



IN THE FAIR WORK COMMISSION

VARIATION OF MODERN AWARDS TO INCLUDE A DELEGATES' RIGHTS TERM (AM2024/6)

Submissions concerning the Draft Term

1. The Australian Higher Education Industrial Association (**AHEIA**) welcomes the opportunity to provide a response to the draft delegates' rights term provided as Attachment A to the Statement of Justice Hatcher dated 10 May 2024 ([2024] FWC 1214), and in accordance with the extension of time issued on 17 May 2024.
2. AHEIA respectfully commends the Commission for having drafted a clause that has rejected much of the unnecessary detail included in the ACTU's draft clause as set out in Annexure A to the ACTU submission of 1 March 2024.
3. AHEIA makes the following suggestions for amendments to the draft clause that we submit would reduce uncertainty and therefore minimise potential disputation.
4. **Clause X.4:** We submit that rather than "as soon as practicable", a timeframe should apply, to avoid confusion as to who holds the role of delegate at any particular time.
5. **Clause X.5:**
 - (c): The term "grievance" is broad, and could either be removed, or defined.
 - (d): We assume that the word "processes" would mean an actual process set out under a policy, an enterprise agreement, or within the employee's written contract, where this exists.
 - (e): It is unnecessary to refer to enterprise bargaining, given that the *Fair Work Act 2009* provides for bargaining representatives.



(f): As for (d), we assume that where a process or procedure is in place which entitles employees to representation, then representation would be limited to where steps are being taken in accordance with that process or procedure.

6. **X.7:** Noting that there is no limit on the number of delegates who may be appointed in any workplace, the obligations on employers in X.7(a), (b), (d) and (e) could be unreasonably onerous. Given this, we submit that the clause should provide within its body, and not only in its title, that the employer must provide a workplace delegate with “reasonable” access to the workplace facilities set out in X.7(a), (b), (d) and (e).