilities represents complex and often contested decision making requiring high levels of skill and responsibility, especially in relation to student welfare.

However, unlike at a state school where the principal is the most senior decision maker, the Bill would allow a PRTL at a charter school to be a more junior staff member than the chief executive. The PRTL may also not have significant education sector experience. Despite this, the PRTL will hold significant legislative powers and responsibilities where there is a high level of complexity and potential for dispute.

In a charter school, the PRTL may be the only person in the leadership structure with a practising certificate and teaching experience. This also means that they will be the only person bound by the Code and Standards of the Teaching Profession, and the additional requirements regarding children's safety that these impose.<sup>31</sup>

In this situation there is the significant risk that the PRTL would be subject to influence and/or pressure from the chief executive, sponsor and any other person with delegated powers about decisions that they are making. This has the potential to skew decision making on these very important issues away from informed professional and learning considerations towards management and profit driven considerations.

In addition, regardless of how well intentioned and informed the leadership of a charter school may be, without an educational background the decisions that they take may not reflect the responsibilities that rest on the profession. This leaves the PRTL in the very difficult position of potentially having to breach their professional responsibilities, or to go against decision making made by their employer and management staff.

## From Public to Private Hands

**Recommendation 9: PPTA Te Wehengarua recommends that clause 40 of the Amendment Bill removes the ability to convert state schools to charter schools.**

**Recommendation 10: PPTA Te Wehengarua recommends that the Authorisation Board be required to prioritise feedback from the school community when considering applications from sponsors.**

<sup>31</sup> CAC v Bremer NZTDT 2015/17 establishes responsibilities for reporting to ensure child safety that sit outside of those steps that may be taken by the employer.

**Recommendation 11: PPTA Te Wehengarua recommends that the provision enabling a single community member to initiate the application process is amended to a petition of no less than 10% of the parents of current students at the school.**

The conversions of state schools to charter schools is an area where we have significant concern.

In the first iteration of charter schools, the entities were all new to the system. We had concerns about the impact of these schools on the wider network, but they don't have the same extreme impact on teachers and communities that the conversion of local state schools would have.

The Bill states that the "Authorisation Board must...take into account the...level of support from the school community, school staff, and students for the proposed sponsor...[and]the level of support [from the above] for the proposed conversion of the school to a charter school."<sup>32</sup> We note that the Associate Minister of Education disagreed with the inclusion of this requirement in legislation in advice provided to him in February<sup>33</sup>. We wish to see criteria developed for the Authorisation Board as to what "appropriate" means when deciding whether a school can convert from state to charter<sup>34</sup>.

Without a definition of what consultation will entail, we see the onus being put onto the School Boards to develop a process. Further to this, the Bill lacks any definition of the term 'community' and does not include clearer wording to indicate the weighting that (for instance) the opposition of an entire school staff, the parents and whānau, and/or the student body might have to conversion.

Given that the Authorisation Board is essentially politically appointed, we have concerns that applications from sponsors will be approved without enough regard given to community dissent.

Despite the Charter Schools Agency website stating "the application process could be initiated by either a school board or school community together with a prospective sponsor"<sup>35</sup>, the wording of the Bill includes the possibility that a single person from a school 'community' could team up with a sponsor and apply to have a state school converted<sup>36</sup>.

This does not provide much security or stability for our schools, and we worry that a 'hostile takeover' could see communities split and students forced to travel further in order to continue their schooling. At minimum it could force a school board, staff and community into having to engage significant time and energy responding to an entirely unwanted application process, time and energy that could be more productively spent on teaching and learning.

Schools already have to deal on a regular basis with vexatious complainants, who can harass boards and principals for months or even years. Allowing a single member of the community to initiate an application would allow another and quite destructive option. The current Bill does nothing to prevent this, nor does it establish a 'breathing space' after an unsuccessful application process.

A school and its community (and students and teaching staff) could find themselves subject to annual application processes with very little interest from the majority of parents in pursuing charter school status. That would be debilitating and distracting for the board which has to engage in consultation processes and make submissions to the Authorisation Board. It would also be a distraction for staff from their focus on teaching and learning.

<sup>32</sup> Education and Training Amendment Bill, 2024, 212I, (4) (b)

<sup>33</sup> Ministry of Education, Education Report – Charter Schools | kura Hourua: Further advice on charter school settings, [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/ER-1322727-Charter-schools-Further-advice-on-charter-school-settings\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/February-2024/ER-1322727-Charter-schools-Further-advice-on-charter-school-settings_Redacted.pdf), p5

<sup>34</sup> Education and Training Amendment Bill, 212G (2)

<sup>35</sup> Charter School Agency Website, accessed 19 July 2024 <https://www.charterschools.govt.nz/about-charter-schools/key-features/>

<sup>36</sup> Education and Training Amendment Bill, 212F



A government that had concerns about this would include in the provisions a minimum proportion of parents who could trigger the process (we would suggest that 10% of the parent community with students currently in the school would be reasonable) and that there should be a period required after a failed application process before another can be triggered. We would suggest a cohort equivalent for stability, i.e. five years.

Another area where we have concern is the direction in the Bill for the Authorisation Board to take account of the performance of the school, without indicating whether bad (or good) performance would be considered as favouring conversion or arguing against it. The rushed process in the drafting of this Bill has created areas where we believe there is far too much ambiguity.

## Directed Conversions

The directed conversion of state schools to charter schools is another area where we have extreme trepidation, especially given the lack of transparency and communication on this issue, both from the Ministry of Education and the Bill.

We have no further information as to the criteria that the Minister might use to decide a school is to be directed.

We believe that the use of ‘absolute discretion’ is an outrageous and unwarranted exercise of Ministerial power, particularly as the legislation does not protect the rights of the parent and student communities in this process and seems to be weighted towards meeting the desire of the private sponsor in the process<sup>37</sup>.

Such a power has the potential to impact hundreds of people (and thousands if you take into account the ‘wider’ school community’. We do not see the need to have such a ‘discretion’ put beyond the scrutiny of those who are impacted.

There are a range of interventions, including nine different statutory interventions that can be made in local schools if there are concerns about operational risks, or risk to the welfare or educational performance of ākongā<sup>38</sup>.

The approval for statutory interventions sits with the Secretary and/or Minister for Education. There is more than enough power within the current system to address issues that can and do arise, rather than forcing a school into a conversion process against their will.

## Protect Our Schools

**Recommendation 12: PPTA Te Wehengarua recommends that provisions are made in the Bill for charter schools to revert to state schools and that clause 212(F) includes a minimum five-year period between applications to convert an existing state school to charter school.**

We note that there is no provision in the Bill for a charter school to return to the state system. While official advice was “that the intervention of reconverting a charter school to a state school is not needed

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<sup>37</sup> Education and Training Amendment Bill 2024, 212G (1)

<sup>38</sup> Education and Training Act 2020, 171 (1)

as terminating a contract for a charter school would also provide the ability to open a new state school in its place”; we would prefer to see this explicitly provided for in the Bill<sup>39</sup>.

We would also like to see provision made for the transition back to the state system for any school that had either chosen to, or had been directed to convert, but had since improved its performance (for whatever reason the direction had been made).

If the charter school has failed and it is considered it can only survive under a new owner, there is no compelling reason why one of the alternatives considered should not be the state.

Again, once a reconversion has occurred then the school should be guaranteed a period of stability in order to settle, and the five-year period should be the minimum before it is again at risk of disruption.

## Employment protections

**Recommendation 13: PPTA Te Wehengarua recommends that the transfer provisions in clause 119 of the Bill are removed. This will allow any teacher in a state school undergoing conversion to access the relevant employment protections in their current employment agreement and the Employment Relations Act.**

Conversions are not provided for in our collective agreements and we hold great concern that our members will have their employment forcibly transferred from the state system into a charter school.

As it currently stands, this Bill allows for the wholesale transfer of state school employees to be made overnight and without any right of challenge as long as this happens with “terms and conditions which are no less favourable overall<sup>40</sup>”.

Furthermore, the Bill overrides the status of current conditions, as part of a collective agreement, converting these to individual employment agreements (IEAs). These IEAs are inherently less favourable to employees because they remove the power of collective negotiations.

The Departmental Disclosure statement raises the risk that the transfer of employment may breach New Zealand’s obligations in relation to the International Labor Organisation (ILO) and free trade agreements including the “effective recognition of the right to collective bargaining”<sup>41</sup>. There is also an identified risk that New Zealand may fall foul of the NZ-EU FTA obligations.

The advice goes on to say “There will be some terms and conditions that will need to be met in different ways. For example, there are some study awards and grants (and related leave) that only teachers in state and integrated schools are eligible for. In those cases, the sponsor will need to find alternative arrangements.<sup>42</sup>”

We are concerned as to what the definition of ‘alternative arrangements’ might be and fear this is a high likelihood of a sponsor attempting to avoid this obligation by putting pressure on employees to renegotiate individual employment agreements after the conversion to remove any ‘alternative arrangements’.

<sup>39</sup> Ministry of Education, ‘Education and Training Amendment Bill: Approval for Introduction’, 24 June 2024, accessed 22 July 2024 [https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/June-2024/CAB-Pack-Education-and-Training-Amendment-Bill\\_Redacted.pdf](https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/2024/June-2024/CAB-Pack-Education-and-Training-Amendment-Bill_Redacted.pdf)

<sup>40</sup> <https://www.charterschools.govt.nz/about-charter-schools/information-for-teaching-staff/>

<sup>41</sup> Ministry of Education, Departmental Disclosure Statement, June 2024, p.9, accessed 18 July 2024: [https://disclosure.legislation.govt.nz/assets/disclosures/bill\\_government\\_2024\\_66.pdf](https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_66.pdf)

<sup>42</sup> Ibid

Any employees of a state school converting to a charter school who do not wish to take up employment in the charter school should be able to take advantage of the surplus staffing provisions contained in their current employment agreements<sup>43</sup>. These sections of the collective agreements include wording regarding change of employer provisions.

The international evidence is that working in a charter school is worse for employees. While some charter schools appear to be able to service communities that leave them well-resourced, others are not.

In Minister Stanford's briefing notes, a 2015 USA research survey found that teachers in charter schools "tend to be younger, have less experience, less training and lower rates of certification" than their peers in public schools with a note that this is to be "expected as innovative schooling models generally allow for unregistered teachers"<sup>44</sup>. The study also showed higher rates of teacher turnover in charter schools compared with public schools and unionisation is significantly lower (but not zero).

On average, teachers in charter schools earn less than those in public schools, which is likely due to "teachers being required to work longer teaching hours without pay compensation, rather than pay cuts"<sup>45</sup>. The Ministry expressed its concern that if a percentage of teacher earnings in charter schools is tied to student performance there would be 'perverse incentives'.

## Employment Law

Just days before the second deadline for submissions approached, Minister Seymour announced three new clauses to be included in the Bill. The first restricts unions from being able to "initiate bargaining multi-employer collective agreement[s]" involving one or more sponsors<sup>46</sup>.

The press release stated that "*Cabinet has agreed to progress an amendment which means unions will not be able to initiate multi-employer collective agreement bargaining for charter school staff. Unions will still be able to engage in single employer collective agreement bargaining and charter schools will have independence to negotiate changes to employment terms and conditions relevant to their school*"<sup>47</sup>.

The Cabinet's decision to prevent unions from being able to negotiate multi-employer collective agreements for charter schools' staff, is a significant departure from New Zealand's current employment law where Section 40 of the Employment Relations Act 2000 provides for the right for unions to do just that.

The New Zealand government is a signatory to the International Labor Organisation, and this proposed amendment is at odds with teachers' freedom to negotiate as well as their freedom to be free of "anti-union discrimination"<sup>48</sup>.

The second clause added at this eleventh-hour severely curtails the ability for a teacher in a state school to refuse to provide "services to a charter school...or a charter school student" which overrides "anything in contrary to...the ERA 2000; and a relevant employment agreement"<sup>49</sup>.

There is often a moral and ethical dimension for many teachers when choosing to work in a public, or state, school. For many there is a strong commitment to the concept of education as a public good

<sup>43</sup> STCA July 2022 – July 2025, 3.9, 11 and ASTCA July 2023 – July 2025, 2.13

<sup>44</sup> Briefing Note: Lessons Learnt and International Evidence on Partnership Schools, p.8

<sup>45</sup> Ibid

<sup>46</sup> Education and Training Amendment Bill, 2024, 212ZCA

<sup>47</sup> David Seymour, Press Release: "Students' needs at centre of new charter school adjustments", 23 July 2024, accessed 23 July 2024: <https://www.beehive.govt.nz/release/students%E2%80%99-needs-centre-new-charter-school-adjustments>

<sup>48</sup> New Zealand's obligations as a signatory to ILO Convention 98 (Right to Organise and Collective Bargaining Convention, 1949). Article 1, paragraph 1 of this Convention obliges signatories to ensure that workers "enjoy adequate protection against acts of anti-union discrimination in respect of their employment".

<sup>49</sup> Education and Training Amendment Bill, 2024, 601A

delivered through a public education system. It is morally reprehensible for a government to legislate across the legally negotiated terms and conditions of employment of a group of workers to extinguish the rights they have agreed in good faith. It suggests that no agreements (employment or otherwise) are safe under this government if cancelling them provides an expedient way to meet a coalition commitment.

## De-professionalisation

**Recommendation 14: PPTA Te Wehengarua recommends that there is no new category of Limited Authority to Teach (LAT), and that the ability to appoint a LAT in a charter school is on an annual basis, rather than permanent.**

PPTA Te Wehengarua is concerned that the prospect of a large number of unregistered teachers with a Limited Authority to Teach (LAT) will leave students vulnerable and undermine the profession.

The institutional oversight of a cohort of teachers by our Initial Teacher Education providers enables them to develop classroom skills including planning and time management, human behaviour, pedagogy and learning design. It also enables early identification of those who are unsuitable for the teaching profession.

For the most part, the journey for a secondary school teacher is over a six- or seven-year timeframe which includes an undergraduate degree, a Graduate Diploma in Teaching (Secondary) where the teaching student is able to observe and be observed in front of students, and a two-year professional learning programme in one or more schools as a Provisionally Certified Teacher. It is only after this that a teacher is considered to be a ‘fully trained and registered’ teacher.

With the multiple options to enter the teaching workforce currently available (including in-school programmes), we see no need to extend the LAT category further than it is now. Such an extension would result in a lot of extra pressure on the professional leaders. The proposed Bill has a mechanism within the charter school contract between the Charter School Agency and the sponsor to determine the ratio of trained teachers. This is insufficient. We would prefer to see this ratio included in the wording of the legislation.

We note that the Bill requires the sponsor to ensure that “teachers employed in the school have the necessary qualifications and skills to teach”. We would prefer to see this changed to “ensure that teachers employed in the school hold a practising certificate”<sup>50</sup>.

If you have an overreliance on unregistered teachers in the school, professional guidance will be lacking and for those who are trained and registered, excessive workload can lead to burn out and high staff turnover.

The proposed ability for a charter school to appoint LATs permanently is also of concern. To begin with, it’s in the name – a *limited* authority. Currently schools are able to appoint a person to a fixed-term position of up to three years followed by annual extensions, and only in order to meet the need for a skill or position shortage within a school.

In the United Kingdom where academisation has come to dominate the education system, research showed that this is “widening class-based inequality because pupils are being denied access to qualified teachers”<sup>51</sup>. In the New Zealand state system, LAT positions are meant to be a gap filler, not a way to circumvent the professional training and registration of our teaching workforce.

<sup>50</sup> Education and Training Amendment Bill, 2120, (e)

<sup>51</sup> <https://newsroom.taylorandfrancisgroup.com/academies-widen-pupil-inequality-and-degrade-teaching-workforce/>

If charter schools are converted back to state schools, which seems currently likely to happen with a change in government, there will be concerns about the status of LATs who have been appointed permanently in charter schools, but who will not meet the higher threshold requirement for permanent appointment in the state sector.

While teachers “with practising certificates will be subject to both the disciplinary and competency processes” of the Teaching Council, the same is not true for these LATs<sup>52</sup>. Without the oversight of the Teaching Council around competency, we also believe that these untrained and unregistered teachers are more likely to find themselves in a disciplinary process. Considering that their professional leader may not be a trained and registered teacher themselves, we hold grave concerns for the quality of teaching and learning within these schools.

Unfortunately, where an agreed competency process (such as that provided for in our collective agreements, and through the Teaching Council) is not in place, there may be no interventions at any early enough stage. A badly managed classroom, or lack of oversight in planning and curriculum delivery, may lead to behaviours and circumstances where an inexperienced teacher is forced to breaking point.

This is not a sustainable model to ensure a resolution to the supply issues facing education workforces internationally. The answer to our future economic growth is in ensuring the professional standing of the teaching profession is not undermined and that salary and workload ensures that teaching retains (or regains) footing against other sectors.

## Profit motivations

**Recommendation 15: PPTA Te Wehengarua recommends that the ability to make a profit from charter schools is removed, and that any sponsor agrees not to draw profit from the school. We also recommend a cap on potential management fees that can be drawn from charter schools.**

For-profit education models do not prioritise students.

In the UK, academies are not currently allowed to make a profit, but some of the companies running them have been found to have “syphoned large amounts of public money out of the education system” for private gain<sup>53</sup>.

The competitive nature of the academy system has been at the expense of collaboration, accelerating the fragmentation of the education landscape. In 2022, there were more than 2,500 trusts responsible for nearly 10,000 schools bringing “muddle and lack of local accountability”<sup>54</sup>.

In the United States, one study conducted by a pro-charter institute found that students at for-profit charter schools graduate at lower rates and have more adverse academic outcomes as the number of charter schools managed by for-profit operators increases<sup>55</sup>. We must not forget that the purpose of for-profit companies is always to maximise profits, which puts the focus on financial gain, not students.

We saw this in the earlier iteration of charter schools in New Zealand and the Auditor-General’s report where Villa Education Trust paid \$450,000 in management fees to another trust on which its members

<sup>52</sup> Regulatory Impact Statement, p. 17

<sup>53</sup> <https://weownit.org.uk/public-ownership/schools#:~:text=Are%20academy%20schools%20run%20for.education%20system%20for%20individual%20gain>.

<sup>54</sup> Emeritus Professor Ron Glatter, Guardian Letters, 11 Sept 2022. <https://www.theguardian.com/commentisfree/2022/sep/11/letters-growing-up-learning-another-language-helps-free-the-mind> accessed 18 July, 2024.

<sup>55</sup> Carol Burris, ‘Running a Charter School for Profit Should Be Illegal’, The Progressive Magazine, January 31, 2023, accessed 16 July 2024: <https://progressive.org/op-eds/running-charter-school-profit-should-be-illegal-burris-230131/>

were trustees and “was unable to clearly show what it was spent on, who authorised it, or how the fee was determined”<sup>56</sup>. We would argue that \$450,000 is a lot of money not to have been spent on students.

Even in a system where a charter school can be presented as ‘not-for-profit’ there are ways that an unscrupulous provider can take large amounts of money out of the school. In the absence of a capital gains tax, sponsors who are able to charge property costs can anticipate significant financial gain after ten years just from property value appreciation over that time (with mortgage costs met by state and student funding).

We suggest that there be an imposed ceiling with regards to the management fees (and other associated managerial costs) that can be drawn from a charter school, and that this be an explicit part of the auditing process.

### **The rights of student to a free education**

All school-age young people in Aotearoa New Zealand have the right to a free education at their local school. The conversion of a state school, whether freely or directed, may cause significant disruption to this right.

If a student is in a school which is converted and now holds a special character that is anathema to their beliefs, they will be required to attend the next available state school.

This may also put significant pressure on the local schools in the network. We note that the Minister of Education will likely need to increase funding to those schools in order to ensure classrooms and other resources are available to meet this demand.

We also have some concerns regarding the influence of this on the Authorisation Board when considering a sponsor’s application to convert a state school to a charter school. If the school is the only one in a small town, for instance, will this automatically disqualify the school from being considered? We believe it should, particularly since the legislation permits a charter school to exclude students who do not agree with the character of the charter school.

## **An Innovative System?**

**Recommendation 16. PPTA Te Wehengarua recommends that the Ministry of Education work to improve the pathway for new schools to become established, or for state schools to convert to designated character status as a viable alternative to charter schools.**

We note that the Regulatory Impact Statement (RIS): Reinstating a New Zealand model of charter schools provided three options in the analysis<sup>57</sup>. Rather than enabling “more flexibility, innovation, and choice in the current...system”<sup>58</sup> the Ministry and the Minister chose option three – the creation of charter schools.

This is despite the fact that the education system in Aotearoa New Zealand is already very devolved. It is our policy to advocate for increased flexibility to allow for innovative approaches within the state and state-integrated school system.

Looking again at the *lack* of lessons learned from the previous iteration, the former chair of the Advisory Board for partnership schools reported that they “...were unable to be confident about the performance

<sup>56</sup> <https://www.nzherald.co.nz/nz/auditor-general-slams-charter-school-board-that-paid-450k-of-public-money-to-trust-with-same-members/H2BU2Z6THILVTXLGECEN62WZE4/>

<sup>57</sup> Regulatory Impact Statement, p. 2

<sup>58</sup> Ibid, p.2

of a school and what material difference the school was making to student outcomes.” ERO also reported that partnership schools struggled to provide “robust performance information”<sup>59</sup>.

Designated character provisions already allow for parents and communities to seek the conversion of operating schools or the establishment of new schools – if they can show a desire and/or a need for doing so.

Indeed, former charter schools, South Auckland Middle School and Middle School West Auckland, run by Villa Education Trust, have said that “Switching to be a designated character school did give us more availability to some of the ministry resources for some support of the students etc that we weren't entitled to as a charter school”<sup>60</sup>.

Despite having this authority in the current Education and Training Act, there seems to be an extremely high bar to the approval of designated character schools. We would support the increased use of this provision as a mechanism to introduce more innovation into the state school system.

## **Oral Submission**

PPTA Te Wehengarua wishes to make an oral submission to the Select Committee to discuss this submission.

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<sup>59</sup> Briefing Note: Lessons Learnt and International Evidence on Partnership Schools, p.6

<sup>60</sup> Radio New Zealand, The Detail, ‘The Deal with charter schools’, 23 May 2024, accessed 19 July 2024: <https://www.rnz.co.nz/programmes/the-detail/story/2018939457/the-deal-with-charter-schools>