

Industrial Relations News



In this issue:

- Welcome from the Executive Director
- Notice Requirements for Conclusion of Fixed Term Employment
- Parent/Teacher Interviews
- Pro rata school holiday pay and annual leave loading
- Letters of Appointment
- New Working with Children Check Online Renewal Service
- Schools' Duty of Care: Adherence to OHS Policies and Procedures
- Managing Tree Hazards
- Summary of IR Unit Communications: March 2014
- Term 2 Industrial Relations and OHS Training

ISSUE NO. 3
APRIL 2014

ISSN: 1834-5069

Welcome from the Executive Director

Welcome to the April edition of *Industrial Relations News*.

The beginning of Term 2 promises to be a busy time in schools, with incremental salary increases and other salary adjustments effective from 1 May.

This edition of *Industrial Relations News* contains further guidance on the implementation of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA 2013), along with important information on a number of Industrial Relations and Occupational Health and Safety (OHS) issues relevant to Victorian Catholic schools.

In Term 2 the Industrial Relations Unit will continue the rollout of Industrial Relations and OHS training sessions, in particular Know Your Agreement sessions outlining the key changes in the VCEMEA 2013 along with sessions on Parental Leave and Managing Employment Concerns.

The details of Industrial Relations and OHS training sessions can be found, and registrations made, via My PL (IPLS) on the CEVN website <http://cevn.cecv.catholic.edu.au> under *Professional Learning*.

If you have any questions about any of the articles in this newsletter, please contact the Industrial Relations Unit on 03 9267 0431 or via email ceoir@ceomelb.catholic.edu.au.

Stephen Elder

EXECUTIVE DIRECTOR



Notice Requirements for Conclusion of Fixed Term Employment

Schools are required to give fixed term employees written notice of termination of their employment.

Clause 11.2(a) of the VCCEMA 2013 states:

An employee engaged for a specified period of time who will not be immediately re-employed or whose employment will not be extended shall, not less than seven weeks prior to the conclusion of the specified period, be issued with a letter advising them that their employment is terminating. In the event that the Employer fails to issue the letter, the Employee will be paid an amount equal to their ordinary wages for any part of the seven weeks' notice not provided.

Accordingly, where a fixed term employee's engagement will not be extended and the employee will not be offered further employment at the school after the end date of their current fixed term engagement, the employer must issue the employee with a letter providing at least seven weeks notice of this occurring.

If the school fails to issue the letter with at least seven weeks' notice of the end date of the employee's engagement, then the employee must be paid an amount equivalent to the period of the notice not provided.

For example, if the letter was not issued until four weeks prior to the end date of employment, then an additional three weeks ordinary wages must be paid to the employee at the conclusion of the employment period.

To assist schools to comply with this provision, a [template notice letter](#) is now available on the CECV website www.cecv.catholic.edu.au under *Industrial Relations / Template Letters / Letters of Appointment* for each classification of employee.

Parent/Teacher Interviews

Part time teachers

Principals should be familiar with the requirements and entitlements of part time teachers for attendance at parent/teacher interviews as provided in clause 55.2 of the VCCEMA 2013.

All teachers are expected to attend Parent/Teacher interviews for their students pursuant to the [Proficient Teacher Standards](#) and specifically Standard 5.2: Report on Student Achievement, which requires teachers to 'report clearly, accurately and respectfully to students *and parents/carers* about student achievement making use of accurate and reliable records' [emphasis added].

If the Parent/Teacher interviews are conducted during scheduled class time for which the part time teacher is not normally required to attend, then the part time teacher is entitled to payment for additional hours (clauses 55.2(d) and (e) of the VCCEMA).

For example, a part time teacher who usually has scheduled class time in the morning only, would be entitled to receive payment where they are required to attend school for Parent/Teacher interviews conducted during the afternoon (when scheduled classes would normally take place).

However, if Parent/Teacher interviews occur or continue after scheduled class time (e.g. 3.45 pm – 6.00 pm) and teachers are required to attend, then that attendance is part of the normal professional expectations for the teacher. Consequently there is no entitlement to any additional payment.

The table attached to this newsletter provides additional guidance.

Consultation Requirements

Principals should also specifically consult part time teachers regarding arrangements for their attendance at Parent/Teacher meetings: see clause 55.2(c) of the VCCEMA 2013.



Education Support Employees

An education support employee may be directed to attend Parent/Teacher interviews (clause 65.1(b)).

If the education support employee works in excess of their weekly hours as a result of attending parent-teacher nights (or for any other reason), they may elect to either take time off in lieu with the agreement of the employer or be paid a loading of 33.3 per cent on their normal hourly rate for the excess hours (clause 65.5).

Pro rata school holiday pay and annual leave loading

The VCMEA 2013 [Implementation Guide for Schools Part 5](#) is now available on the CECV website under *Industrial Relations*. It includes guidelines for the calculation of pro rata school holiday pay and annual leave loading.

From the start of the 2014 school year, new provisions for the calculation of pro rata school holiday pay apply and it is important that all principals, business managers and school administration officers understand how to implement the changes. Part 5 of the VCMEA 2013 *Implementation Guide* details the rules and formula for the calculation of pro rata school holiday pay.

There are no changes for Category A and Category C employees.

Letters of appointment

The template letters of appointment have been updated and are available from the CECV website under *Industrial Relations / Template Letters*. To ensure that the latest versions of the letters are used, please download the appropriate template each time it is necessary to issue a letter of appointment.

It is not necessary to issue new letters of appointment to all staff simply as a result of the implementation of the VCMEA 2013.

It is recognised that it may be necessary to address issues in relation to previous letters of appointment. In these circumstances, please contact the Industrial Relations Unit on 03 9267 0431 for further advice.

New Working with Children Check Online Renewal Service

Previously, Working With Children (WWC) cardholders were only able to renew their WWC Check by attending a nominated Australia Post outlet. WWC cardholders are now able to renew their WWC Check online, by logging on to [MyCheck](#) on the WWC website (first-time users will need to register).

If cardholders apply for an Employee Check, they may pay the (non-refundable) \$102.70 fee by credit card.

All cardholders will be notified 28 days before the expiry of their WWC check. It is therefore important for cardholders to keep their contact details up to date.

By advising employees of the new online renewal service, schools minimise the risk of employees failing to renew their WWC Check.

An FAQ guide is also available on the [WWC Check website](#) or employees can call the WWC Check Customer Support Line on 1300 652 879 between 8.30 am – 5.00 pm weekdays (excluding public holidays).

A reminder that the [January 2014 IR Newsletter](#) details the requirements in relation to teacher registration and Working With Children Checks. Clause 14 of the VCMEA 2013 details the stand-down procedures in relation to staff without Working With Children Checks (or other appropriate registration).

Template letters in relation to these procedures are available on the CECV website under *Industrial Relations / Template Letters*.

Schools' Duty of Care: Adherence to OHS Policies and Procedures

Schools are advised to ensure that their OHS policies and procedures are up to date and compliant with the *Occupational Health & Safety Act 2004* (Vic) (the Act).



This is particularly pertinent in light of recent Supreme Court action by a former science teacher at a secondary school who recently brought a claim for damages against the State of Victoria for \$850,000 for debilitating injuries allegedly suffered at her workplace that arose from the State allegedly breaching its duty of care.

The teacher claimed that she could no longer work because she suffered constant neck pain and dizzy spells from years of using a 1950s-style vertical sliding blackboard with sticking panels that weighed 30–60kg.

Giving evidence, the teacher told the jury that, since 2004, she had made numerous complaints to school officials, including the principal, who failed to act.

The teacher claimed her injuries eventually left her unable to stand up, necessitating significant surgery in 2009 that helped manage but did not eliminate the pain.

The matter was eventually settled out of court for an undisclosed sum.

This matter highlights the importance of schools investigating and acting appropriately (and promptly) upon OHS issues identified by employees, contractors and other persons, including volunteers and visitors to the workplace, so as to discharge their responsibilities under sections 21–23 of the Act.

Schools should resolve any health and safety issues (such as the one alleged by the science teacher) in accordance with the relevant agreed procedure or, if there is no such procedure, the relevant procedure prescribed by Part 2.2 of the [Occupational Health and Safety Regulations 2007 \(Vic\)](#).

It should be noted that if an OHS issue is not resolved between a school and its employee/s within a reasonable time, any of the parties involved may ask WorkSafe to arrange for an inspector to attend at the workplace to enquire into the issue.

Managing Tree Hazards

In recent months a number of serious injuries have resulted from ageing trees shedding limbs and striking people in the immediate vicinity.

These incidents reinforce the need for schools to conduct a review of existing practices regarding the management of trees on school properties, consistent with the advice of tree management experts and qualified arborists to minimise risks associated with ageing trees as much as reasonably practicable.

A grade four student was killed in Sydney in February this year by a falling branch from a large, mature gum tree in a primary school playground. The branch also injured two other young students and a Grade 2 teacher.

In a separate incident, also in February this year, at a Catholic school in Melbourne, a teacher sustained a head injury when struck by a falling tree branch whilst supervising in the school's playground.

Principals have a duty of care to ensure a safe environment – including school grounds, buildings, structures, and amenities including trees – for those who attend the workplace such as employees, contractors, students, volunteers and visitors.

All trees on school grounds should be individually assessed to identify their structural integrity and to assist schools in the maintenance or removal of trees.

A qualified arborist must be engaged to undertake this specialist activity.

Post-assessment, schools should consider these follow-up steps:

- Documenting findings and related guidance on a tree asset register/inventory/safety action plan for the school.
- Drafting a site plan identifying the location of school trees to monitor risk priorities.

The arborist may also advise a school to remove a suspect tree for safety reasons. If so, the following steps should be taken:

- The tree in question should immediately be identified as a hazard with the use of warning signage and a safety tree alert.



- An email along with an alert in the school newsletter should be circulated to staff and parents, with advice to keep a reasonable distance from the suspect tree.
- Schools need to ensure that the suspect tree is removed promptly in a safe manner, ideally during non-school hours and in consultation with the local council/municipality.
- Neighbours should be advised of the works to be undertaken given the noise levels that may be generated during the course of the removal process.
- A combination of safety signage and temporary fencing or, alternatively, witches' hats and safety bunting should be erected around the tree removal work area by qualified arborist contractors to alert those in the vicinity of the tree hazard and the potential risk to their personal safety and property.
- The contractors engaged to undertake the tree removal process should provide the principal with a site-specific Job Safety Analysis (JSA) or Safe Work Method Statement (SWMS) which clearly documents the safe system of work to which they intend to adhere in safely removing the tree from the workplace. The document should be signed by the contractor and issued to the school Principal prior to commencement of the task.

Term 2 Industrial Relations and OHS Training

Schools are reminded that the Industrial Relations Unit is offering training for school staff in 2014 and registrations can be made via My PL (IPLS) on the CEVN website.

The Industrial Relations and Occupational Health and Safety professional learning training sessions for Term 2 are listed below:

Training Session	Date
OHS Hazard and Incident Management	1 May 2014
Return to Work Coordinator Training	6–7 May 2014
OHS for School Leaders (Day 1)	13 May 2014
OHS for School Leaders (Day 2)	14 May 2014
Know Your Agreement for Education Support	22 May 2014
Know Your Agreement for Principals	22 May 2014
Managing Employment Concerns for Principals (2 sessions)	28 May 2014
OHS Hazard and Incident Management	16 June 2014

†

Summary of IR Unit Communications: March 2014

The following is a summary of the IR Unit and OHS communications to schools for March 2014:

- VCEMEA 2013 Implementation Circular 14 March 2014: Part 4: [Guidelines for Salary Progression](#)
- VCEMEA 2013 Implementation Circular 28 March 2014: Part 5: [Guidelines for calculation of pro-rata school pay and annual leave loading](#)
- VCEMEA 2013 [Implementation March Update](#)

Payment for additional hours for attendance at parent/teacher interviews – part time teachers

