



Guidance for school boards –

Schools remaining open during unlawful industrial action

1.1	This document’s purpose	2
1.2	Determining keeping schools open	2
1.3	If the school is closed for instruction, boards should offer supervision.	2
1.4	Expectations for student safety	3
1.5	Closing schools need to make up lost days	3
1.6	Communicate with staff	3
1.7	Informing the Ministry of Closure	3
2	Frequently Asked Questions	4
2.1	Can staff take paid domestic sick leave to look after their under 14 year-old child if the child’s school is closed?	4
2.2	If our school is closed for instruction on the day of the strike, do we have to make up the time at the end of the year?	4
	Appendix A: Flowchart for determining school closures	5
	Appendix B: Contact details	6
	Appendix C: Knowledge of strike action in advance -sample letter to the community if a school closes for instruction	7
	Appendix D: No knowledge in advance - Sample letter to the community if a school closes for instruction	8

1.1 THIS DOCUMENT'S PURPOSE

This document explains what school boards need to know and do to ensure schools remain open during any unlawful industrial action.

Some of the steps detailed in this document are included for your understanding but, in practice, will likely be carried out by the principal, as the day-to-day manager of the school.

Strikes can only lawfully occur where they relate to collective bargaining or are for health and safety reasons. If strikes occur in response to proposed implementation of new policy or legislation, they will be unlawful (sometimes referred to as a 'wild cat' strike).

For more information about unlawful strikes, refer to the document *Guidance for School Boards about Unlawful Strikes*.

Appendix A provides a flowchart of how a board can determine whether to close a school during an unlawful strike.

Appendix B provides contact details of Te Mahau local offices and Te Whakarōputanga Kaitiaki Kura o Aotearoa | New Zealand School Boards Association (NZSBA). You can contact them or your usual employment adviser if you require further advice.

1.2 DETERMINING KEEPING SCHOOLS OPEN

Unless it is unsafe to do so, schools must remain open for instruction.

- If you have a number of staff unlawfully striking, you should, where possible, use relievers to cover these staff or combine classes to ensure the education of ākonga is not unduly impacted.
- If unlawfully striking staff are suspended, any relievers can be paid out of any overpayment recovered from striking staff.
- You must not use Additional Relief Teacher Funding to fund these relievers.

1.3 IF THE SCHOOL IS CLOSED FOR INSTRUCTION, BOARDS SHOULD OFFER SUPERVISION.

Schools are required to take all necessary steps to remain open for instruction in the event of unlawful strike action and will only close if it is unsafe to remain open.

Supervision can be given by staff employed in the following roles who are not engaged in unlawful strike action:

- the principal, teachers, and already scheduled day relievers.
- day relievers specifically hired to supervise during the unlawful strike (there is no restriction on the use of day relievers where there is an unlawful strike).

- non-striking support staff, under supervision from a teacher, who normally interacts with students.

1.4 EXPECTATIONS FOR STUDENT SAFETY

During an unlawful strike, staffing may be reduced. The health and safety of students and staff is paramount. If a school believes it cannot safely stay open for instruction due to lack of staff, it may close the school (a “strike closure”) and ask parents and caregivers to keep students at home. **A strike closure should be a last resort.** Some caregivers may struggle to keep students' home during school hours. For health and safety reasons, the Secretary expects schools to supervise students who do attend.

If it is not possible to have staff at school to supervise students under 14 years of age who attend, you'll need to ensure every student's parents or caregivers are aware that the school will be closed and will not be providing supervision of those students.

The Education and Training Act 2020 does not allow boards to close part of a school (e.g., teaching year 10 and 11 classes only). Strike closures cannot be implemented under section 659 of the Education and Training Act 2020. That only covers epidemic, fire, flood, or other natural disasters.

Once a decision is made by the board, the local Te Mahau office must be advised of the decision.

1.5 CLOSING SCHOOLS NEED TO MAKE UP LOST DAYS

In the event that it is not safe to remain open for instruction because of an unlawful strike, the school is required to make up any shortfall of half days in accordance with the ***Education (When State Schools Must Be Open and Closed) Regulations 2024***.

If a school closes due to unlawful strike action, they should inform their local Te Mahau office. Contact details for Te Mahau regional offices are provided in **Appendix B**.

This applies even if the school is closed for instruction but is offering supervision.

1.6 COMMUNICATE WITH STAFF

If a board decides to close the school for instruction on the day of an unlawful strike, they can ask non striking staff to supervise students (see section 1.3). If supervising students is not part of the staff member's duties, they do not have to agree.

1.7 INFORMING THE MINISTRY OF CLOSURE

In most circumstances, schools will remain open.

If you deem it unsafe to remain open and decide to close the school for instruction, you must inform your local Te Mahau office as soon as the board has made this decision. Please also indicate to your local Te Mahau office whether you will be providing supervision for students under 14 years of age who turn up to school. Your principal will be contacted by Te Mahau about this.

Local Te Mahau office email contact details can be found at **Appendix B** of this guidance.

2 FREQUENTLY ASKED QUESTIONS

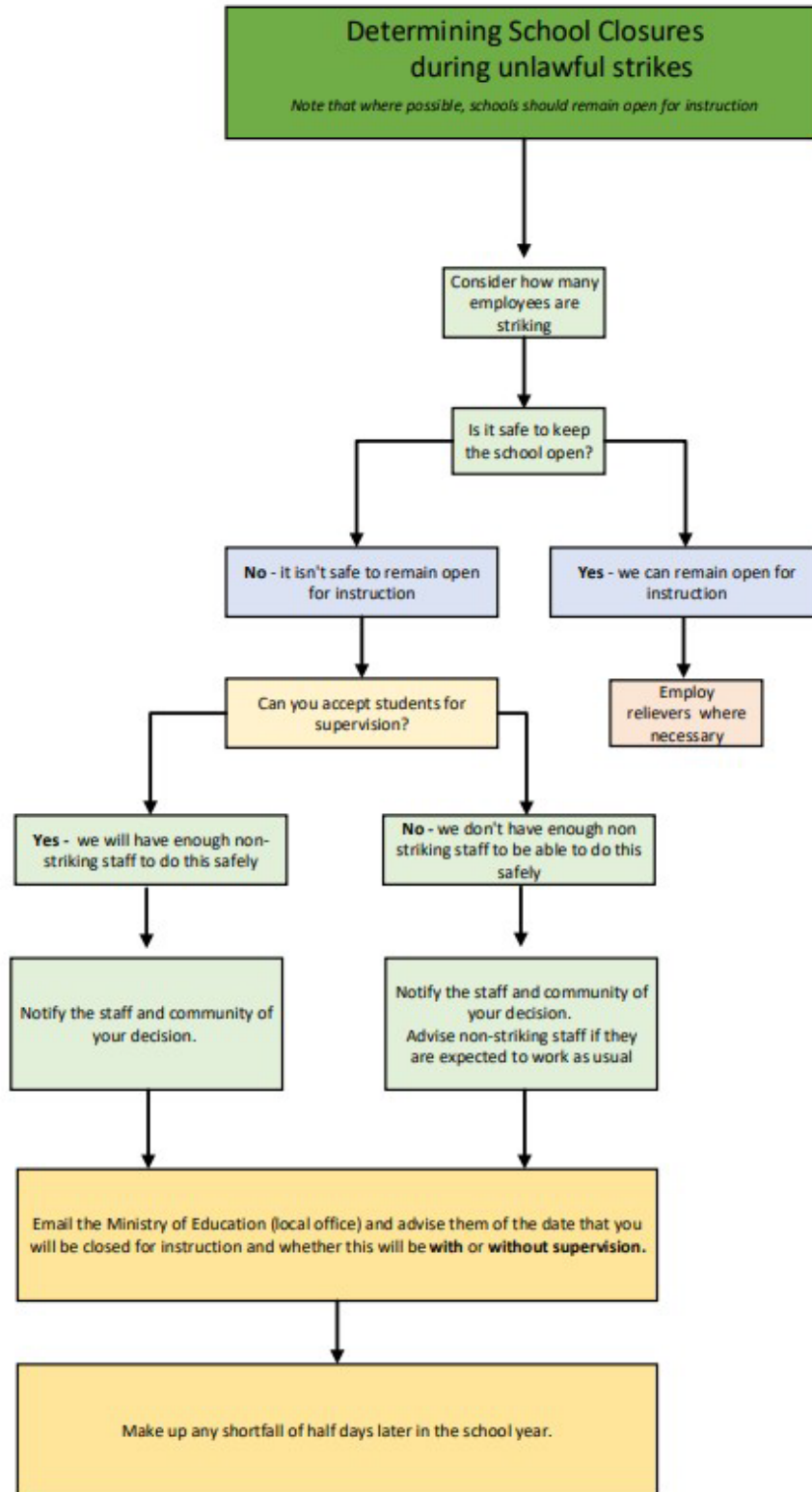
2.1 CAN STAFF TAKE PAID DOMESTIC SICK LEAVE TO LOOK AFTER THEIR UNDER 14 YEAR-OLD CHILD IF THE CHILD'S SCHOOL IS CLOSED?

No. Domestic Sick Leave can only be taken where a person who depends on the employee for care is sick or injured. The board could provide annual leave or discretionary leave. Discretionary leave can be paid or unpaid. If paid discretionary leave is provided it is at the board's cost.

2.2 IF OUR SCHOOL IS CLOSED FOR INSTRUCTION ON THE DAY OF THE STRIKE, DO WE HAVE TO MAKE UP THE TIME AT THE END OF THE YEAR?

Yes. If a school is closed for instruction because of an unlawful strike by its employees, the board will need to make up the shortfall of half days. This applies even if the school is closed for instruction but is offering supervision. Regulation 6(4) of the *Education (When State Schools Must Be Open and Closed) Regulations 2024* makes it clear that it is only where a closure is due to a lawful strike that half days don't need to be made up.

APPENDIX A: FLOWCHART FOR DETERMINING SCHOOL CLOSURES



APPENDIX B: CONTACT DETAILS

For legal or operational questions about strike action in your school, see [Guidance for school boards about unlawful strikes](#). You can also seek advice from Te Whakarōputanga Kaitiaki Kura o Aotearoa or your usual employment adviser.

TE WHAKARŌPUTANGA KAITIAKI KURA O AOTEAROA <i>New Zealand School Boards Association</i>
Advisory and Support Centre - 0800 782 435 Email: eradvice@nzsta.org.nz or govadvice@nzsta.org.nz

Closure notifications are to be sent to your local Te Mahau office:

TARI Ā- ROHE <i>Regional Offices</i>
Regional offices - Ministry of Education

MINISTRY OF EDUCATION	
Employment Relations Email: employment.relations@education.govt.nz	Education Payroll Limited Email: information@edpay.co.nz

APPENDIX C: KNOWLEDGE OF STRIKE ACTION IN ADVANCE -SAMPLE LETTER TO THE COMMUNITY IF A SCHOOL CLOSES FOR INSTRUCTION

Dear Parents and Caregivers

Industrial Action – Unlawful Strike Action on [XXXX]

We have been advised that some staff of [school name] will be taking unlawful strike action on [date].

The Board has carefully considered the availability of non-striking staff, and unfortunately decided that we can't provide normal instruction during the strike so the school will officially be closed for instruction during the above times.

Accordingly, it's important that you make alternative arrangements for the care of your child/children under 14 years of age during the period of the strike as no supervision can be provided. [Delete last sentence if closed for instruction but providing supervision]

If making alternative arrangements for care is difficult, we can still supervise a small number of students if required. Please contact the office or send a note to indicate if your child/children will need this.

[Delete this paragraph if no supervision can be provided.]

School transport will be [add information or delete if it doesn't apply].

We know that this is inconvenient for parents and students alike. Please be assured that student safety is our main concern.

Thank you for your understanding. Please contact [Principal's contact details] if you have any queries relating to this decision.

[Name]

[Presiding Member]

[Name of School]

APPENDIX D: NO KNOWLEDGE IN ADVANCE - SAMPLE LETTER TO THE COMMUNITY IF A SCHOOL CLOSURES FOR INSTRUCTION

Dear Parents and Caregivers

Industrial Action – Unlawful Strike Action on [XXXXXX]

We have been [advised/become aware] that some staff of [school name] are unlawfully taking strike action today, the [Date].

The Board has carefully considered the availability of non-striking staff, and unfortunately decided that we can't provide normal instruction during the strike so the school will officially be closed for instruction today.

We are unable to provide supervision. You must therefore make alternative arrangements for the care of your child/children under 14 years of age. [Delete last sentence if closed for instruction but providing supervision]

If making alternative arrangements for care is difficult, we can still supervise a small number of students if required. Please contact the office to indicate if your child/children will need this.

[Delete this paragraph if no supervision can be provided.]

School transport will be [add information or delete if it doesn't apply].

We know that this is inconvenient for parents and students alike. Please be assured that student safety is our main concern.

Thank you for your understanding. Please contact [Principal's contact details] if you have any queries relating to this decision.

[Name]

[Presiding Member]

[Name of School]