

21 October 2021

Vice President Hatcher  
Fair Work Commission

By Email: chambers.hatcher.vp@fwc.gov.au

Dear Vice President Hatcher,

**Re. AM2018/9 - Application to vary Education Services (Teachers) Award 2020 on work value grounds – submissions re terms of draft determination**

I refer to paragraph [85] of the Full Bench's decision in the abovementioned matter in [2021] FWCFB 6021 dated 11 October 2021.

The Union's submissions are limited to minor corrections that need to be made to give effect to the to the April decision and abovementioned decision. We request that the Commission exercise its powers pursuant to s.602 of the Fair Work Act 2009 to correct the following minor errors and/or irregularities in the Draft Determination that accompanied the Commission's decision:

**Clause 14.2 [paragraph 8 of Draft Determination]**

The proposed subclause reads:

- (a) *Subject to the provisions of clause 14.2, teaching service means the total period a person has been employed as a teacher by any employer (as defined in clause 2).*

This formulation limits teaching service to national system employers. Yet various state governments are the largest employers of teachers and most are not classified as national system employers. Such service has always been counted in the Award and the proposed clause inadvertently excludes them.

The Union respectfully suggests the following correction that avoids the unintended exclusion of public sector service:

- (a) *Subject to the provisions of clause 14.2, teaching service means the total period a person has been employed as a teacher by any employer ~~(as defined in clause 2).~~ in the school education industry or the children's services and early childhood education industry (as defined in 4.2 (a)).*

**Clause 14.5 [paragraph 8 of Draft Determination]**

In subclause 14.5(a)(i), the word "no" appears to have been deleted before the word "capacity". Without the word "no" the clause would not have a capacity to operate in

jurisdictions where there is no requirement and no capacity to be accredited /registered, which is the intention of the clause.

Accordingly, the Union suggests the following minor correction to clause 14.5(a)(i):

- (i) *the employee works in a State or Territory where there is no requirement applicable to the employee to be accredited or registered as a proficient teacher and there is no capacity for the employee to voluntarily obtain such accreditation or registration; and*

There also appears to be a typographical error in subclause 14.5(b) which should be corrected in the following way:

- (b) *For the purpose of clause 14.5(a)(ii), an employee will meet the APST applicable to a proficient teacher if the employee ~~employer~~ is assessed by the employer as doing so.*

**Subclause 19.3(g)(i) [paragraph 13 of Draft Determination]**

The entry for Category B Level 3 in in the table at clause 19.3(g)(i) should be changed from “1434.3” to “1434.30”.

**Schedule B - clause B.1.1 [paragraph 17 of Draft Determination]**

Note 6 that follows clause B.1.1 has a cross referencing error message (should be “Schedule A”) and reference to clause 0 (should be “17.2”)

**Schedule H – clause H.1 (a) [paragraph 22 of Draft Determination]**

The word “to” appears to be missing following the word “subject”. Accordingly, the Union suggests the following minor correction:

- (a) *do not as at 1 January 2022 hold proficient teacher accreditation/registration and are not as at 1 January 2022 subject to a requirement to hold proficient teacher accreditation/registration; or*

If required the Union is able to make further submissions and/or attend a conference convened by the Commission. A copy of this correspondence has been emailed to the other parties.

Yours faithfully



Dr. Michael Wright  
**Senior Industrial Officer**