

AM2014/224- Educational Services (Post- Secondary Education)

Award 2010 [MA000075]

Exposure Draft

Submission of NTEU

1. This submission is made on behalf of members of the National Tertiary Education Industry Union (NTEU) in relation to the above modern Award.
2. This submission draws on the following Fair Work Commission documents:
 - Summary of submissions- revised, 10 October 2017
 - Decision – [2017] FWCFB 5536, 30 October 2017
 - Exposure draft – Educational Services (Post-Secondary Education) Award 2015 – revised, 2 November 2017 (the “Exposure draft”)
3. For ease of reference, the submission will refer to the Exposure draft issued on 2 November 2017, unless otherwise stated.

Part 3- Hours of Work

4. 8.1 Ordinary Hours of work – general staff. NTEU understands the matter “being reviewed in AM2015/6” is the BusSA submission regarding the afternoon shift penalty (Item 7 of summary, 10 October 2017). We submit that there is no ambiguity in these arrangements.
5. 9 Breaks- changes to 9.4 (a) and (b) are agreed.
6. In relation to Item 10 of Summary of Submissions (revised 10 October 2017), 9.4 (c) is correct as worded in the Exposure Draft.

Part 4- Wages and Allowances

7. 10 – Minimum Wages- changes to 10.1 (b) are agreed.
8. Changes to 10.1 (c) – as submitted by NTEU on 14 April 2016, NTEU has no submissions to make on this query in regard to rounding of annual and weekly rates.
9. NTEU repeats submission that it would assist workers and employers if the Award indicate the last Annual Wage Review applied, and how (10.1).

10. 11- Allowances- suggested amendment to 11.2 (c)- Meal allowance- general staff. NTEU accepts the amendment as marked in the Exposure Draft, except at 11.2 (c) (ii). We suggest the following words **(in bold)** be added for clarity:

*“Where overtime worked exceeds four hours, **or exceeds nine hours if worked on a Saturday or Sunday**, a further meal allowance of \$12.12 will be paid.”*

Part 5- Penalties and Overtime

11. 14. – Penalty Rates. Schedule D of the Exposure Draft does provide a summary, however, we have no objection to the inclusion of a table format as suggested by United Voice in submission of 31 March 2016; this would provide clarity for casual staff.

Part 6 – Leave, Public Holidays and Other NES Entitlements

12. 16- Annual leave. NTEU agrees to removal of the note at 16.3.
13. 20- Public Holidays- 20.2- NTEU reiterates our submission from 14 April 2016; the question of consistency with the NES remains. The words “agreement between the employer and the majority of employees in an enterprise” should be replaced with:

“agreement between the employer **and employee**”.

Amendment must also be made to reference to this clause in sub-clause 5.2 of the Award.

Schedule I- Definitions

14. Definition of “teacher”. NTEU reiterates our submission from 14 April 2016 – no change is required.

Additional matter – Part 2 – Types of Employment and Classification

Clause 6.5 – Casual employment.

NTEU respectfully request that the Full Bench apply the outcome of the Full Bench Decision in the Casual employment and part-time employment matter [2017] FWCFB 3541 to this Award; (the “model term”).

The Australian Council of Trade Unions made reference to the omission of the *Educational Services (Post-Secondary Education) Award* from the application in respect to this matter, at paragraphs 34-35 of Submission on 2 August 2017.

The relevant unions in the vocational education and training (VET) sector remain open to providing evidentiary material in support of our submission to have the model term applied to this Award.

NTEU National Office

22 November 2017