

Industrial Relations News



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Welcome from the Executive Director

Welcome to the October 2015 edition of *Industrial Relations News*.

With the final term of the 2015 school year now underway, schools are preparing for the 2016 school year, including budget planning.

This edition contains information on letters of appointment, school holiday pay and keeping in touch days, along with the final instalment (Part 5) of the Independent Contractor Series.

Information is also provided on the updated Redundancy Procedures, along with important information relating to Occupational and Health and Safety (OHS).

A reminder that the [Implementation Guide Part 3B: Salary and Allowances \(2016 school year\)](#) is available on the CECV website www.cecv.catholic.edu.au under *Industrial Relations / 2013 Agreement Implementation*.

Details of Industrial Relations (IR) and OHS training sessions for the remainder of the 2015 school year are outlined in this newsletter. Bookings can be made on My PL (IPLS) through the CECV website <https://cevn.cecv.catholic.edu.au> under *Professional Learning / My PL (IPLS)*.

For enquiries about any of the articles in this newsletter, please contact the IR Unit on 03 9267 0431 or ceoir@ceomelb.catholic.edu.au.

Stephen Elder
EXECUTIVE DIRECTOR

Pro-Rata School Holiday Pay

Entitlements to pro-rata school holiday pay are detailed in clause 25.6 of the [Victorian Catholic Education Multi Enterprise Agreement 2013](#) (VCEMEA).

Pro-rata school holiday pay will apply where the employee has:

- not been employed for the whole school year
- been absent on approved unpaid leave for more than fifteen days during the school year
- changed time fraction during the school year.

Pro-rata school holiday pay is calculated using the following formula:

$$P = \frac{S \times C}{B} - D$$

Where:

P	is the payment due
S	is the total salary paid in respect of term weeks, or part thereof
B	is the number of term weeks, or part thereof in the school year
C	is the number of non-term weeks, or part thereof, in the school year
D	is the salary paid in respect of non-term weeks, or part thereof, that have occurred since the commencement of the school year.

Annual Leave Loading

Clause 25.8(b) of the [VCEMEA](#) states that leave loading shall be paid no later than the pay cycle that falls within the last two working weeks of the school year (except where there is termination of employment, in which case payment should be made at that time).

All schools should therefore ensure that they pay leave loading during or before the pay cycle that falls within the last two working weeks of the school year.

The formulas for the calculation of leave loading are detailed in clause 25.8 of the [VCEMEA](#).

Further information

Further information on school holiday pay and annual leave loading can be found on the [CECV website](#) under *Industrial Relations/Agreement Implementation Guides* in [Part 5: Guidelines for calculation of pro-rata school holiday pay and annual leave loading](#).

A pro-rata school holiday pay and leave loading calculator is provided on the [CEVN website](#) for primary principals, deputy principals, teachers and Category B education support staff and school services officers.

Letters of Appointment

The [CECV website](#) has [template letters of appointment](#) available for use when appointing staff for 2016.

These template letters are regularly updated. It is recommended to check the [CECV website](#) for current template letters, rather than using template letters from previous years. The website states when letters were last reviewed.

Template letters are tailored for particular categories of staff to enable schools to choose the most appropriate letter for their circumstances. They also provide specific guidance around compliance with the [VCEMEA](#), particularly in relation to fixed-term staff and the requirement to include the reason for the appointment being fixed-term, as well as the relevant circumstances that give rise to that reason.

Other template letters

The [CECV website](#) also contains [template letters](#) to assist schools in relation to:

- conclusion of fixed-term appointments
- variation of hours
- Position of Leadership (POL) appointments
- working through Clause 14, where employees fail to maintain their professional registration or Working with Children Check.

The letters are available on the [CECV website](#) under *Industrial Relations / [Template Letters](#)*.

The [CECV website](#) also has template letters and forms for parental leave under *Industrial Relations / [Parental Leave](#)*.

Keeping in Touch Days

Employers and employees may choose to make use of the provisions for 'keeping in touch' days under [VCEMEA](#) Appendix 1, 'Parental Leave and Related Entitlements' Section C, Clause 15(9).

Keeping in touch days are optional and only occur with the agreement of both parties. The purpose of a keeping in touch day is to enable a staff member to remain connected with their workplace in order to help them transition back into work at the end of the parental leave period, without losing their entitlement to parental leave.

For example, keeping in touch days may be used as follows:

- A teacher on parental leave may attend work for one day to participate in the Year 7 orientation day.
- An education support staff member on parental leave may attend work for half a day to undergo training on a new IT system.

In such circumstances, the staff member is entitled to be paid their usual rate and the work counts as service for the purpose of leave accruals.

A staff member may access up to 10 days as keeping in touch days during a period of unpaid parental leave. Keeping in touch days can be taken as a part day, full day or on consecutive days.

Keeping in touch day activities could include, but are not limited to:

- participating in planning meetings
- performing on-the-job training
- participating in orientation days
- attending professional development at the school
- performing work to remain familiar with the workplace or the employee's role before returning to work.

Principals and staff members need to agree on the staff member's attendance on a keeping in touch day and type of activity to be performed.

Updated Redundancy Procedures

Updated [Redundancy Procedures](#) are now available on the [CECV website](#) under *Industrial Relations / Guidelines*.

There is no change to the entitlements and obligations under Appendix 2 of the [VCEMEA](#), however the updated Redundancy Procedures provide detailed guidance on how to navigate the redundancy process and includes updated template letters and documentation.

The Redundancy Procedures have been specifically developed for principals and other school leaders with responsibility for human resources and/or management of staff (for example, business managers and deputy principals).

The Procedures cover the fundamentals of the VCEMEA redundancy process by:

- providing clarity around what constitutes a redundancy
- advising on how to proceed if a school becomes aware of a potential redundancy situation
- providing advice and guidance on resolving potential redundancy situations.

The Redundancy Procedures apply to ongoing employees only. They do not apply to:

- casual employees
- fixed term employees
- volunteers
- people engaged as contractors.

It is expected that by this time of year, principals have identified any potential redundancies likely to take effect from the start of the 2016 school year and that the redundancy process is underway (if not completed).

Please contact the IR Unit for any queries or to discuss a potential redundancy situation.

Independent Contractor Series Part 5: Parents Engage Contractor

In this final part of the newsletter series on *Engaging External Labour Providers and Casuals: A Guide for Schools*, the last of the four options is considered: requiring a parent to directly engage an external labour provider.

How does this arrangement work?

Under this model, the school requires a parent or guardian to directly engage the external labour provider. Examples of external labour providers that a school may seek to have parents engage independently of the school include:

- an instrumental music instructor
- a specialised sports coach
- a tutor.

When is this arrangement useful?

This model is useful where the school wishes to remain 'at arm's length' from the provision of services. It may be used where the services take place:

- off school premises
- on school premises (provided there is scope for the school to monitor/control who is allowed on its premises).

Benefits of this arrangement include that the school does not have to pay the person for services or be responsible for associated administration.

When is this arrangement inappropriate?

This arrangement is not appropriate where the school requires control over the engagement, for example, where the school wishes to choose who is to be engaged.

It is not appropriate to require parents to engage and pay for services directly where these services form part of the school's curriculum.

What steps should a school take?

If the services are to be performed on school premises, the school should require the person to:

- pass a Working With Children (WWC) Check (see following article)

- agree to comply with relevant school OHS policies.

If a school is contemplating an arrangement whereby parents directly engage a contractor, seeking further advice from the IR Unit is recommended.

For further information on this and other options for engaging external labour providers, see *Engaging External Labour Providers and Casuals: A Guide for Schools* available from the [CECV website](#) under *Industrial Relations / Guidelines*.

Reference Checks for Non-Teaching Staff

Schools have a responsibility to ensure the protection of students in their care. It is a legal requirement that anyone doing 'child-related work' passes a WWC Check (teachers are exempt given extensive Victorian Institute of Teaching checks.) However a WWC Check is not fail-safe. It shows only that the person has passed criminal record and professional conduct checks.

For this reason, it is strongly recommended that principals conduct thorough reference checks on applicants for non-teaching positions before they are appointed. Specifically, principals should ask referees 'Would you have any concerns about this person working with children or vulnerable people?'

These recommendations apply equally to employees and contractors doing 'child-related work'.

Please contact the IR Unit for guidance in relation to any specific concerns regarding the employment of non-teaching staff.

Automated External Defibrillator (AED)

An Automated External Defibrillator (AED) is a small, portable, easy to operate lifesaving medical device designed to analyse an unconscious person's heart rhythm and automatically deliver an electrical shock to a person having a Sudden Cardiac Arrest. An AED will not deliver a shock unless it detects a shockable heart rhythm.

Do schools need an AED?

AEDs are not routinely required in school-based first aid kits or first aid rooms.

The decision to purchase an AED is the choice of each individual school. It can be determined by assessing the risk in situations where timely access to emergency services cannot be guaranteed, for example, in situations considered high risk such as school camps, remote locations or in settings with staff, students or visitors with a known risk of cardiac arrest.

When is an AED used?

An AED is only one part of the emergency response for the person and does not negate the need for other priority first-aid response actions. The school's first aid DRSABCD (Danger/Response/Send for Help/Airway/Breathing/CPR/Defibrillation) Action Plan should be followed.

An AED should only be used if the person is:

- unconscious/unresponsive
- not breathing normally/regularly
- not moving in any way
- eight years of age or older, unless an age-appropriate AED is available.

Who can use an AED?

Although AEDs have been designed to be user-friendly, it is important that training is conducted to ensure that staff are aware of the proper application of the AED and how it is incorporated into other school emergency management strategies.

Is training required?

Comprehensive training is recommended to give staff greater confidence in the use of an AED. Training should include the following elements:

- appropriate first-aid training, including safe use of AED
- development and testing of onsite action plans for response to cardiac arrest
- incident recording
- AED storage and maintenance
- access to refresher training (required every 12 months).

Where should the AED be located?

An AED should be clearly signed, visible, accessible and located in a convenient area that is not exposed to extreme temperatures, for example a school's reception, common areas or main corridors. An AED should not be easily accessible to students.

How should the AED be maintained?

AEDs are designed to require minimal care and maintenance. They should be maintained according to manufacturer's specifications.

General machine care recommendations include:

- periodically checking that the machine is functioning
- checking batteries monthly and after each use
- checking pads and other components of the machine to ensure that they are present, in working order and have not passed the expiry date
- checking the outside of the defibrillator for cracks or other signs of damage
- recording each periodic check.

For further information, please contact an OHS officer at the IR Unit on 03 9267 0431.

WorkSafe Health and Safety Week 2015

Registrations are now open for WorkSafe Health and Safety Week 2015, which returns to the Melbourne Convention and Exhibition Centre from 26–28 October 2015 and a number of regional locations (Bendigo, Mildura, Warrnambool, Shepparton, Geelong, Ballarat and Morwell) from 19–27 October 2015.

There are over 50 free seminars on a huge range of topics, which provide valuable information for managing OHS concerns including workplace bullying, asbestos, manual handling and wellbeing.

The seminars will be delivered by WorkSafe representatives and industry experts, as well as high-profile keynote speakers.

The full program is available at <http://worksafeweek.worksafe.vic.gov.au/>.

OHS FAQ

Where does the outdoor smoking ban apply at schools?

Since 13 April 2015, smoking has been banned:

- within the grounds of all primary and secondary schools
- within four metres of all entrances to the school premises that constitute 'pedestrian access points'. A 'pedestrian access point' is defined as a door or gate by which a pedestrian can enter or exit the premises.

Signs should be placed at the entrance/s of buildings to which the bans apply. These signs can be ordered free from

<http://www.health.vic.gov.au/tobaccoreforms/>.

Summary of Communications: August & September 2015

August

- [Implementation Guide Part 3B](#): Salary and Allowances (2016 school year)

September

- [Implementation Guide Part 6](#): Variation of Part-Time Employees Hours of Work (and associated template letters)
- [Redundancy Procedures](#)

IR and OHS Courses: Term 4 2015

The following IR and OHS Professional Learning training sessions are available for Term 4 2015:

October 2015

OHS Incident Investigation	13 October
Know Your Agreement – Education Support	21 October
OHS For School Leaders	22 October
OHS Hazard Management	28 October

November 2015

Basic Claims Management	5 November
Return to Work Coordinator Training	11 & 12 November
OHS Chemical Management	18 November

Details of IR and OHS training sessions can be found, and bookings made through the [CEVN website](#) under *Professional Learning / My PL (IPLS)*.

OHS INCIDENT INVESTIGATION

Had an OHS incident? This workshop provides knowledge and guidance on the process involved in managing/investigating workplace incidents, including incident reporting, the incident investigation process and WorkSafe Incident Notification requirements.

KNOW YOUR AGREEMENT – EDUCATION SUPPORT

This session focuses on the most commonly used sections of the [VCEMEA](#) by education support staff. Some of the key provisions covered are:

- categories and types of employment
- leave generally including parental leave
- personal leave deductions.

OHS FOR SCHOOL LEADERS

Create a safety culture at school. This one-day course for principals, deputy principals and business managers provides an overview of the legal responsibilities for managing OHS within the school environment, including employer and employee responsibilities, strategies to address the most common OHS issues in schools and how to make safety a priority in the school.

OHS HAZARD MANAGEMENT

Avoid an OHS incident. This course provides knowledge and guidance on how to systematically identify and control hazards in the school environment, including asbestos, manual handling, slips/trips and falls, contractors and other relevant hazards.

BASIC CLAIMS MANAGEMENT

Do you know what to do if one of your workers lodges a WorkCover claim? This workshop provides an overview of the claims management process, including employer obligations and RTW requirements.

RETURN TO WORK COORDINATOR TRAINING

Under current legislation, schools with \$2,254,430 or more rateable remuneration (indexed annually) must appoint a suitably trained Return to Work (RTW) coordinator. This two-day WorkSafe approved course provides the underpinning knowledge required for RTW coordinators.

OHS CHEMICAL MANAGEMENT

Reduce the risk. This workshop provides knowledge on how to systematically store and manage all chemicals kept or used on the school site, including how to develop a chemical (hazardous substance and dangerous goods) register, what types of chemicals to include and the requirements for Material Safety Data Sheets (MSDS).

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