

memo

To:
From:
Date: 1 September 2006 **File:** LO38/02/01/5
Subject **Format for religion advice: FAQs**

- 1 We (very briefly) discussed options for delivering advice to schools. One was teaming up with the Human Rights Commission and having it provide its own information or endorse ours. This distances the Minister from the advice and lends an air of impartiality and independent expertise to it.
- 2 Here's another option (it could work in combination with the HRC idea above):

Format

- 3 Would issuing our "advice" as a short series of frequently asked questions (FAQs) be a non-threatening and enlightened alternative to a traditional circular?

Reasons

Common sense

- 4 This question and answer format would allow us to emphasise the Minister's preference for common sense: *Is the national anthem still allowed?* Yes, of course. *Are Islamic headscarves to be banned?* No, of course not; this is not an issue. *How do I implement religious instruction?* You should think about not embarrassing students and making them stand out etc etc.

Highlights underlying problem

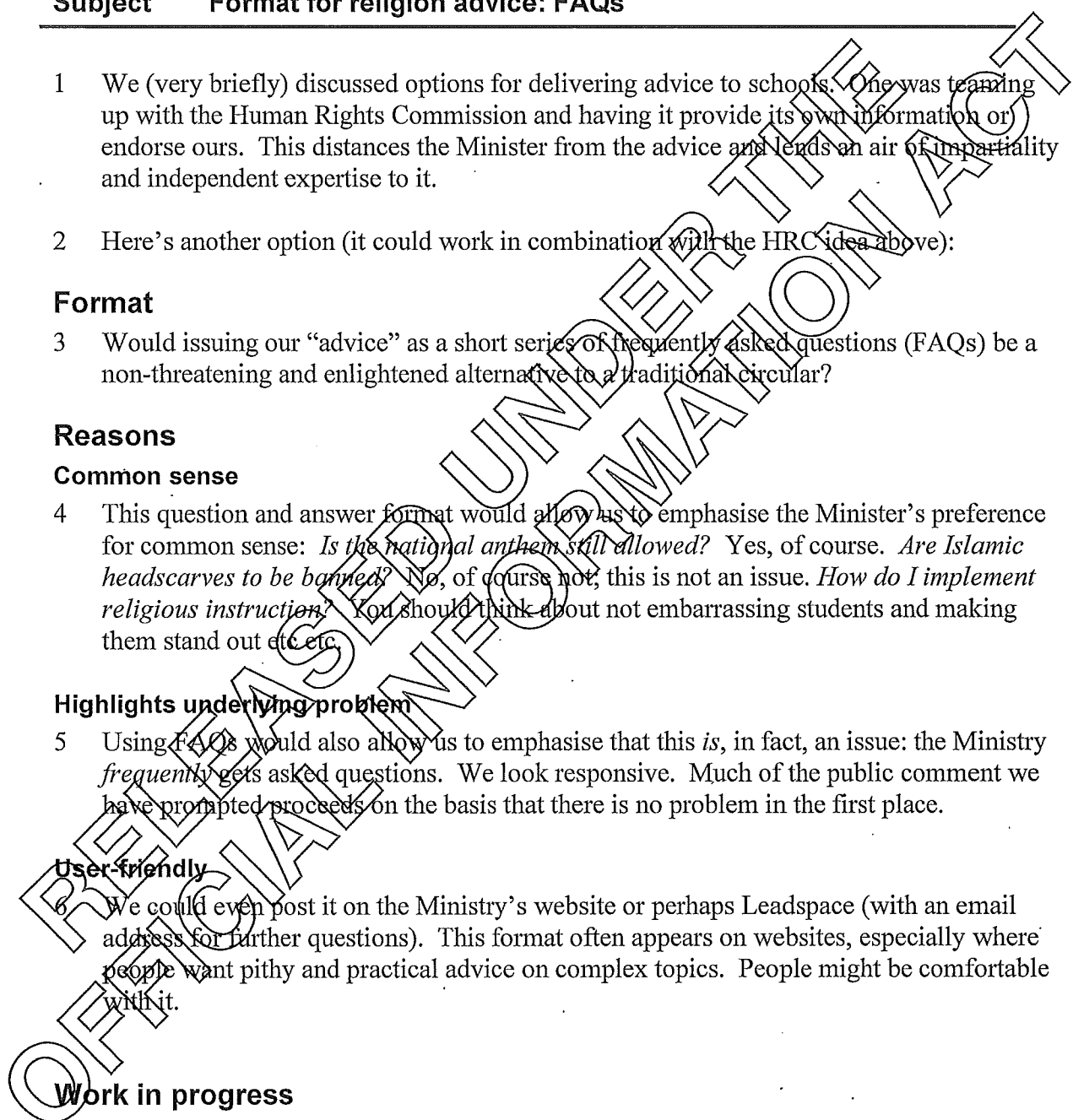
- 5 Using FAQs would also allow us to emphasise that this *is*, in fact, an issue: the Ministry frequently gets asked questions. We look responsive. Much of the public comment we have prompted proceeds on the basis that there is no problem in the first place.

User-friendly

- 6 We could even post it on the Ministry's website or perhaps Leadspace (with an email address for further questions). This format often appears on websites, especially where people want pithy and practical advice on complex topics. People might be comfortable with it.

Work in progress

- 7 FAQs is something I am working on. I am unsure if they are still required – there was some suggestion that government MPs are likely to get information requests from constituents. These are the headings:



Issues

- Definitions: spiritual and religious
- *Taha wairua* and spirituality in the curriculum
- Definition: secular
- Karakia
- Christmas Carols
- Out of school hours carol services
- Extent of warning and consultation re religion
- Tikanga Maori
- Secondary schools
- ANZAC day services
- Gideons, YFC and other groups getting access to schools

Non-issues

- Instruction about religions
- Intelligent design
- Prayer rooms
- Religious dress
- Composites and area schools
- Opt-outs and the health curriculum
- National anthems

Other work

- 8 As discussed, I will work on a case for changing the way we treat *tikanga Maori*. I am also starting on the response to [redacted] for you as it involves statutory interpretation and NZBORA questions and you have a "reducing compliance" report to write. You can expect my contribution to the letter by the end of Tuesday 5 September.
- 9 I have also reviewed all the current enquiries. They raise some interesting points:
- Have we explored ways to make opting-out okay? Are there measures we could take to affirm those who are opted-out, to reduce the embarrassment? This might take some of the sting out of opting-out, but I do not yet know if there is anything in it. A topic for further thought.
 - The spirituality/religion distinction has been roundly criticized as theoretically untenable. Removing this as it relates to tikanga Maori this will alter the way we treat kura. Celebrating ANZAC day also implicates religion (or spirituality) but in a secular setting. Another topic for further thought.
 - Our notification requirement has been interpreted to mean that attendance at every single instance of religious instruction and observances (or tikanga Maori teaching?) requires specific authorisation. Instead I conceived of it as being once a year and at exceptional occasions.

12

18 September 2006

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File: IO90/02/00/3

Richard Inder
Gate Pa School
900 Cameron Road
Tauranga

Dear Richard

Thank you for your letter of 11 September 2006 regarding religious instruction and observances in state schools.

The Ministry of Education became involved in this area as a direct result of complaints from parents and other members of the public concerning school practices that may be in breach of the New Zealand Bill of Rights Act. Complaints of this type have also been received by the Human Rights Commission.

More recently, the ministry was also asked for advice on *'issues around the teaching of religion, religious observances and the influence of religion on the ethos and life of schools'* by the Education and Science Select Committee.

As you may be aware, the ministry will not be issuing any guidelines or similar to schools about religious instruction and observances, however, we will continue to respond to any queries or complaints on this matter, when and as these are brought to our attention.

Thank you for taking the time to put your concerns in writing.

Yours sincerely

Martin Connelly
Senior Manager
Education Management Policy

cc. Henk Popping
Otumotetai Intermediate School

Senior Media Advisor,
MINISTRY OF EDUCATION

Dear

re: **BRIEFING PAPER – RELIGIOUS INSTRUCTION AND OBSERVANCES IN STATE SCHOOLS**

Thank you for your assistance with accessing the briefing document and your kind comments. I firmly believe that it is incumbent on all of us to check the facts before we rush into print – or anywhere else for that matter. Sadly, I have seen all too often the integrity of any number of groups with vested interests brought into question by sounding off before examining the detail. If we who claim to be Christian are to live by true Christian standards then we must ensure that our actions are consistent with our claims!

When we spoke you expressed the view that there had been a bit of a “beat up” and reading the document it certainly doesn’t espouse some of the views that have been credited to it. Again, surmise based on hearsay rather than on facts I suspect. In the main, I have no particular problem with the briefing paper, given that I accept without reservation that the Ministry of Education has the prerogative of implementing the legislation. I can see that they are genuinely trying to be absolutely even handed in their interpretation and implementation of the Education Acts 1964 and 1989 and the NZ Bill of Rights Act.

I do have some questions however, and I wonder if you would be kind enough to push them to whomever you feel is the right “source”. It may well be you. Again, I accept that I have no right to seek the information other than my interest as a Priest in the Anglican Church. Obviously parishioners do ask for our opinions on issues which enter the public domain and I would prefer to be well informed. I am also very conscious of the time one needs to invest to respond to questions such as mine. But.... if it’s OK, here goes:

In paragraph 1, the writer refers to the fact that the paper is in response “to the committee’s request for a briefing on *‘issues around the teaching Etc’*”. It would be interesting to know what prompted their request. Nothing comes from nowhere and something must have occurred or some incident arisen which aroused their concern or interest. Are we allowed to know what it was? I sometimes find that circumstances arise which certainly demand a response, but not necessarily the response that results!

Further, in the same paragraph, reference is made to the fact of the Ministry's recent work in this area. Again, what prompted this work. Is this work, and the Committee's request coincidence or was one the result of the other? Or is it someone's "agenda"?

Paragraph 5 refers to "voluntary" instructors. Is this term defined? For instance, is a person in paid employment by a church (a parish worker or clergy person), whose brief may well be to participate in a Bible in Schools programme, considered voluntary in this environment?

Paragraph 7 refers to the ability of a school to "offer education about religion". Would this include education about the feast of Christmas and Easter – as it might also about the feast of Ramadan or Bar mitz-vah?

Paragraph 11 states that "Boards of all state schools are also subject to the New Zealand Bill of Rights and the freedoms it contains". Would I be right in presuming that this Bill actually applies to all schools, not just state schools and therefore has implications beyond those for just state school Boards?

And now I come to what I see is the real conflict of principles in the briefing paper – and I'm not sure what the solution is. Paragraph 11 indicates that there are five rights enshrined in this legislation, but only identifies four. The missing fifth one might well be what enlightens me on the question which follows. However, I can understand the fear that unsolicited exposure (that is without informed consent) to any religious observance might impinge on the rights of any person under the Bill of Rights. On the other hand the second right covered in section 15 states that "every person has the right to manifest his or her religion or belief in worship, observance, practice or teaching either individually, or in communities with others and either in private or in public". If one person, or a group, therefore decide to declare their beliefs in say, a school assembly by way of prayer or singing, are they not expressing their rights under this section of the legislation? How does the Ministry believe that this right is consistent with their advice? And how in any event can one be consistent with these competing/conflicting principles?

The singing of hymns for instance is more than a religious practice for the Welsh. The singing of Cwn Rhonda for instance is often a part of rugby matches, social events of varying sobriety! If one has recruited Welsh teachers, or have Welsh pupils in the school, or even those of us who admire and wish to be a part of the Welsh singing, who were prevented from this activity when say watching a Welsh international game on the big screen in a school setting, would this not contravene their right?

I am also conversant with (and very at home with) the requirement of Maori to have karakia (grace) before eating. This is culturally vital to them and should therefore be allowed under the legislation and the guidelines. Equally though, it is central to those of the Roman Catholic denomination – or for that matter us Anglicans – are we to be denied the right to this expression of our faith. After all most graces are quite uniform in nature and express a spiritual rather than a religious position. Surely, again, to deny expression

of faith would seem to be in contravention of section 15 of the Bill of Rights as outlined in the briefing paper.

It appears to be becoming a minefield.

And now to the question which arises in paragraph 20 concerning school staff who might wish to participate in religious instruction or observances. If the school is considered officially closed at such times, the teacher or staff member concerned must therefore be considered to be operating in their own time. If they therefore wish to express their ministry in this way, in their own time, would denial of this wish amount to a breach of the Bill of Rights.

Now to paragraph 25. It seems that there is an acceptance, quite rightly, that spirituality is often central to tikanga Maori. Might I be bold enough to point out that to many of us spirituality is also central to tikanga Pakeha. I have worked in a Hospice for many years where there is absolute acceptance of the three dimensional aspect of humanness - the physical, the psychosocial and the spiritual (as opposed to the religious). Is it then going to be acceptable to recite the Lord's Prayer in Maori because it is part of tikanga Maori, and not to do so in English because this is "religion"? If so, I would need to have explained to me what spiritual transformation the Lord's prayer undergoes in the translation?! My spiritually very aware Cornish forbears - and my current relations - would be culturally offended by that suggestion. Would indeed it therefore be acceptable for them (or me) to recite it the Cornish language but not in English?

It would be tragic to assume that because it is culturally appropriate for the tangata whenua to indulge in practices which augment their spirituality, is it not just as appropriate for manuhiri? I have heard people, often in positions of political or social influence, propound that spirituality is a non issue for those of with British heritage and is not therefore comparable to the spirituality which is inherently a part of Maori culture. These views are often expressed by people for whom spirituality may not be important. It is not however safe to assume that this view is representative. Indeed to a significant number of our population, to deny our spirituality (not our religion) is to make us spiritual amputees and just as disabling as any other amputation of a significant limb.

So you see many questions, genuinely asked because the answers matter. I am not prepared to pass a further view on the briefing paper until I know these answers. I presume of course that those considering these issues will have these answers. I look forward to the response;

Yours faithfully,

15 September 2006

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File: IO90/02/00/3

Dear

Thank you for your letter concerning religious instruction and observances in state schools. C. has passed this on to me for a substantive response.

For most of this year the Ministry of Education has been working on how to support primary schools offering religious instruction and observances. The work is in response to complaints and queries from schools and parents. Two themes have emerged from this.

Firstly, schools are familiar with the religion provisions of the Education Act 1964 but do not always follow them. Since 1877 the teaching in New Zealand primary schools has had to be entirely secular.

Secondly, schools are not necessarily familiar with their obligations under modern human rights legislation - the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. The right to freedom of religion is of particular importance.

In offering this support, the Ministry is attempting to fulfil its duty to affirm, protect and promote the fundamental rights and freedoms in the Bill of Rights. Schools also have this duty. They are, however, Crown entities that are separate from the Ministry of Education. They need not take the Ministry's guidance and are ultimately responsible for their own actions.

The specific questions you have raised are answered below.

Education and Science Select Committee

The Select Committee asked the Ministry of Education to provide a briefing after it received a letter from parents who were concerned about the influence of religion on the ethos and life of their child's primary school.

Voluntary instructors

The Education Act 1964 permits voluntary instructors to give religious instruction or lead religious observances when the school is closed. Generally speaking, a voluntary instructor, in this context, is someone who is not a teacher. The focus is on the person's relationship to the school, not their remuneration. Paid church workers may volunteer.

Education about religion

Religious instruction describes education *in* religion. Such instruction either presupposes prior personal commitment on behalf of the listener or actively encourages such commitment. It covers proselytising, partisan activities. The Bibles in Schools programme, for example, clearly comes within its scope. It is not secular.

In contrast, education *about* religion is the more neutral presentation of information about the current and historical place of religion in our society. It is the unremarkable and expected work of teachers throughout New Zealand. Religious holidays, such as Christmas and Ramadan, naturally remain acceptable subjects of study. There are likewise no plans to ban the national anthem.

New Zealand Bill of Rights Act 1990

Application

The Bill of Rights does apply to all schools – state, private and integrated – to the extent that these schools perform a public function. Nevertheless, the Ministry is assisting mainly ordinary state primary schools with queries about religion. This is because integrated schools often have an explicitly religious special character for which the proprietors are responsible and private schools likewise can have religious elements. In these institutions, parents know that religion is openly fostered before they enrol their children. There is also no secular clause as for regular primary schools.

The Ministry's main concern is with actions of school boards, not students. The school is responsible for religious instruction and observances, even though carried out by volunteers. It is this responsibility that raises the issue of possible coercion, contrary to students right to freedom of religion.

Reasonable Limits

Students certainly have the right to manifestation of religion and belief under s15 of the Bill of Rights. Nevertheless, this right, like all others, is not unlimited. It can be subject to reasonable limits under section 5, which reads:

...the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Such reasonable limits include measures to protect the rights and freedoms of others. Censorship, for example, is a justified limit on the right to freedom of expression (s14). Primary schools are accordingly entitled to restrict people practising religion in schools – the secular clause even provides specific legislative authority for doing so. Section 15 does not oblige schools to open their doors to any religious person or group, though many do. Indeed, many schools hire their halls to religious groups outside school hours.

Common sense usually prevails. The songs that school choirs sing, for example, and student-initiated activities are relatively unproblematic. This is well within the discretion of schools to manage.

Teachers also have the right to manifest their religion. The Ministry of Education believes that having teachers lead religious instruction or observances may create indirect pressure for students to participate. Suggesting they not lead is a measure designed to protect the rights and freedoms of young students. It is therefore a reasonable limit under section 5.

Note that the state takes positive steps to promote freedom of religion, too, by:

- funding religious schools under the Private Schools Conditional Integration Act 1975;
- permitting religious instruction (which need not be Christian) in secular primary schools under the Education Act 1964;
- allowing principals to excuse students from any tuition in accordance with a student's or parent's sincerely held religious or cultural belief under the Education Act 1989, and
- actively promoting tikanga Māori under the Education Act 1989

Tikanga Māori

The difference between religion and spirituality – especially as it relates to tikanga Māori – has prompted much valuable comment on our preliminary thinking. I likewise appreciate yours.

The religion/spirituality distinction was an early attempt to reconcile two competing statutory obligations.

On the one hand, the teaching at state primary schools must be “entirely of a secular character”.ⁱ Religion in primary school is for when the school is closed.

On the other hand, school boards must aim to develop *policies and practices that reflect New Zealand's cultural diversity and the unique position of the Māori culture*ⁱⁱ and ensure that *‘all reasonable steps are taken to provide instruction in tikanga Māori (Māori culture) and te reo Māori (the Māori language) for full-time students whose parents ask for it.*ⁱⁱⁱ National Education Goal 9 obliges schools to pursue *‘Increased participation and success by Māori through the advancement of Māori education initiatives, including education in Te Reo Maori, consistent with the principles of the Treaty of Waitangi.’* Goal 10 is *‘respect for the diverse ethnic and cultural heritage of New Zealand people, with acknowledgement of the unique place of Māori, and New Zealand's role in the Pacific and as a member of the international community of nations.’*

While the Ministry has been advised that the religious/spiritual distinction exists in fact (ie, some aspects of tikanga Māori could be considered spiritual rather than religious) it may be inappropriate to suggest that this distinction should apply in all New Zealand schools.

The following principles guide our ongoing work in this area:

1. The secular clause is still a major influence: parents should be told about the religious or spiritual aspects of instruction in tikanga Māori and have this explained to them.
2. Students still have the right to freedom of religion. Schools must act in a sensitive and open manner and avoid embarrassment or coercion.

3. It is very difficult to separate the spiritual from the secular when teaching tikanga Māori.
4. Parents always have the right to have their child excused from such instruction.
5. Teaching on tikanga Māori is a contextualised and co-incidental encounter with religious instruction or observances, not the whole focus of time such as when the school is closed for something like *Bibles in Schools*.
6. Schools are able to teach tikanga Māori. They are forbidden to provide religious instruction, and have been since 1877.

Spirituality

The secular education system does attempt to be sensitive to spirituality. There is no effort to downgrade the spiritual significance of anyone's tradition.

The 1999 health and physical education curriculum defined spiritual wellbeing (*taha wairua*) as

the values and beliefs that determine the way people live, the search for meaning and purpose in life and self-awareness. (For some individuals and communities, spiritual well-being is linked to a particular religion, for others it is not.)

The 2006 Draft Curriculum retains this understanding. In essence, it is about what people value, what motivates them, what makes them feel connected to one another and the world around them.

This mention of spirituality recognises that such big questions exist; the secular clause and the right to freedom of religion avoid forcing answers onto children. Human beings are not expected to leave this part of themselves at the school gates; the health and physical education learning area is meant to make a significant contribution to the well-being of students beyond the classroom.

There is no place for polemical theology. (Indeed, there are no specified learning outcomes.) Teachers will have to teach this small area of the curriculum in the light of the secular clause and the New Zealand Bill of Rights Act 1990. Its sensitive implementation is best left to their professional discretion.

Naturally, principals of both primary and post-primary schools can always excuse students from any tuition based on a student's or parent's sincerely held religious or cultural belief. ^{iv}

OFFICIAL INFORMATION ACT

Thank you for taking the time to put your concerns in writing; I trust that this information will be of use to you.

Yours sincerely

Martin Connelly
Senior Manager
Education Management Policy

ⁱ s77 Education Act 1964

ⁱⁱ s61(3)(a)(i) Education Act 1989

ⁱⁱⁱ s61(3)(a)(ii) Education Act 1989

^{iv} s 25A Education Act 1989

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Legislative references

Education Act 1989

25A *Release from tuition on religious or cultural grounds*

- (1) A student aged 16 and above, or the parent of a student aged under 16, may ask the principal to release the student from tuition in a particular class or subject.
- (1A) A request under subsection (1) must be made in writing, and at least 24 hours before the start of the tuition.
- (1B) This section applies only to students enrolled at a state school that is not an integrated school.]
- (2) Unless satisfied that—
 - (a) The parent [or student (as the case may be)] has asked because of sincerely held religious or cultural views; and
 - (b) The student will be adequately supervised (whether within or outside the school) during the tuition,—
the principal] shall not release the student.
- [(3) Upon receiving a request from a parent under subsection (1), the principal must, before agreeing to release the student, take all reasonable steps to find out the student's views on the matter.]
- (4) Subject to subsection (2) of this section, the principal shall release the student from the tuition and (if the student is to be supervised outside the school) let the student leave the school during the tuition unless satisfied, in the light of—
 - (a) The student's age, maturity, and ability to formulate and express views; and
 - (b) Any views the student has expressed,
that it is inappropriate to do so.
- (5) Nothing in this section limits or affects section 79 of the Education Act 1964.]

75 *Boards to control management of schools*

Except to the extent that any enactment or the general law of New Zealand provides otherwise, a school's Board has complete discretion to control the management of the school as it thinks fit.

Education Act 1964

77 *State primary schools to be kept open at certain times*

[Except to the extent that—

- (a) A school term commences on any day other than a Monday or ends with any day other than a Friday; or
- (b) A school is lawfully closed pursuant to section 129C of this Act,—
every] State primary school shall be kept open 5 days in each week for at least 4 hours each day, of which hours 2 in the morning and 2 in the afternoon shall be []; and the teaching shall be entirely of a secular character.

78 *Religious instruction and observances in State primary schools*

Notwithstanding anything to the contrary in section 77 of this Act [], if the School Committee for the school district in which the school is situated, after consultation with the [Principal], so determines, any class or classes at the school, or the school as a whole, may be closed at any time or times of the school day for [any period or periods exceeding in the aggregate neither 60 minutes in any week nor 20 hours in any school year, for any class,] for the purposes of religious instruction given by voluntary instructors approved by the School Committee and of religious observances conducted in a manner approved by the School Committee or for either of those purposes, and the school buildings may be used for those purposes or for either of them.

78A *Additional religious instruction*

Notwithstanding anything in sections 77 and 78 of this Act, in any case where the Minister is satisfied that the majority of the parents of pupils attending a school wish their children to receive religious instruction additional to that specified in the said section 78 and he is satisfied that such additional religious instruction will not be to the detriment of the normal curriculum of the school, he shall generally or in any special case, after consultation with the School Committee, authorise the additional religious instruction up to such an amount and subject to such conditions as he thinks fit.]

79 *Attendance at religious instruction or observances not compulsory*

- (1) No pupil enrolled at a State primary school shall be required to attend or take part in any such instruction or observances if any parent or guardian of the pupil does not wish the pupil to take part therein and makes his or her wishes known in writing to the Head Teacher of the school.
- (2) Any parent or guardian who has given such an indication of wishes may at any time withdraw it.

80 *Teachers may be freed from duties to take part in religious instruction or observances*

Any teacher at a State primary school shall, if the School Committee for the school district in which the school is situated so approves, at his request be freed from school duties for up to 30 minutes a week to allow him to take part in his own school in religious instruction and religious observances or either, but no person shall directly or indirectly bring any pressure to bear on a teacher to induce the teacher to take any such part, and the position of any teacher and his opportunities for appointments and for promotion shall not be adversely affected because he does not take part in religious instruction and religious observances or either.

81 *Schools other than State primary schools not affected*

Nothing in this Act shall affect religious instruction or religious observances in schools other than State primary schools.

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Dear

Thank you for your email of 12 October 2006 regarding religious instruction and observances in state schools.

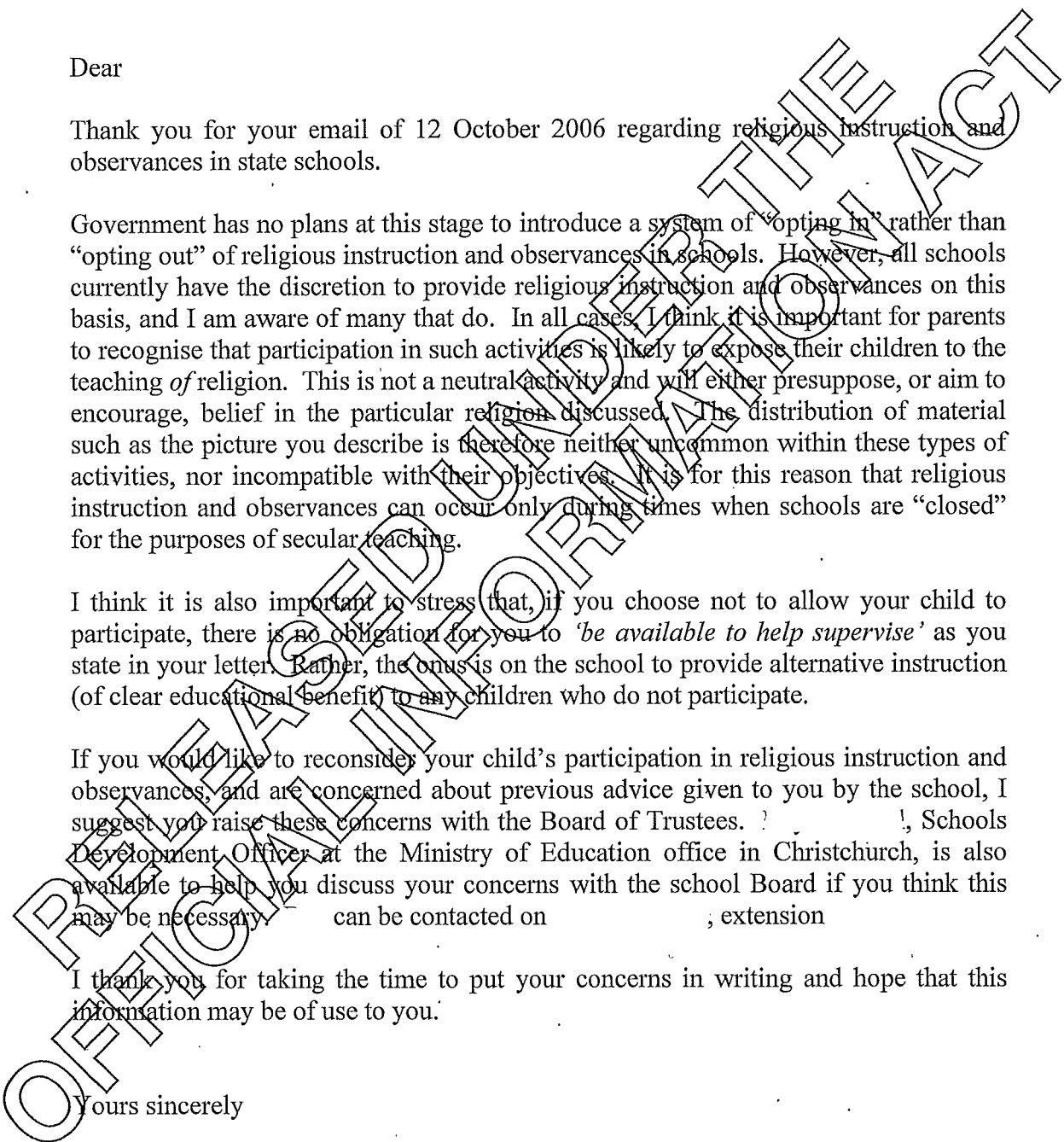
Government has no plans at this stage to introduce a system of "opting in" rather than "opting out" of religious instruction and observances in schools. However, all schools currently have the discretion to provide religious instruction and observances on this basis, and I am aware of many that do. In all cases, I think it is important for parents to recognise that participation in such activities is likely to expose their children to the teaching of religion. This is not a neutral activity and will either presuppose, or aim to encourage, belief in the particular religion discussed. The distribution of material such as the picture you describe is therefore neither uncommon within these types of activities, nor incompatible with their objectives. It is for this reason that religious instruction and observances can occur only during times when schools are "closed" for the purposes of secular teaching.

I think it is also important to stress that, if you choose not to allow your child to participate, there is no obligation for you to 'be available to help supervise' as you state in your letter. Rather, the onus is on the school to provide alternative instruction (of clear educational benefit) to any children who do not participate.

If you would like to reconsider your child's participation in religious instruction and observances, and are concerned about previous advice given to you by the school, I suggest you raise these concerns with the Board of Trustees. Schools Development Officer at the Ministry of Education office in Christchurch, is also available to help you discuss your concerns with the school Board if you think this may be necessary. can be contacted on ; extension

I thank you for taking the time to put your concerns in writing and hope that this information may be of use to you.

Yours sincerely



Steve Maharey
Minister of Education

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>

12/10/2006 06:18 pm

To: <smaharey@ministers.govt.nz>
cc:
Subject: [Maybe Spam] Bible in Schools

(B) log ✓

Dear Mr. Maharey,

My daughter recently started school, and the week before she was due to begin, my husband and I visited the Principal and discussed among other things, the school policy for "bible in schools". We felt that bible study, should be optional or that fair representation should be given to other religions. We are not anti-Christianity but want our children to have some understanding of a multitude of beliefs and not be forced into Christianity, purely because it's the "popular" choice.

We were told that the school policy was an opt out one and if we were to opt out we should be available to help supervise those children not included. As we didn't want our child to be excluded we chose to allow her to go, with assurances from the principal that the classes were not pushing the children in one direction. During the meeting the principal also said that he agreed with a lot of views and said that it would be good to give the children a broader representation, but felt it would be difficult to change the current system.

We felt validated in our position when the "bible in schools" legislation was discussed on TV the following week, we hoped that this might mean a change in school policy. But the day after the press release, we received a leaflet from school saying how good "bible in schools" was.

My daughter today brought home a picture with the typed caption "I LOVE JESUS", this to me did not seem relative to the principals assurances that the session was not pushy!

My daughter loves school and I think her school - Amberley primary school in North Canterbury - is a really good one too, but this issue leaves me feeling unheard and disappointed. I would like to know if the legislation is being followed up on - in the interest of fairness bible in schools should be "opt-in" NOT "opt-out".

Yours Faithfully,



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FROM	OFFICE OF THE PRINCIPAL
TO:	mas
DATE REQUIRED	
<input type="checkbox"/>	PRIORITY 1-10 WORKING DAYS
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<input type="checkbox"/>	SPECIFIED DATE
DRAFT REPLY / REPORT	
DIRECT REPLY / APPROPRIATE ACTION	
RECORD	

12 October 2006

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File: IO90/02/00/3

Dear

RELIGIOUS INSTRUCTION AND OBSERVANCES IN STATE SCHOOLS

Thank you for your recent inquiry regarding the rules around religious instruction and observances in state schools.

I've outlined for you below the relevant sections of education legislation as these apply in different school settings.

Primary and intermediate schools and "secular teaching"

The Education Act 1964 ("EA1964") is clear in stating that teaching in all primary and intermediate schools must be *'entirely of a secular character.'*

For those Boards that wish to offer religious instruction or observances, however, limited discretion is available to do so during periods where classes or the school as a whole are considered closed. The periods where the school is used for religious instruction or observances cannot exceed either 60 minutes in any week or 20 hours in any school year and any instruction can be led only by voluntary instructors. Any student participation in these activities is voluntary, and students may be given an exemption from participation if a parent requests this in writing.

In this way, the aim of education legislation is to ensure that, if religious instruction and observances are offered, they are effectively "fenced off" from the secular life of a school. The instruction and observances should occur outside normal teaching hours, instruction should be led by voluntary instructors only, and there should be no compulsion for students to participate.

It is important to note that the restrictions on the provision of religious instruction and observances in no way impede schools' ability to offer education about religion. The neutral presentation of information *about* religion is a legitimate part of secular teaching and may be discussed in many parts of the national curriculum, including the social studies and health and physical education curricula. Conversely, religious instruction and observances involve education *in* religion. Religious instruction and observances include programmes based on a primary religious text, such as the Bible in Schools programme, the recitation of prayers and the singing of hymns. These are not neutral activities and either presuppose prior religious belief on the part of students or actively encourage this.

¹ Section 77

New Zealand Bill of Rights Act

3 *Application*

This Bill of Rights applies only to acts done—

- (a) By the legislative, executive, or judicial branches of the government of New Zealand; or
- (b) By any person or body in the performance of any public function, power, or duty conferred or imposed on that person or body by or pursuant to law.

5 *Justified limitations*

Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

13 *Freedom of thought, conscience, and religion*

Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference.

15 *Manifestation of religion and belief*

Every person has the right to manifest that person's religion or belief in worship, observance, practice, or teaching, either individually or in community with others, and either in public or in private.

19 *Freedom from discrimination*

- (1) Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993.
- (2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination that is unlawful by virtue of Part 2 of the Human Rights Act 1993 do not constitute discrimination.

20 *Rights of minorities*

A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority.

Education Act 1964

77 *State primary schools to be kept open at certain times*

[Except to the extent that—

- (a) A school term commences on any day other than a Monday or ends with any day other than a Friday; or
- (b) A school is lawfully closed pursuant to section 129C of this Act,—
every] State primary school shall be kept open 5 days in each week for at least 4 hours each day, of which hours 2 in the morning and 2 in the afternoon shall be []; and the teaching shall be entirely of a secular character.

78 *Religious instruction and observances in State primary schools*

Notwithstanding anything to the contrary in section 77 of this Act [], if the School Committee for the school district in which the school is situated, after consultation with the [Principal], so determines, any class or classes at the school, or the school as a whole, may be closed at any time or times of the school day for [any period or periods exceeding in the aggregate neither 60 minutes in any week nor 20 hours in any school year, for any class,] for the purposes of religious instruction given by voluntary instructors approved by the School Committee and of religious observances conducted in a manner approved by the School Committee or for either of those purposes; and the school buildings may be used for those purposes or for either of them.

78A *Additional religious instruction*

Notwithstanding anything in sections 77 and 78 of this Act, in any case where the Minister is satisfied that the majority of the parents of pupils attending a school wish their children to receive religious instruction additional to that specified in the said section 78 and he is satisfied that such additional religious instruction will not be to the detriment of the normal curriculum of the school, he shall generally or in any special case, after consultation with the School Committee, authorise the additional religious instruction up to such an amount and subject to such conditions as he thinks fit.]

79 *Attendance at religious instruction or observances not compulsory*

- (1) No pupil enrolled at a State primary school shall be required to attend or take part in any such instruction or observances if any parent or guardian of the pupil does not wish the pupil to take part therein and makes his or her wishes known in writing to the Head Teacher of the school.
- (2) Any parent or guardian who has given such an indication of wishes may at any time withdraw it.

80 *Teachers may be freed from duties to take part in religious instruction or observances*

Any teacher at a State primary school shall, if the School Committee for the school district in which the school is situated so approves, at his request be freed from school

duties for up to 30 minutes a week to allow him to take part in his own school in religious instruction and religious observances or either, but no person shall directly or indirectly bring any pressure to bear on a teacher to induce the teacher to take any such part, and the position of any teacher and his opportunities for appointments and for promotion shall not be adversely affected because he does not take part in religious instruction and religious observances or either.

81 *Schools other than State primary schools not affected*

Nothing in this Act shall affect religious instruction or religious observances in schools other than State primary schools.

Education Act 1989

25A *Release from tuition on religious or cultural grounds*

- (1) A student aged 16 and above, or the parent of a student aged under 16, may ask the principal to release the student from tuition in a particular class or subject.
- (1A) A request under subsection (1) must be made in writing, and at least 24 hours before the start of the tuition.
- (1B) This section applies only to students enrolled at a state school that is not an integrated school.]
- (2) Unless satisfied that—
 - (a) The parent [or student, (as the case may be)] has asked because of sincerely held religious or cultural views; and
 - (b) The student will be adequately supervised (whether within or outside the school) during the tuition,—
the principal] shall not release the student.
- [(3) Upon receiving a request from a parent under subsection (1), the principal must, before agreeing to release the student, take all reasonable steps to find out the student's views on the matter.]
- (4) Subject to subsection (2) of this section, the principal shall release the student from the tuition and (if the student is to be supervised outside the school) let the student leave the school during the tuition unless satisfied, in the light of—
 - (a) The student's age, maturity, and ability to formulate and express views; and
 - (b) Any views the student has expressed,—
that it is inappropriate to do so.
- (5) Nothing in this section limits or affects section 79 of the Education Act 1964.]

75 *Boards to control management of schools*

Except to the extent that any enactment or the general law of New Zealand provides otherwise, a school's Board has complete discretion to control the management of the school as it thinks fit.

Secondary and composite schools and the discretion of Boards to manage as they "think fit"

Unlike primary and intermediate schools, secondary and composite schools are not subject to a secular teaching requirement. This means that Boards may choose to include religion in the life of a secondary or composite school through their general discretion 'to control the management of the school as it thinks fit' provided under the Education Act 1989 (the "EA1989").²

This may extend beyond the teaching about religion through the curriculum to the inclusion of religious instruction or observances. Once again, however, student participation is not compulsory and students may be excused from tuition under the EA1989 for sincerely held religious or cultural views.³ "Tuition" includes attendance at assemblies or other whole-of-school events where religious instruction or observances may feature.

Integrated and designated character schools

Both integrated and designated character schools operate in accordance with an approved special character, which may be religious in nature, thus offering parents an alternative to state "secular" education. Where a school's special character is religious in nature, it is able to offer religious instruction and observances as appropriate, but student participation in these activities remains optional as in other types of state schooling.

The New Zealand Bill of Rights Act is also relevant to schools' inclusion of religious instruction and observances. I have enclosed a copy of the relevant sections of the New Zealand Bill of Rights Act as well as copies of those sections of the Education Acts 1964 and 1989 that have been mentioned in this letter.

I hope this information may be of use to you.

Yours sincerely

Martin Connelly
Senior Manager
Education Management Policy

² Section 75

³ Section 25A

⁴ Students attending designated character schools may be exempt from participation under the EA1989, while students attending integrated schools may be exempt under section 32(2) of the Private Schools Conditional Integration Act.

memo

To: |
From:
Date: 16 October 2006 File: LO13/13/06/5
Subject Tiritea School: Total hours of religious instruction

In confidence

Summary

- 1 I have considered the arguments raised by [redacted] email of 10 October 2006. They are untenable. I remain of the view that the amount of religious instruction under s78 Education Act 1964 should be calculated on a per student basis.
- 2 In short, [redacted] arguments hobble what Parliament clearly permits. The real issues remain around coercion and supervision and are well known to us. Moving religious instruction to the lunch break or similar times is still the best solution. She cannot successfully argue that Parliament's intent is irrelevant. What remains of her argument beyond that amounts to a wholesale attack on religious instruction. This cannot be sustained.
- 3 Please check with me before giving any of the contents of this opinion to others, including [redacted]

Intention

No problem in the first place?

- 4 [redacted] maintains that we should not consider legislative intent at all "since the wording of the statute is quite clear (classes ...in the aggregate)". That we are having the argument at all surely puts paid to that point. She fails her own test.

Purpose

- 5 The test is wrong in any event. We must focus on the actual words s78 but the meaning we seek is one "where the words of the legislation are read in their fullest context, and with a view to giving effect to the purpose of the legislation."¹ Courts avoid literal interpretation and look beyond individual sections to entire Acts. The rule in New Zealand comes from s5(1) Interpretation Act 1999:

The meaning of an enactment must be ascertained from its text and in the light of its purpose.

Context

- 6 She further states that "[t]here is no mention of students in the statute.". This ignores "pupils" and "children" in ss78A and 79. These sections are meant to be read with s78. Attendance exemptions are clearly part of the overall regime; teachers have them too (s80). Protection of individual conscience is one of the purposes of the religion provisions. They should be interpreted accordingly.

1962 Act

also argues that “the wording of the 1964 legislation ... is more restrictive than in the 1962 legislation, thus implying that the intent of the legislation is to be more restrictive”. The text does not support this reading. The 1962 Act only permitted religious instruction for 30 minutes per week”.ⁱⁱ This was raised to 60 minutes in 1964. The basis of calculation (“for any class”) is identical, as are the exemptions for individuals. So, if anything, comparison with the earlier Act shows Parliament intended school boards to have more freedom, not less, to organise religious instruction as they see fit arguments interfere with that freedom (and potentially the right to freedom of religion).

Secular clause

8 Next suggests that religious instruction is invalid because it conflicts with the 1877 secular clause. Again, this is wide of the mark. Instruction does not harm the principle of secular teaching because the school is *closed* when it occurs. Moreover, the wording of s 78 is very clear. The secular clause in s77 does not apply because instruction is permissible “[n]otwithstanding anything to the contrary in section 77 of this Act”. There is no internal contradiction.

Anachronism?

finally states: “The 1964 Education Act is anachronistic and has been almost entirely repealed. It should therefore not be relied upon to justify school procedures.” The better view is that it is still law, and must be followed.

10 Section 162 (the teacher’s oath of allegiance) will be repealed by the Oaths Modernisation Bill, currently before Parliament. This entirely unenforced provision about teacher fealty scarcely compares with the religious instruction scheme which has been in continuous use since 1962. Religious instruction remains a practically important aspect of school life.

11 Entirely ignoring the Education Act 1964 (“to be consistent”) would mean ignoring the secular clause in s77. The 1877 and 1914 versions have been repealed. probably does not want that.

Other contributors

12 Someone called reviewed the arguments about hours of instruction. There is an Associate Professor at Massey. He is a finance lecturer, and does not appear to be legally trained or produce legal research.

13 Professor of Education at the University of Otago, wrote the article provided: *Religious Instruction and Observances in the Public Schools of New Zealand*.ⁱⁱⁱ You might recall the extensive letter the Director General of Education wrote to him on 19 July 1962; it has been released in several OIA requests.

ⁱ JF Burrows *Statutes Law in New Zealand* (3rd edition, Wellington, 2003) p130.

ⁱⁱ s2 Religious Instruction and Observances in Public Schools Act 1962

ⁱⁱⁱ Comparative Education Review, Vol 7, No 3 (Feb 1964) pp 297-300

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16 October 2006

National Office

Education Management Policy
45-47 Pipitea Street
Thorndon
Private Box 1666
Wellington
New Zealand

Direct: (04) 463 8096
Fax: (04) 463 8106
<http://www.minedu.govt.nz>
File: IO9002/00/3

Brian Pegler
Chairman
Churches Education Commission
PO Box 9049
WELLINGTON

Dear Brian Pegler

MINISTRY OF EDUCATION APPROVAL FOR CHURCHES EDUCATION COMMISSION POLICY STATEMENT

The policy statement entitled *What is Religious Education?* on the Churches Education Commission website has recently been drawn to my attention and I am concerned to note the associated claim that this has been approved by the Ministry of Education.

I am not aware of the Ministry of Education having approved or supported the policy statement contained on the website (and, I understand, repeated in leaflets for schools) and would therefore appreciate it if you could clarify the basis for this statement. I am specifically interested to know when Ministry of Education approval was sought or granted.

Further, I note that elsewhere on the website, under the heading *Authority*, the following statement is made:

The Churches Education Commission is recognised by the Ministry of Education ... as the major provider of Christian Religious Education in New Zealand.

The Ministry of Education does not endorse any voluntary providers of religious instruction and observances and I am alert to the possibility that, by placing this assertion under the heading *Authority*, it may be seen as endorsement. For this reason, I would appreciate it if you would remove all reference to the Ministry of Education from this section of the website.

I would also appreciate your response in writing to the points raised in this letter.

Yours sincerely

Martin Connelly
Senior Manager
Education Management Policy

OFFICIAL INFORMATION ACT

memo

To: Martin Connelly
Cc:
From:
Date: 14 November 2006 File: LO13/13/06/5
Subject HRC Complaint - Avondale School

Summary

- 1 The Human Rights Commission has asked for the ministry view on religious instruction. The request arises out of a complaint about instruction at Avondale School. Please find below our response to four specific questions. Jan Breakwell will instruct Crown Law to prepare a response along these lines if you agree with it. In short, it says that:
 - a school boards should use opt-in not opt-out arrangements
 - b opted-out children are entitled to secular instruction
- 2 Please tell me if you agree with the answers I have given. They are similar to the content of your report to the select committee. They may become public.
- 3 The HRC may also issue draft guidelines on the teaching of religion in schools in February 2007. You have an initial draft of its issues paper. That issues paper and this Avondale complaint are separate pieces of work.

Avondale School complaint

- 4 The Avondale complaint has been resolved at the local level, but remains a live issue for the ministry as administrator of the Education Act 1964. A government response is required; Crown Law will write it. The complainant effectively asks what s78 Education Act 1964 allows. It reads:

78 Religious instruction and observances in State primary schools

Notwithstanding anything to the contrary in section 77 of this Act, if the School Committee for the school district in which the school is situated, after consultation with the [Principal], so determines, any class or classes at the school, or the school as a whole, may be closed at any time or times of the school day for [any period or periods exceeding in the aggregate neither 60 minutes in any week nor 20 hours in any school year, for any class,] for the purposes of religious instruction given by voluntary instructors approved by the School Committee and of religious observances conducted in a manner approved by the School Committee or for either of those purposes; and the school buildings may be used for those purposes or for either of them.

“Is it right for a school to use an 'opt out' system requiring children to be excused from religious classes?”

- 5 The Education Act 1964 clearly permits opting-out.
- 6 Nevertheless, school boards should know that there is an alternative. They can permit religious instruction to occur on school grounds when the school is normally closed (such as at lunchtime, before school and after school). Instruction at these times would automatically be an opt-in arrangement and would avoid embarrassment and coercion issues. Permitting religious instruction at times when the school is open but students can choose from a number of activities would have the same result.
- 7 Arranging religious instruction is a matter for local school management. It does not require legislative change. Those Boards of Trustees that ask for ministry guidance will be told that the outside school hours option is best because it lowers the significant legal risk to school boards.

“Is a school permitted to be closed to pupils who do not wish to attend religious instruction?”

There is no specific obligation to provide secular teaching to opted-out students

- 8 Section 78 Education Act 1964 clearly permits closing the whole school or part of it. Schools may effectively be closed to students who do not wish to attend religious instruction.
- 9 Students are not required to attend religious instruction; s79 makes it voluntary. In any case, the school is closed at the time and students need only attend school when it is open as per s25 Education Act 1989.
- 10 When a school is closed – for religious instruction or otherwise - there is no specifically-stated obligation Boards of Trustees to instruct. This is because s65A Education Act 1989, concerning the length of the school year, treats “open” and “open for instruction” as meaning the same thing.
- 11 The Ministry of Education has traditionally seen schools as having minimal obligations to opted-out students. The 1987 circular *Religious Instruction and Observances in State Primary Schools*, like its 1979 predecessor (and commentary on the 1962 version), stated:
Parents and guardians have the right to withdraw their children from religious instruction or religious observances. If children remain at school it is the responsibility of the principal to see that they are under supervision on the same terms as children on the school property before the beginning and after the end of classes.
- 12 Furthermore, there is a similar but more general opting-out exemption in s 25A Education Act 1989. Principals may exempt students from any tuition on religious or cultural grounds. Like s78 Education Act 1964, this provision gives exempted students minimal entitlement to education. The Principal need only be satisfied that an exempted student will be ‘adequately supervised’ at either home or at school (and that the belief is sincere).

before the exemption is granted. Both the 1964 and 1989 Acts are silent on the as to the alternative arrangements for exempted students.

But the duty can be inferred

13 Nevertheless, in its report for the Education and Science Select Committee *Religious Instruction and Observances in State Schools*¹ the Ministry of Education recommended:

if a Board chooses to close a class for religious instruction or observances during a time that is normally set aside for secular teaching, [Boards must ensure that] any students who are not participating are provided with alternative supervision or instruction that is of clear educational benefit [emphasis added].

14 Opted out student should receive secular instruction because:

- a Religious instruction is an acceptable surrogate for up to 60 minutes per week of teaching that would otherwise have to be secular. That is to say, while s77 establishes minimum opening times and the principle of secular teaching, s78 derogates from this by permitting closure and religious instruction “[n]otwithstanding anything to the contrary in section 77”.
- b Religious instruction is education that is approved by the school Board of Trustees after consultation with the Principal. The 1987 Ministry circular added the expectation that the community and parents would be consulted. The Board remains ultimately responsible for the teaching, and can withdraw permission to provide it.
- c Accordingly, a student opted-out of the religious surrogate ought to receive the equivalent default secular instruction. This minimises discrimination and disadvantage to the opted-out student.

15 The School Trustees Association also infers an obligation to provide supervision that is of educational value to opted-out students. “[A]ccording to the New Zealand School Trustees Association (NZSTA), these children [who opt out of religious instruction] can expect normal state education during those periods.”² “The Associations view is that...normal state education will be delivered ...through engaged academic learning time....If children are not involved in Religious Instruction then they should be involved in being educated in the New Zealand Curriculum”.³

“What sort of religious instruction does the Education Act 1964 provides for; Christian religion only, or others as well?”

16 Representatives from any faith may ask schools for permission to offer religious instruction under the Education Act 1964. The Act is not limited to Christianity. Islamic studies are offered alongside Christian teaching in some Auckland schools.

“Are any amendments to the Act proposed about religious education?”

17 There are no amendments planned.

¹ 18 August 2006,

² “With God on their side”, Sally Blundell, *New Zealand Listener*, July 31-August 6 2004 Vol 194 No 3351)

³ “Religious Instruction in Schools” *STA News* June 1999 p8

29

From: [redacted]@massey.ac.nz]
Sent: Monday, 4 December 2006 9:01 p.m.
To:
Subject: FW: CEC complaint
Attachments: Letter to CEC (FINAL).doc; CEC flyer.pdf; CEC Complaint.doc

Dear

Please find attached the complaint file we are planning to submit to the Advertising Standards Authority as part of a complaint application regarding the Churches Education Commission web site. I am at the NZ Early Childhood Research conference tomorrow, so I will call you on Wednesday to get your feedback before we send the complaint. We would be most interested in your comments.

Many thanks

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

16 October 2006

National Office

Education Management Policy
45-47 Pipitea Street
Thorndon
Private Box 1666
Wellington
New Zealand

Direct: (04) 463 8096
Fax: (04) 463 8106
<http://www.minedu.govt.nz>

File: IO9002/00/3

Brian Pegler
Chairman
Churches Education Commission
PO Box 9049
WELLINGTON

Dear Brian Pegler

MINISTRY OF EDUCATION APPROVAL FOR CHURCHES EDUCATION COMMISSION POLICY STATEMENT

The policy statement entitled *What is Religious Education?* on the Churches Education Commission website has recently been drawn to my attention and I am concerned to note the associated claim that this has been approved by the Ministry of Education.

I am not aware of the Ministry of Education having approved or supported the policy statement contained on the website (and, I understand, repeated in leaflets for schools) and would therefore appreciate it if you could clarify the basis for this statement. I am specifically interested to know when Ministry of Education approval was sought or granted.

Further, I note that elsewhere on the website, under the heading *Authority*, the following statement is made:

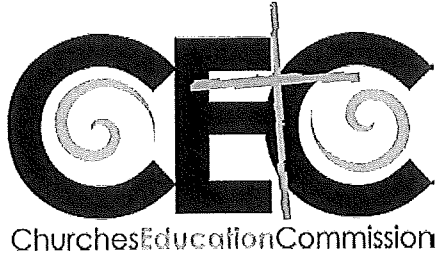
The Churches Education Commission is recognised by the Ministry of Education ... as the major provider of Christian Religious Education in New Zealand.

The Ministry of Education does not endorse any voluntary providers of religious instruction and observances and I am alert to the possibility that, by placing this assertion under the heading *Authority*, it may be seen as endorsement. For this reason, I would appreciate it if you would remove all reference to the Ministry of Education from this section of the website.

I would also appreciate your response in writing to the points raised in this letter.

Yours sincerely

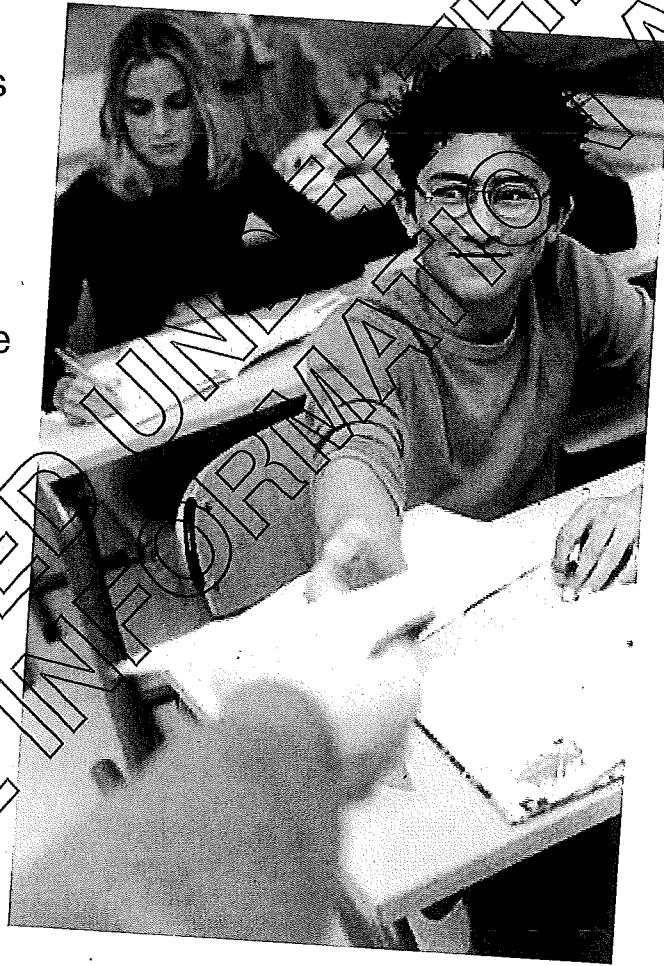
Martin Connelly
Senior Manager
Education Management Policy



Churches Education Commission

The Churches
Education Commission:
Christian Religious
Education in state
schools

The Churches
Education
Commission
supports
children in the
development
of spiritual
and moral
values



Mauiā te Rongopai ki a matou tamariki

Matou te manana' o ia o' o le Tala lelei i Aoga

What is Religious Education?

"Religious Education means learning to understand and appreciate the beliefs by which people live as an aid to the development of a student's own beliefs and values. While acknowledging that there are other views about life that could have a place in religious programmes, it is appropriate in New Zealand to give particular emphasis to the Christian faith, the Bible, and the life and teachings of Jesus, because of their pervasive influence through our cultural heritage and history and their continuing power and relevance."

Policy statement of the Churches Education Commission

– approved by the Ministry of Education and the NZ School Trustees Association

Who is responsible for Religious Education?

The Churches Education Commission (CEC) acts on behalf of Christian churches as the agency responsible for Christian Religious Education in state schools. CEC volunteers are trained and accredited as RE teachers, and undergo police vetting. They work to CEC's Code of Expectations, and teach from an approved curriculum.

The Board of Trustees of each school decides whether to offer Religious Education, based on the decision of its parents. The Principal and Board approve the teachers and the teaching material.

What is the approved Curriculum?

The 'Religion in Life' curriculum and, for large groups or assemblies, 'Life Focus' are endorsed by the CEC as appropriate for a secular classroom. 'Religion in Life' is an educationally sound curriculum which is Bible based and uses the student's interests and experience as a starting point in allowing them to learn by exploration and discovery. Lessons do not call for a faith commitment from students. The material links readily into a school's values education programme.

The Churches Education Commission also offers chaplains to support a school's pastoral care networks.

For further information contact:

Churches Education Commission

P O Box 9049

WELLINGTON

Ph 04 384 3587

www.cec.org.nz



ChurchesEducationCommission

Advertising Standards Authority Complaint

The leaflet provided by the Churches Education Commission on their website is highly misleading and deceptive, and thus violates the 3rd Basic Principle and the 2nd Rule of the Advertising Code of Ethics which require that advertisements should not be misleading or deceptive and should not contain statements which create a misleading or deceptive impression. The leaflet is deceptive because it states under the initial heading "What is Religious Education" that the Churches Education Commission policy statement is approved by the Ministry of Education, even though the Ministry of Education does not approve of the policy statement. This gives the misleading impression that the Churches Education Commission is approved of or endorsed by the Ministry of Education. [See also the attached letter from the Ministry of Education to the Churches Education Commission.] The heading "What is the Approved Curriculum" is therefore also highly misleading, because the Churches Education Commission curriculum is approved only by the Churches Education Commission itself, and not by anyone else (and is not approved of by the Ministry of Education). The Churches Education Commission leaflet/flyer (attached) is available on the Churches Education Commission Website (www.cec.org.nz) by clicking the "Caring For Children" heading on the left and then clicking "Click here" at the bottom of the "Caring For Children" page.

The Churches Education Commission website is, itself, highly misleading. The second sentence on the website homepage (www.cec.org.nz) states that "We are the people responsible for co-ordinating the Religious Education programmes in New Zealand..." The reality is that any volunteer can provide religious instruction in schools, subject to minimum requirements, so the statement is deceptive (thus violating the 3rd Basic Principle of the Advertising Code of Ethics). The statement also violates the principles of free and fair competition (the 5th Basic Principle of the Advertising Code of Ethics) as well as Guidelines a and b of the Code for Comparative Advertising which require that advertising about potential competitors be factual and unambiguous. More importantly, the webpage reached by clicking "About Us" on the left hand side of the Churches Education Commission homepage contains exceedingly misleading information under the heading "Authority" (half way down the page). The first sentence states "The Churches Education Commission is recognized by the Ministry of Education ...as the major provider of Christian Religious Education in New Zealand state schools..." The Ministry of Education does

not recognize the Churches Education Commission as a major provider of religious instruction. This statement is very deceptive because it can easily be understood to be an endorsement, especially since it is made under the heading "Authority" (see also the attached letter from the Ministry of Education to the Churches Education Commission), so this statement violates the 3rd Basic Principle of the Advertising Code of Ethics. The deception created by the Churches Education Commission website and brochure creates an overall sense of social irresponsibility to society and therefore violates the 4th Basic Principle of the Advertising Code of Ethics.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

30

From:
Sent: Friday, 2 February 2007 5:20 p.m.
To:
Cc:
Subject: RE: 178860 Bible teaching

Hellc

has asked that I provide some comment for you; I have been working on religion since January last year. Please feel to call me with any questions (though I will be out this afternoon).

Please find below my contribution to your draft letter. I have avoided making any references to the tragedies he claims Bible reading would have prevented and just focussed on the law.

Requests

On 12 July 2006 asked that the Prime Minister to have Genesis chapter 1 taught in all state schools by the end of 2006. He merely wanted students to know what the text said, rather than have it taught as true.

On 18 August 2006 he asked that the Minister of Education to have Genesis chapter 2 taught in all state schools by the end of 2006.

On 10 January 2007 he asked that Genesis chapter 3 be taught. He also claimed that several tragedies (including Graeme Burton's actions) would have been averted if the minister had heeded his earlier request.

Suggestions for your response

Thank you for your letter of 11 January 2007, continuing your requests for Bible readings in state schools.

Since 1877, the law has required teaching in all New Zealand state primary and intermediate schools to be "entirely of a secular character". As a result, religious instruction and observances (including Bible readings) may only be offered by these schools when either the whole school or a part of it is closed. Religious instruction and observances at these times are voluntary; students do not have to attend.

Nevertheless, there are two ways in which primary and intermediate students may encounter religious texts. Firstly, primary schools throughout New Zealand allow volunteers to run courses of religious instruction when the school is closed. The Bibles in Schools programme is one example. Secondly, schools are perfectly entitled to discuss the world's religions and their texts during secular teaching time. Some state secondary schools do include religious elements in their regular programmes, though student participation is also voluntary.

Please understand that it would be inappropriate for me to dictate to schools what texts they should teach. The New Zealand Curriculum sets the direction for teaching and learning in New Zealand schools. School boards of trustees are independent. Within the framework of the law, they are responsible for what they teach and the resources they use to do this.

I now consider this matter closed. Thank you for taking the time to write to me.

This message and any attached document, may be confidential information and may also be subject to legal professional privilege. If you are not the intended recipient, any use or disclosure of this e-mail is unauthorised. If you have received this e-mail in error please notify me immediately and delete the e-mail. *****

Legal Assistant

-----Orig
From:
Sent: Friday, 2 February 2007 11:18 a.m.
To:
Subject: Bible teaching

Hi ..I would appreciate your opinion on this response to this is not the first time he has written to the Minister around this theme

With thanks

Dear

Thank you for your letter of 11 January 2007 concerning the request to have the Bible taught in state funded schools, and the enclosed excerpt copied from the Bible.

Your most recent letter reflects on the recent and tragic event that occurred in the Wellington region, suggesting that having the Bible taught in schools could have saved lives. As I explained in my previous letters, there is no requirement for state funded schools to provide Biblical teaching or study any specific texts.

Although section 77 of the 1964 Education Act provides for a secular education, schools are also self-governing. It is the Board of Trustees that determines, and has the responsibility for selecting, providing and using suitable resources for the school's teaching programmes.

Yours sincerely

Steve Maharey
Minister of Education

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OFFICIAL INFORMATION ACT