

Fair Work Commission: 4 Yearly Review of Modern Awards

AM2014/266

Educational Services (Teachers) Award 2010

Further Submission – Exposure Draft

25 January 2017

Associations of Independent Schools

and

Independent Education Union of Australia

1. These submissions are made on behalf of the Associations of Independent Schools (**AIS**) and the Independent Education Union of Australia (**IEU**). The state based Associations of Independent Schools are those tabulated at paragraph 1 of the primary submissions in this matter.
2. Hereinafter the AIS and the IEU are referred to as '**the Parties**'.
3. These joint submissions are made by the Parties in response to a matter raised by the Parties during the proceedings on the afternoon of Tuesday, 6 December 2016 before the Full Bench of the Fair Work Commission. The relevant paragraphs of the transcript are 512 to 516 with respect to Item 24 (Sch. A.3.1(a)) of the Summary of Submissions prepared by the Fair Work Commission for submissions lodged on or before 29 November 2016.
4. As foreshadowed on 6 December 2016 during the proceedings, the Parties are now proposing a change to Sch.A.3.1(a) for the purpose of achieving consistency between the definition of a meal break in cl.16.1(a) and Sch.A.3.1(a) of the Exposure Draft of the *Educational Services (Teachers) Award 2010* (the Exposure Draft).

5. Accordingly, the Parties propose that Sch.A.3.1(a) is as follows:

“An employer is required to provide a paid meal break of between 20 and 30 consecutive minutes to an employee, who is engaged or rostered to work for more than five hours on a day. Such meal break will start no later than five hours after the employee commenced work on that day.”

6. For the purpose of demonstrating the proposed level of consistency, the Parties’ proposed wording for cl.16.1(a) of the Exposure Draft is reproduced below from the Parties’ submission of 30 June 2016:

“An employer is required to provide an unpaid meal break of not less than 30 consecutive minutes to an employee who is engaged or rostered to work for more than five hours on a day. Such meal break will start no later than five hours after the employee commenced work on that day.”

7. The Parties have also given further consideration to cl.16.1(b) of the Exposure Draft. Although the Parties’ submission of 30 June 2016 suggested the following wording for cl.16.1(b):

“This clause does not apply to an employee who is covered by the provisions of Schedule B – Hours of work and related matters – Teachers employed in early childhood services operating for at least 48 weeks per year.”

the Parties now support the simpler wording of cl.16.1(b) of the Exposure Draft. Accordingly, the Parties no longer seek a change to the wording of cl.16.1(b) of the Exposure Draft.

This submission also has the effect of changing the Parties’ submission of 2 March 2015 with respect to Item S19 of the Summary of Proposed Substantive Variations issued by the Fair Work Commission on 6 January 2017.