

Form F52—Application for order for production of documents etc to the Fair Work Commission

Fair Work Act 2009, s.590(2)(c); Fair Work Commission Rules 2013, rule 54 and Schedule 1

This is an application to the Fair Work Commission for an order requiring a person to produce documents or records or other information in accordance with s.590(2)(c) of the [Fair Work Act 2009](#).

Party applying for an order

Name	Australian Childcare Alliance Inc		
Postal address	C/- Australian Business Lawyers & Advisors Level 15, 140 Arthur Street		
Suburb	North Sydney		
State or territory	NSW	Postcode	2060
Phone number	(02) 9458 7431	Fax number	(02) 9954 5029
Email address	Sophie.whish@ablawyers.com.au		

If the party applying for an order is a company or organisation please also provide the following details

Legal name of business	Australian Childcare Alliance Inc
Trading name of business	Australian Childcare Alliance
ABN/ACN	74 486 086 142
Contact person	Paul Mondo

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

The Commission matter that this application relates to

Name of Applicant from main matter	Independent Education Union of Australia
Name of Respondent from main matter	Australian Childcare Alliance Inc
Commission Matter Number	AM2018/18 and AM2018/20
Your role in main matter	<input type="checkbox"/> Applicant <input checked="" type="checkbox"/> Respondent <input type="checkbox"/> Other please specify:

1. The Application**1.1 What documents are being sought?**

The Respondent seeks the following documents from Parkes Early Childhood Centre Incorporated:

1. The constitution and any articles of incorporation of Parkes Early Childhood Centre Incorporated.
2. Any document recording the identification of each member/person of the Committee (or board of directors) that governs Parkes Early Childhood Centre Incorporated.
3. All documents recording or evidencing planning for the bargaining process for the *Parkes Early Childhood Centre Incorporated Enterprise Agreement 2017 (Enterprise Agreement)*.
4. All documents recording or evidencing planning or preparing for meetings involving Committee Members, centre Directors or other participants in the bargaining process for Enterprise Agreement.
5. All documents recording or evidencing the Parkes Early Childhood Centre Incorporated broad strategy for the Enterprise Agreement and wages/allowances decisions made in the bargaining process.
6. All documents recording or evidencing the nature of the work performed by each employee at the Centre (including but not limited to the Nominated Supervisor, Certified Supervisor, Committee Members, Assistant Director, Educational Leader, Responsible Person and Certificate III educator) including the responsibilities, skills and/or qualifications necessary to perform the responsibilities, and position descriptions.

1.2 Why is each document being sought?

1. The Applicant has filed an application that seeks for all Directors who hold a teaching degree to be remunerated under the *Educational Services (Teachers) Award 2010* and not the *Children's Services Award 2010 (Awards)*.
2. In determining whether to vary the coverage of the Awards, the Fair Work Commission must be satisfied that the proposed award is appropriate for the employers and employees to whom it seeks to cover (s 163 of the *Fair Work Act 2009* (Cth)).
3. The Applicant has filed evidence in the form of a statement from Ms Lindy Farrant, the Director of Parkes Early Childhood Centre Incorporated.
4. Ms Farrant is remunerated in accordance with an enterprise agreement which contains details about her (and other employee's) responsibilities, wages and allowances as they relate to degree qualified teachers and Directors employed under either the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2010*.
5. The documents sought will enable our client to:
 - a. to understand the basis for the setting of remuneration (including wages and allowances) pursuant to the relevant enterprise agreement;
 - b. properly assess the nature of the work performed by Ms Farrant by granting our client access to documents that describe the nature of Ms Farrants employment, including:
 - i. the roles and responsibilities that are performed by her and others to determine what duties relate to teaching qualifications and which do not; and
 - ii. Ms Farrant's seniority, duties and overall responsibility within the organisation.
6. The documents sought:
 - a. are relevant to the consideration of the evidence of Ms Farrant regarding the association's structure, management and the duties performed by all employees in the Parkes Early Childhood Centre Incorporated regardless of their qualifications; and
 - b. will assist the Commission and the parties in considering whether the special criteria relating to changing coverage of the Awards has been satisfied under s 163.

Disclosure of information

The Commission may provide a copy of this application and any documents you lodge in support of this application to the other parties in this matter.

Signature

Signature	
Name	Joseph Murphy
Date	28 March 2019
Capacity / Position	Representative for the Respondent

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS



DRAFT ORDER

Fair Work Act 2009

s.590(2)(c) - Order requiring a person to produce documents etc to the Fair Work Commission

Applicant(s):

Independent Education Union of Australia

v

Respondent(s):

Australian Childcare Alliance Inc.

Commission Matter No:

AM2018/18 and AM2018/20

JUSTICE ROSS, PRESIDENT

28 MARCH 2019

TO: The Proper Officer
Parkes Early Childhood Centre Incorporated
Attn: Craig Smith

Armstrong St
PO Box 388
PECC@bigpond.net.au

Pursuant to s.590(2) of the *Fair Work Act 2009* you are **ORDERED** to provide to the Fair Work Commission the documents, records and other information specified in the Schedule to this order before the Fair Work Commission at the following time, date and place:

Time: 4:00pm
Date: Friday 5 April 2019
Place: By email, to chambers.ross.j@fwc.gov.au

PRESIDENT

- Note:
- This order has been issued at the request of the Australian Childcare Alliance Inc.
 - You can apply to have this order set aside or varied.
 - Instead of attending to provide the documents etc. covered by this order at the time and place specified above, you may produce them to an officer of the Commission at the place specified above not later than 4.00 pm on the day before the day specified above.
 - If you have any queries in relation to this order please contact the associate to Justice Ross on *chambers.ross.j@fwc.gov.au*

SCHEDULE

The Respondent seeks the following documents from Parkes Early Childhood Centre Incorporated:

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In the above, “*Document*” means any document including, without limitation, any handwriting, correspondences, letter, facsimile transmissions, emails, printouts of emails, memoranda, notes, records, diaries, files, file notes, receipts, invoices, cheques, cheque butts, accounts, accounting records, letters of instruction, bank account statements, reports, witness statements, statutory declarations, affidavits, submissions, audio tapes, videotapes, analogue or digital sound or video recordings, computer printouts, computer disks and all other documents whatsoever whether stored electronically, optically or otherwise.