

Legislation

NAG 6

Raumati Beach School

REVIEWED MARCH 2019

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Statement of Beliefs

To establish management practices to ensure that the school is compliant with its legal obligations as specified in the areas below.

A) Privacy Requirements

We believe:

That Raumati Beach School will act in accordance with the requirements and intent of the Privacy Act 1993.

Actions

- The school will appoint one or more individuals as Privacy Officers. (Usually the BOT Chairperson or Principal – Confirmed for 2018)

The Privacy Officer(s) responsibilities (as defined by the Act) include:

- encourage compliance by the school with the information privacy principles prescribed in s6 Privacy Act 1993.
- Deal with requests made to the school under the Privacy Act 1993.
- Act as a point of contact with the Commissioner should this become necessary.
- Otherwise ensuring compliance by the school with the provisions of the Privacy Act.
- Acknowledging that an appointed Privacy Officer is unlikely to be an expert in the field, the Board would normally seek professional advice when there is doubt on how to handle a particular issue.

B) Police Vetting

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We believe:

The Board is responsible for taking reasonable measures to protect students from harm (NAG 5) and ensure that all employees maintain proper standards of integrity and conduct (State Sector Act s77A). The Board through the Principal will establish a direction to ensure the effective processing of the police vetting requirement. Police vetting is part of a screening process, not a selection criterion.

Actions

Employees or prospective employees must be vetted in the following situations:

- When appointing a new permanent employee a satisfactory police vet will need to be obtained **before** an appointment is confirmed. Confirmation of identity is also required. Two pieces of identification, one of which must be an approved (current) photo id.
- When a person has been employed on a casual or temporary basis at the school they must be vetted **within 2 weeks** of their first day of employment. Any employment is subject to police check before being confirmed.
- Contractors and their employees that **regularly work** at the school will need to be vetted.
- All existing employees (other than Teachers) are required to be vetted on a three year rotation. The school (Bursar) will maintain a schedule for these checks.
- Parent Volunteers & Camp Helpers – see section at the end.

Offences that are relevant

Relevant offences are a function of the position for which an applicant is applying. The question the Board needs to answer is: “What offence histories would disqualify an individual from serving in such positions?”

When establishing screening criteria, employment and related legislation (eg Employment Relations Act 2000 and Privacy Act 1993) must be taken into account.

Offences become relevant based upon the nature of the position to be held. For example, for positions that require substantial direct contact with children personal safety concerns are paramount. Thus crimes against persons would be relevant for Board consideration.

The Board should consider disqualifying applicants in this instance if their records include any of the following:

- Past history of sexual abuse of children.
- Conviction for any crime in which children were involved.
- History of any violence or sexually exploitative behaviour.

Another example would be if the position had financial aspects associated with it, then convictions for fraud would warrant Board consideration.

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The more specific the Board is with its criteria, the more useful they will be for screening Aims. Convictions may point to areas of concern, but not necessarily disqualify applicants. For example, while a conviction for possession of less than a gram of marijuana over a decade ago may not be considered too problematic, a recent conviction for drug dealing would be. To make the criteria 'drug related offences' therefore would be too generic. Points for consideration include:

- How long ago the conduct occurred and the circumstances surrounding the conduct in question.
- The age of the individual at the time of the offence.
- Societal conditions that may have contributed to the nature of the conduct.
- The probability that the individual will continue the behaviour in question.
- The individual's commitment to rehabilitation and to changing the behaviour in question.

While convictions and not arrests are relevant, the Board may wish to delay confirmation of a position until any outstanding court action is resolved. For example an arrest for child sexual abuse that is awaiting trial would be grounds for disqualification from appointment until the outcome of proceedings is determined.

If the vet reveals criminal offences or concerns by the police that cause concern for the Board, then NZSTA personnel/industrial relations advisor should be consulted **before any action is taken**.

Preservation of the applicant's rights

Applicants have the right to be treated fairly and to have their privacy respected. Given that records are not always correct, applicants are to be given the right to challenge the accuracy of information that the school receives. The onus for having disputed information corrected should lie with the applicant. Until the Board receives a correction from the Police, it should assume the information it has received is correct.

Given the sensitive nature of the information concerned, all documentation should be addressed in the first instance to the Principal. Only the Principal and or the Chair of the Board should handle or be privy to the information until the applicant has had a reasonable opportunity to confirm, or if necessary, have the information corrected. Only then should the information be given to the Board. The information is not to be disclosed outside of this closed environment. All information is to be kept in a secure environment and accessible only by those entitled to see it. Staff are to be advised that mail marked 'confidential' is to only be opened by the person to whom it is addressed.

The information must not be retained longer than required. When the information is no longer required, all copies of it are to either be passed to the applicant or destroyed using the document destruction bin.

Application Forms and Offers of Appointment.

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All application forms should have reference to the fact that the appointment will be subject to a satisfactory police vet and have appropriate questions on matters relating to previous convictions. The application form should also state that shortlisted applicants will be asked to give consent to a check by police. As a police vet and proof of identity are a requirement of employment, if an applicant declines to have the check(s) conducted, they are to be removed from the list of contenders. If an offer of employment is made prior to the police vet being completed, then that offer is to be made conditional until such time as the vet has been completed and is satisfactory. That condition is to be acknowledged in writing by the applicant.

Parent Volunteers and Camp Helpers

Who needs to be police vetted and when does a vet need to be done?

Under Part 3 of the [Vulnerable Children Act 2014](#), all children's workers must be police vetted as part of a safety check. **A children's worker is anyone whose work involves regular or overnight contact with children, takes place without parents or guardians being present, and is paid or undertaken as part of an educational or training course.**

A police vet must also be obtained for every contractor, or employee of a contractor, who has, or is likely to have, unsupervised access to children during normal opening hours.

Boards, managers and ECE service providers **may choose to vet persons, such as volunteers or visitors**, who do not have to be vetted under the Act. At Raumati Beach the following applies in relation to Parent Volunteers

- **School Camps out of the school grounds a Police Vet is required**
- **Overnight In School Activities / KC Marae – NO Vet Required**
- **Day to Day Parent Volunteers – NO Vet Required**

C) Enrolment

Raumati Beach School Enrolment Scheme

We believe:

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The Board of Trustees and staff of Raumati Beach School are committed to providing quality education for all students in the school. There is an optimum roll figure for the school, above which the quality of education delivered to the students may be diminished. The existing resources of personnel, buildings, grounds, facilities and other resources determine the optimum roll figure. The enrolment scheme aims to avoid overcrowding by restricting the number of students to be enrolled in the school.

Aims

1. To maintain the highest possible standard of education delivery to students attending the school.
2. To avoid overcrowding at the school and maximize the school's ability to plan.
3. To ensure that undue pressure is not placed on the resources of the school.
4. If required, to limit numbers of students enrolling using pre-established criteria.
5. To give priority of entry to those students living in the home zone.
6. To maintain some flexibility in enrolments in order not to exclude more children than is necessary to meet the above objectives.

Actions

Raumati Beach School Home Zone

The enrolment scheme home zone is described as follows:

Southern Boundary :

The Southern boundary will be a line formed by the northern sides of Menin Road and Harry Shaw Way, and extending across the open farmland from the eastern end of Harry Shaw Way to the southern boundary of 188 Main Highway South.

Eastern Boundary :

State Highway 1 from the southern boundary of 188 Main Highway South to the southern side of Ihakara Street.

Northern Boundary :

A line formed by the southern side of Ihakara Street, extending from the western end of Ihakara Street to follow the Wharemauku Stream between Kiwi Road and Cadastral Court to the Southeast boundary of the Airport land, following that boundary to the Southwest corner, then extending across the Airport land to the eastern end of Toru Road, and following the southern side of Toru Road to the coastline.

Western Boundary :

The Western boundary will be a line formed by the coastline, extending from the southern corner of Toru Road and Marine Parade to the public walkway on the southern boundary of 181 Rosetta Road.

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Criteria for Enrolment

Those students whose usual place of residence lies within the geographical area described as the home zone have an absolute right of entry to Raumati Beach School.

Each term the Board (Principal) will determine the number of places which are likely to be available in the following term for the enrolment of students who live outside the home zone. The Board will publish this information in a community newspaper circulating in the area served by the school. The notice will indicate how applications are to be made and will specify a date by which all applications must be received.

The BOT may also determine what the entry points are for Raumati Beach School. The Board has a policy that students who have previously or currently been enrolled at a local school are not eligible for OUT OF ZONE SPACES. Students moving into the area will be considered. The school has two usual entry points.

- New Entrants
- Year 7 (Not previously enrolled at local school)

The Board on advice from the Principal may choose to allow other entry points if space is available. Any decision will be recorded in the BOARD MINUTES. The Board may also consider applications for out of zone students under “compassionate grounds.”

These applications are on a case by case basis and no previous decision by the Board will set a precedent for any that may follow. The Board are only likely to grant a compassionate space if they consider that the nature of the request is extraordinary (as defined by them at the time).

Any requests for placements under the “Compassionate,” category must be made in writing. These will be considered by the BOT in committee at the next scheduled meeting.

Additional enrolments shall be accepted in the following priority order subject to the availability of places.

Priority 1.

Children whose usual place of residence at the time of enrolment lies within the geographic zone as defined above. Children who live in the geographic zone and who seek enrolment will be enrolled at Raumati Beach School. The Board will require evidence of usual place of residence.

Priority 2.

Siblings of children who attend, or have attended the school, and who live outside the school zone.

Priority 3.

Children living outside the school zone. The criteria to be taken into account shall include the need of the child to attend Raumati Beach School. This need may have to do with family circumstances, family association with the school, or with the personal or social needs of the child. To preserve the integrity of the Enrolment Scheme the Board will consider each Priority 3 application on its individual merits.

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If there are more applicants in the second, and third priority groups than there are places available, selection by ballot within the priority groups will be in accordance with instructions issued by the Secretary of Education under 11G (1) of the Education Amendment Act 2000.

Parents will be informed of the date of any ballot by letter if the school is aware of their intention to enrol or by notice in a daily or community newspaper circulating in the area served by the school.

Procedure for Enrolment

- (a) Application for enrolment must be on the form available from the School Office.
- (b) New children who move into the zone described above shall have absolute right of enrolment.
- (c) Parents of children who turn five in the following year and who propose to seek enrolment at Raumati Beach School are asked to complete an "Application for Enrolment". To assist with the School's forward planning, applications should be lodged with the School Office by the end of September and confirmed by the end of October. A place will be reserved in the school for those children who meet the enrolment criteria.
- (d) The BOT at Raumati Beach School have entry points for Out of Zone spaces at the following levels. New Entrants and Year 7. Year 7 students can only be accepted if they are new to the area and have not been previously enrolled at any school within the greater Kapiti area. Any Year 7 enrolment is subject to space being available.
- (e) The BOT may alter entry points by agreement. This will be minuted within the BOT minutes.

Delegation:

Responsibility for the implementation and operation of this scheme is delegated to the Principal by the Board of Trustees of Raumati Beach School. The Principal, in consultation with the Board of Trustees, will be responsible for the discretionary enrolments under Priority 3.

D) SURRENDER AND RETENTION OF PROPERTY

These Guidelines are issued under section 139AAI of the Education Act 1989. They provide advice about legislation introduced January 1st 2014, relating to searches and confiscation of property in schools. They explain the legislation (Sections 139AAA – 139AAI of the Education Act 1989) and the associated Rules.

We believe:

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That the Board of Trustees are responsible for the governance and management of their schools. The Guidelines are intended to assist Boards of Trustees and their staff when the surrender and retention of property from students is contemplated. The legislation requires schools to have regard to these Guidelines.

These Guidelines are designed as a thinking tool, not a reference manual.

These Guidelines are intended as a resource to assist principals and Boards to deal with situations where the safety of students, staff or the school is compromised. There can be no definitive way of dealing with each and every scenario and Principals and Boards will most often be required to look to their own experience and judgement. Often the circumstances will be straight-forward and responses will be routine, but there will be occasions when the best course of action is not obvious.

Where a range of responses is available, Boards and staff are encouraged **to exercise judgment that is based on what is *reasonable* in the circumstances.**

There are, however, some fundamental principles on which the Guidelines are built.

Principle 1: **All schools are required to provide a safe physical and emotional environment** for students and staff. A safe environment for students and staff is of paramount importance and therefore must be given primacy when applying the guidelines. National Administration Guideline 5 and other legislation clearly establish this.

Principle 2: **Parents, students and the public will have a legitimate expectation that the school environment will be free from drugs, weapons, alcohol and cyber bullying.** They will expect schools to develop a written policy and procedure on surrender and retention and to advise them accordingly. Schools must be mindful of these expectations.

Principle 3: **Parliament has given new powers and clarified the law in relation to searches and retaining student property.** In exercising these powers, schools must act reasonably, in good faith and in the least intrusive manner to achieve a safe environment.

Principle 4: **Students are protected under Section 21 of the New Zealand Bill of Rights Act 1990**, which states "Everyone has the right to be secure against unreasonable search or seizure, whether of the person, property or correspondence or otherwise". This section does not prohibit searches or seizure of student property but schools must be able to justify their actions as reasonable and necessary to maintain a safe environment.

The rules require.....

- require every teacher and every authorised staff member who is in possession of an item or a device that is to be retained **to take all reasonable care** of the item or device while it is in his or her possession or under his or her control and to **place the item or device in secure storage** if it is to be retained overnight or for a longer period:

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- require an item or a device to be returned to the student from whom it has been taken as soon as practicable after a teacher, an authorised staff member, or the board determines, in light of the relevant considerations, that the item or device can be appropriately returned to the student:
- provide that, if satisfied that it is appropriate to do so in light of the relevant considerations, a teacher, an authorised staff member, or the board may pass the item or device to another person, such as a parent or caregiver or the person believed to be entitled to the possession of the item or device, or to an agency, such as the New Zealand Police or the New Zealand Customs Service:
- provide that, if satisfied that it is appropriate to do so in light of the relevant considerations, a teacher or an authorised staff member may dispose of an item, but no item may be disposed of by sale:
- require each board to make and keep a record of every item or device taken under the Act that is retained for 2 nights (each of which follows a day on which the school is open for instruction) or for a longer period. The record must contain the particulars that the board prescribes, including those set out in rule 10(2):

Every record must contain the particulars that the board prescribes from time to time, which must include the following:

(a) the date on which the item or device was taken:

(b) the name of the student from whom the item or device was taken:

(c) the name of the teacher or authorised staff member who took the item or device.

- require each board to make and keep a record of every search that is carried out under section 139AAB of the Act. The record must contain the particulars that the board prescribes, including those set out in rule 11(2).

Every record must contain the particulars that the board prescribes from time to time, which must include the following:

(a) the date on which the search was conducted:

(b) the name of the student whose belongings were searched:

(c) the name of the teacher or authorised staff member who conducted the search:

(d) where applicable, why it was not practicable to comply with the relevant requirements stated in section 139AAC(2) and (3) of the Act in any case where the search was not carried out by a teacher or an authorised staff member of the same sex as the student:

(ii) was not carried out in the presence of another teacher or authorised staff member of the same sex as the student:

(iii) was carried out in the view of any person other than the teacher or authorised staff member carrying out the search, the student, and another teacher or authorised staff member.

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APPENDIX 1.

139AAA Surrender and retention of property (Education Amendment Act 2013)

- (1) This section applies if a teacher or an authorised staff member has reasonable grounds to believe that a student has hidden or in clear view on or about the student's person, or in any bag or other container under the student's control, an item that is likely to—
 - (a) endanger the safety of any person; or
 - (b) detrimentally affect the learning environment.

- (2) If this section applies, the teacher or authorised staff member may require the student to produce and surrender the item.

- (3) If the item is stored on a computer or other electronic device, the teacher or authorised staff member may require the student—
 - (a) to reveal the item;
 - (b) to surrender the computer or other electronic device on which the item is stored.

- (4) A teacher or an authorised staff member may do either or both of the following to an item surrendered under this section:
 - (a) retain the item for a reasonable period;
 - (b) dispose of the item (if appropriate).

- (5) A teacher or an authorised staff member may retain a computer or other electronic device surrendered under subsection (3)(b) for a reasonable period.

- (6) If an item or a computer or other electronic device is retained under this section, it must be stored in an appropriate manner.

- (7) At the end of any period of retention, any computer or other electronic device, or any item that is not disposed of under subsection (4)(b), must be—
 - (a) returned to the student; or
 - (b) passed to another person or agency, as appropriate.

- (8) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under [section 139AAH](#).

- (9) In this section and [sections 139AAB to 139AAI](#), unless the context otherwise requires,—
authorised staff member means an employee of a board who is authorised by that board,—
 - (a) when used in this section, to exercise powers under this section; and
 - (b) when used in [section 139AAB](#), to exercise powers under that section**item** includes information stored in electronic form
student includes a person under the supervision of a teacher, whether or not the person is enrolled at the school at which the teacher is employed
teacher means a person employed at a State school in a teaching position (within the meaning of [section 120](#)).

- (10) An authorisation referred to in the definition of authorised staff member in subsection (9) must be in writing and may be subject to conditions.

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Section 139AAA: inserted, on 1 January 2014, by [section 28](#) of the Education Amendment Act 2013 (2013 No 34).

139AAB Searches of clothing and bags or other containers

- (1) This section applies if—
 - (a) a teacher or an authorised staff member has reasonable grounds to believe that a student has on or about the student's person, or in any bag or other container under the student's control, a harmful item; and
 - (b) the teacher or authorised staff member has required the student to produce and surrender the harmful item under [section 139AAA](#) and the student has refused to produce and surrender it.

- (2) If this section applies, the teacher or authorised staff member may do any of the following:
 - (a) require the student to remove any outer clothing, except where the student has no other clothing, or only underclothing, under that outer clothing;
 - (b) require the student to remove any head covering, gloves, footwear, or socks;
 - (c) require the student to surrender the bag or other container.

- (3) The teacher or authorised staff member may search any clothing or footwear removed, and any bag or other container surrendered, under subsection (2).

- (4) If, during a search under this section, the teacher or authorised staff member finds a harmful item or an item that is likely to detrimentally affect the learning environment, the item may be seized by the teacher or authorised staff member and [section 139AAA\(4\) to \(7\)](#) apply with any necessary modifications.

- (5) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under [section 139AAH](#).

- (6) In this section, [section 139AAD](#), and [section 139AAF](#),—
harmful item means an item that a teacher or an authorised staff member has reasonable grounds to believe poses an immediate threat to the physical or emotional safety of any person
outer clothing includes, without limitation, any coat, jacket, jumper, or cardigan
socks does not include tights or stockings.
Section 139AAB: inserted, on 1 January 2014, by [section 28](#) of the Education Amendment Act 2013 (2013 No 34).

139AAC Restrictions on searches under section 139AAB

- (1) A teacher or an authorised staff member who carries out a search under [section 139AAB](#) must carry out the search with decency and sensitivity and in a manner that affords the student the greatest degree of privacy and dignity consistent with the purpose of the search.

- (2) Unless impracticable, a search under [section 139AAB](#) must be carried out—
 - (a) by a teacher or an authorised staff member who is of the same sex as the student; and
 - (b) in the presence of the student and another teacher or authorised staff member who is of the same sex as the student.

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(3) Unless impracticable, a search under [section 139AAB](#) must not be carried out in the view of any person other than the person carrying out the search, the student, and another teacher or authorised staff member.

(4) A teacher or an authorised staff member who carries out a search under [section 139AAB](#) must—

- (a) return any clothing or footwear removed and any bag or other container surrendered as soon as the search is completed; and
- (b) keep a written record of any items seized under [section 139AAB\(4\)](#).

Section 139AAC: inserted, on 1 January 2014, by [section 28](#) of the Education Amendment Act 2013 (2013 No 34).

139AAD Limitations on sections 139AAA and 139AAB

- (1) Nothing in [section 139AAA](#) or [139AAB](#) permits a teacher or staff member—
 - (a) to search any student; or
 - (b) to use physical force against a student; or
 - (c) to require a student to provide a bodily sample (but a teacher or staff member may encourage a student to participate in a voluntary drug treatment programme that involves testing of bodily samples).

(2) Nothing in [section 139AAA](#) or [139AAB](#) permits a teacher or an authorised staff member to have a dog with him or her for the purpose of exercising a power under that section.

(3) The powers set out in [sections 139AAA](#) and [139AAB](#) may not be exercised in relation to 2 or more students together unless the teacher or authorised staff member has reasonable grounds to believe that each student has an item specified in [section 139AAA\(1\)](#) or a harmful item on or about his or her person, or in any bag or other container under his or her control.

(4) Nothing in subsection (1) limits or affects [sections 15](#) and [17](#) of this Act or [sections 41, 48](#), and [59](#) of the Crimes Act 1961.

(5) In this section,—

rub-down search means a search in which the person conducting the search—

- (a) runs or pats his or her hand over the body of the person being searched, whether outside or inside the clothing of the person being searched;
- (b) inserts his or her hand inside any pocket or pouch in the clothing of the person being searched

search, in relation to a student, includes—

- (a) a strip search; and
- (b) a rub-down search

strip search means a search where the person conducting the search requires the person being searched to—

- (a) remove any of the latter person's clothing other than outer clothing, head covering, gloves, footwear, or socks; or
- (b) raise, lower, or open all or any part of the latter person's clothing.

Section 139AAD: inserted, on 1 January 2014, by [section 28](#) of the Education Amendment Act 2013 (2013 No 34).

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