

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT  
(IMMIGRATION NEW ZEALAND)**

**AND**

**THE MINISTRY OF EDUCATION**

**IN RESPECT OF THE PROVISION OF INFORMATION ABOUT STUDENTS  
WHO ARE NOT ENROLLED AT SCHOOL**

**Ministry of Education  
Mātauranga House  
33 Bowen Street  
Wellington  
Ph: (04) 463-8000  
Fax: (04) 463-8001**

Released under the Official Information Act 1982

**MEMORANDUM OF UNDERSTANDING**

**DATE:** 1 May 2017

**PARTIES:** The Ministry of Business, Innovation and Employment through **Steve Stuart**, General Manager, Visa Services, Immigration New Zealand ("Immigration New Zealand")

The Ministry of Education through **David Wales**, National Director, Learning Support, Ministry of Education ("Ministry of Education")

**BACKGROUND**

- A Section 20 of the Education Act 1989 ("the Act") states that every person between the ages of 6 and 16 years who is not an international student is required to be enrolled at a registered school unless they are exempted from enrolment by another provision of the Act.
- B If a person required to enrol by section 20 is not enrolled their parent is committing an offence. Section 24 of the Act provides that the parent commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- C Only students who are classified as domestic students within the meaning of the Act are required to be enrolled in a registered school. International students do not have to be enrolled. This classification is primarily based on a person's citizenship or immigration status in New Zealand.
- D Schools refer children who are not enrolled or exempt to the Ministry of Education, in accordance with the Rules for Student Enrolment Records made under section 77A of the Act. The Ministry or its authorised agents work with the student's parent to ensure that the student is enrolled.
- E The Ministry or its authorised agents investigating students who are not enrolled at or attending school may be unsure of the immigration status of a student. If a student is an international student then the Ministry will remove the student's name from its list of possible non-enrolled students.
- F The Ministry or its authorised agents investigating students who are not enrolled at or attending school may want to know if a student has left New Zealand. If this is the case, the Ministry may remove the student's name from its list of possible non-enrolled students.

**PURPOSE OF THE MEMORANDUM**

- G Immigration New Zealand has agreed to assist the Ministry or its authorised agents by providing the information requested in the circumstances outlined in clauses E and F above.
- H The Ministry of Education and Immigration New Zealand have agreed to enter into this Memorandum of Understanding to record their respective roles and obligations in relation to the provision of information about non-enrolled students and the immigration status of students aged 6 to 16.

THE MINISTRY OF EDUCATION AND IMMIGRATION NEW ZEALAND  
UNDERSTAND AS FOLLOWS:

1 General

- 1.1 This Memorandum will be deemed to have come into force on 1 May 2017 and will continue in force until 30 April 2021 or until it is terminated by either party giving three months' written notice of termination to the other.
- 1.2 The parties' representatives referred to in clause 9 will review the operation of this Memorandum on an annual basis, or at such other time as may be agreed.
- 1.3 Nothing in this Memorandum will make either party liable for the actions of the other or constitute any legal relationship between the parties.
- 1.4 Immigration New Zealand acknowledges that any information it provides to the Ministry of Education under this Memorandum may be forwarded by the Ministry of Education to its authorised agents.
- 1.5 The Ministry of Education will advise Immigration New Zealand of the Ministry's authorised agents who may request and be provided with information under this Memorandum, by letter. This will be reconfirmed annually. Any change in authorised agent will be advised immediately.
- 1.6 The Ministry of Education will at all times remain responsible for the actions of its authorised agents. The Ministry of Education will ensure that its authorised agents only use the information for the purposes of this Memorandum, and otherwise comply in all respects with their obligations under the Privacy Act 1993.

2 Information about immigration status

- 2.1 The Ministry of Education or its authorised agents may request and Immigration New Zealand may disclose information about the immigration status of a non-enrolled student.
- 2.2 The Ministry of Education agrees that a request for information under clause 2.1 will be made only if:
- Staff of the Ministry or its authorised agent believe that reasonable attempts have been made to collect the information through the Ministry's or agent's usual processes; and
  - The Ministry, or its authorised agent, have reasonable grounds to believe that the child concerned is required to be enrolled at school and that the parent is falling or refusing to ensure that the child is enrolled.
- 2.3 If, as a result of information disclosed by Immigration New Zealand, the Ministry of Education finds that the student is not a domestic student, then the name of that student will be removed from the list of possible non-enrolled students.

- 2.4 The Ministry of Education or its authorised agent may make a request for information under clause 2.1 in respect of any number of children at any one time.

**3 Information about whether a student has left New Zealand**

- 3.1 The Ministry of Education or its authorised agent may request and Immigration New Zealand may disclose information about whether a non-enrolled child has left New Zealand.

- 3.2 The Ministry of Education agrees that a request for information under clause 3.1 will be made only if:

- Staff of the Ministry or its authorised agent believe that reasonable attempts have been made to collect the information through the Ministry's or agent's usual processes; and
- The Ministry, or its authorised agent, have reasonable grounds to believe that the child concerned is required to be enrolled at school and that the parent is failing or refusing to ensure that the child is enrolled.

- 3.3 If, as a result of information provided by Immigration New Zealand, the Ministry of Education finds that the student has left New Zealand, the name of that student will be removed from the list of possible non-enrolled students.

- 3.4 The Ministry of Education or its authorised agent may make a request for information under clause 3.1 in respect of any number of children at any one time.

**4. Information about whether a student has returned to New Zealand**

- 4.1 The Ministry of Education may request and Immigration New Zealand may disclose information about whether a non-enrolled child previously confirmed as being out of the country has returned to New Zealand.

- 4.2 The Ministry of Education agrees that a request for information under clause 4.1 will be made only if:

- Staff of the Ministry or its authorised agent believe that reasonable attempts have been made to collect the information through the Ministry's or agent's usual processes.

- 4.3 If, as a result of information provided by Immigration New Zealand, the Ministry of Education finds that the student has returned to New Zealand, the name of that student will be added to the list of possible non-enrolled students.

- 4.4 The Ministry of Education may make a request for information under clause 4.1 in respect of any number of children at any one time.

## 5 Privacy Act compliance

- 5.1 The parties agree that the provision of personal information about children and their parents (when appropriate) under the provisions of this Memorandum complies with the information privacy principles in section 6 of the Privacy Act 1993. In particular:
- Under Principle 1, the Ministry of Education or its authorised agent is seeking this information for the purpose of locating children who are required to be but who are not enrolled at or attending school and whose parents may be in breach of their obligations under the Education Act 1989; and
  - Under Principle 11(e)(i), disclosure of the information to the Ministry of Education or its agent is necessary to avoid prejudice to the maintenance of the law so that the Ministry can locate and contact parents in order to assist them to comply with section 20 of the Education Act 1989 requiring domestic students aged 6-16 years to be enrolled in a registered school.
- 5.2 The Ministry of Education confirms that it will not take adverse action as a result of any information provided by Immigration New Zealand in response to a request for information under clauses 2, 3 and 4 of this Memorandum.

## 6 Provision of information

- 6.1 Immigration New Zealand agrees to provide information as requested by the Ministry of Education or its agent under clauses 2.1, 3.1, and 4.1 of this Memorandum.

## 7 Confidentiality of information

- 7.1 The parties shall treat as confidential all information provided to one another under this Memorandum.
- 7.2 The Ministry of Education will ensure that its authorised agents at all times treat information provided by Immigration New Zealand as confidential.
- 7.3 If either party receives a request under the Official Information Act 1982 or the Privacy Act 1993 for information which the other party has provided, it confirms that it will inform the other party of the request and seek that party's views on disclosure of the information sought. Both parties acknowledge that the final decision on release will be made by the party the information is requested from.

## 8 Making and processing requests

- 8.1 The Ministry of Education or its authorised agent may request the information outlined in clauses 2.1, 3.1 and 4.1 by secure means to the following Immigration New Zealand contacts:

For bulk requests a structured file is sent to the Information and Data team in the Ministry of Business Innovation and Employment. The recipient is a named person in this team, and a notification is sent by the Ministry of Education to a group inbox ([ERDMAdmin@mbie.govt.nz](mailto:ERDMAdmin@mbie.govt.nz))

In addition to the bulk process the status of individuals is requested through a request to [INZ-.OpsStudentandVisitor@mbie.govt.nz](mailto:INZ-.OpsStudentandVisitor@mbie.govt.nz)

If an urgent request is required for issues of safety then a phone request can be lodged with the following number (Border Operations):

In New Zealand      0800 274 274

- 8.2 For the information requested under clauses 2.1 and 3.1, Immigration New Zealand will respond within 1 week if the request is received on a working day or as soon as reasonably possible.
- 8.3 For the information requested under clause 4.1, Immigration New Zealand will respond within 2 weeks if the request is received on a working day or as soon as reasonably possible.
- 8.4 In the event of an urgent request, Immigration New Zealand will respond by email within 1 working day.

## 9 Contact Persons

- 9.1 The Ministry of Education's contact person for the purpose of this Memorandum is:

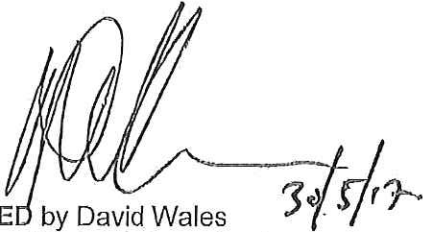
**Name:** Jessica Fletcher  
**Position:** Adviser  
**Email address:** [Attendance.Service@education.govt.nz](mailto:Attendance.Service@education.govt.nz)  
**Telephone number:** 04-439-6495

- 9.2 Immigration New Zealand's contact person for the purpose of this Memorandum is:

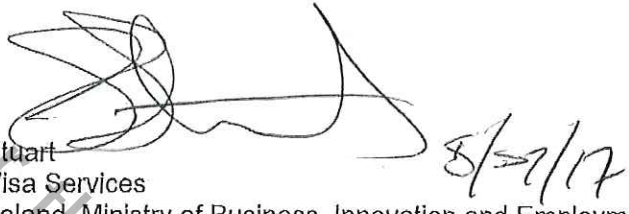
**Name:** Marcelle Foley  
**Position:** Operations Manager, Operations Support  
**Email address:** [INZ-.OpsStudentandVisitor@mbie.govt.nz](mailto:INZ-.OpsStudentandVisitor@mbie.govt.nz)  
**Telephone number:** +64 4 8965375

## 10 Variation

- 10.1 This Memorandum may be varied by written agreement between the parties.



SIGNED by David Wales  
National Director, Learning Support  
Ministry of Education



SIGNED by Steve Stuart  
General Manager, Visa Services  
Immigration New Zealand, Ministry of Business, Innovation and Employment

Released under the Official Information Act 1982

Released under the Official Information Act 1982