

Industrial Relations News



In this issue:

- Welcome from the Executive Director
- CECV/IEU Joint Statement and Guidance Notes
- Salary Changes
- Annual Review Meeting and Accompanying Templates
- Redundancy
- New Appointments of Level 3 Education Support Staff
- Parent/Teacher Interviews
- Independent Contractor Series Part 3: Engaging Services through an Independent Contractor
- Notice Requirements for Conclusion of Fixed-Term Employment and Positions of Leadership
- Visa Checks
- Working Alone
- WorkSafe Inspectors Targeting Anti-Bullying and Social Media Policies
- Gallagher Bassett Leadership Networking Lunch
- OHS FAQs
- Industrial Relations and OHS Courses: Terms 2 & 3, 2015
- Summary of Communications: April & May, 2015

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Welcome from the Executive Director

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

The beginning of Term 2 saw schools dealing with incremental salary increases and other salary adjustments effective from 1 May. I would like to thank and acknowledge school staff for their efficient implementation of these complex changes.

This edition addresses a number of important Industrial Relations (IR) and Occupational Health and Safety (OHS) issues, including guidance for Annual Review Meetings (ARMs).

Schools will be pleased to note that the 2015–16 Victorian Budget delivers on the government's funding commitment to Catholic and independent schools, in particular by contributing to the cost of

building new schools in high-growth areas and upgrading facilities in existing schools.

IR and OHS training sessions for the remainder of Term 2 and Term 3 are outlined in this newsletter. Bookings can be made through the CEVN website <http://cevn.cecv.catholic.edu.au> under *Professional Learning / My PL (IPLS)*.

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

Stephen Elder
EXECUTIVE DIRECTOR

CECV/IEU Joint Statement and Guidance Notes

The Catholic Education Commission of Victoria Ltd (CECV) and the Independent Education Union Victoria Tasmania (IEU) have issued a [Joint Statement](#) dated 1 May 2015 confirming that an agreement has been reached in relation to three issues that were the subject of disputation in schools.

The three issues relate to the interpretation of the following clauses in the [Victorian Catholic Education Multi Enterprise Agreement 2013](#) (VCEMEA):

- Recall and end-of-year attendance requirements for Category B staff (Clause 25.9).
- Personal leave deductions for teachers (Clause 30.1(g)).
- Attendance time for teachers (Clause 55.1(b)).

The CECV and the IEU, after participating in extensive discussions, have agreed on a recommended approach set out in three separate guidance notes in relation to the following issues:

- [Category B staff – Recall and end-of-year procedures](#)
- [Personal Leave deductions \(teachers\)](#)
- [Teacher Attendance Time](#).

Schools should review their existing arrangements to ensure consistency with the guidance notes.

Queries

The IR Unit has received a number of questions in relation to Principle 1 in the guidance note for Personal Leave deductions (teachers):

Where a full-time or a part-time teacher who normally attends for the whole school day is absent for the whole day due to personal leave, 7.6 hours should be deducted from the teacher's personal leave credits.

The personal leave deduction is 7.6 hours for a whole day absence for:

- a full-time teacher
- a part-time teacher who normally attends for the whole school day.

This is irrespective of whether the full day is made up of scheduled class time, or release time for Positions of Leadership (POLs) or other scheduled duties.

For all enquiries on the Joint Statement or Guidance Notes please contact the IR Unit on 03 9267 0431 or via email ceoir@ceomelb.catholic.edu.au.

The Joint Statement and guidance notes can be accessed on the CECV website www.cecv.catholic.edu.au under *Industrial Relations / 2013 Agreement Implementation*.

Salary Changes

Changes to salary levels

A reminder that schools are now required to make their own changes to the Online Staffing Records (OSR) on the [CEVN website](#) for 1 May 2015.

All salary levels and allowances with a 'FEB15' suffix should be changed to the appropriate salary level with a 'MAY15' suffix. These changes are required for both fixed-term and ongoing employees irrespective of whether incremental progression occurs.

Please note that all principal salary levels have been updated by the Catholic Education Office Melbourne (CEOM).

Incremental Progression Reminder

Schools are reminded that ongoing employees may have been eligible for an increment on 1 May 2015. Please ensure, as a matter of urgency, that these employees have been incremented on the school payroll and the OSR on the [CEVN website](#).

August 2015 pay increases

Salary increases for all employees take effect from the first full pay period on or after 1 August 2015.

Failure to make the salary changes on the OSR for 1 May 2015 will result in errors in the August 2015 salary increase uploads scheduled to be performed by the CEOM.

Information on salary levels, translations and allowances is available in the 2013 Agreement Implementation Guide [Part 3a – Salary and Allowances](#) (2015 school year) and the [spreadsheet of tables](#) on the [CECV website](#) under *Industrial Relations / 2013 Agreement Implementation*.

Emergency teachers are also subject to a pay increase in August 2015, with their daily rate increasing from \$283.90 to \$293.30, and their hourly rate increasing from \$47.32 to \$48.88.

Annual Review Meeting (ARM) and Accompanying Templates

Clause 24 of the [VCEMEA](#) requires teachers and deputy principals to participate in an ARM. Principals may also require education support employees to participate in an ARM.

Each ARM should be conducted by the principal or the principal's nominee, and employees are to be given reasonable notice of any issues to be discussed in the ARM.

The ARM for a teacher must be conducted in accordance with the teacher's level standard (Graduate/Proficient/Highly Accomplished/Lead) of professional practice, as detailed by the [Australian Institute for Teaching and School Leadership](#) (AITSL) standards.

The ARM should be a collaborative process involving a genuine exchange of ideas and views between the employee and the principal.

The ARM is intended to be a positive process for the employee and the principal to:

- identify and establish professional development goals and avenues
- affirm achievements and identify areas for improvement and development
- assist teachers in relation to the AITSL Australian Professional Standards for Teachers.

A reminder that the ARM is not an assessment for incremental progression.

If a principal has concerns about an employee's conduct or performance, these concerns should be managed in accordance with Clause 13 of the

[VCEMEA](#). ARMs may not be used in lieu of the procedures outlined in Clause 13.

ARM guidelines and template forms are available on the [CECV website](#) under *Industrial Relations / Guidelines*.

Redundancy

By the third week of Term 3, 2015, principals should have identified any potential redundancies taking effect from the start of the 2016 school year.

If there is a redundancy situation identified in the school, principals must notify:

- potentially affected staff (including staff on leave)
- the diocesan director
- the CECV
- the Principals' Association of Victorian Catholic Secondary Schools (PAVCSS) (secondary schools only).

[Appendix 2](#) of the [VCEMEA](#) contains the redundancy provisions that apply to all staff employed in Catholic schools.

To assist principals, redundancy guidelines are available on the [CECV website](#) under *Industrial Relations / Guidelines*.

The guidelines detail the procedures to be followed in relation to a redundancy and include pro forma documentation that should be used for notifying staff.

New Appointments of Level 3 Education Support Staff

New employees appointed at Level 3 after 1 May 2015 should commence on Level 3–7 and continue to incrementally progress through Level 3 subject to eligibility.

The salary points 3–1 to 3–6 are salary maintenance points for employees previously classified as a School Officer Level 5 and should not be used for new appointments.

Parent/Teacher Interviews

Part-time teachers

Principals should be familiar with the requirements and entitlements of part-time teachers in relation to attendance at parent/teacher interviews as provided in Clause 55.2 of the [VCEMEA](#).

All teachers are expected to attend parent/teacher interviews for their students pursuant to the relevant [AITSL](#) standard level (Graduate/Proficient/Highly Accomplished/Lead) and specifically Standard 5.5: 'Report on Student Achievement'.

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 [VCEMEA](#)).

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 diagram attached to this newsletter provides additional guidance.

Consultation Requirements

Principals should specifically consult part-time teachers regarding arrangements for their attendance at parent/teacher meetings (Clause 55.2(c) of the [VCEMEA](#)).

Education Support Employees

An education support employee may be directed to attend parent/teacher interviews (Clause 65.1(b) of the [VCEMEA](#)). 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% of their normal hourly rate for the excess hours (Clause 65.5).

Employers are advised to refer to Clause 41.2(c) of the [VCEMEA](#).

Independent Contractor Series Part 3: Engaging Services through an Independent Contractor

This newsletter series considers the options outlined in [Engaging External Labour Providers and Casuals: A Guide for Schools](#) for engaging independent contractors and casual workers who are not covered by the [VCEMEA](#). This article summarises the second of the four options: engaging a worker as an independent contractor.

How does it work?

A school engages a worker as an independent contractor to perform services for the school either directly or through a company that is interposed as the worker's employer. The worker is not employed by the school, but rather is performing the services either:

- as an individual contractor (if the worker is engaged directly)
- on behalf of the contractor (if the school engages the worker as a company).

The CECV recommends that schools use the template contracts available from the [CECV website](#) under *Industrial Relations / Guidelines*.

When are independent contractor arrangements useful?

Independent contractor arrangements are useful when:

- the school does not have the in-house expertise to undertake the services
- the services are required on an ad hoc or temporary basis

- the school would prefer not to be responsible for administrative obligations associated with employment (e.g. payroll).

Examples of workers who may be engaged through independent contractor arrangements include:

- instrumental music tutors
- sports coaches
- IT consultants
- contract cleaners, gardeners, plumbers, painters or other maintenance workers.

Independent contractor or employee?

Employers need to be careful that a worker engaged as an independent contractor really is an independent contractor and not an employee. There have been many cases in which courts have found that workers described in their contracts as 'independent contractors' are actually employees.

This can expose a school to a number of legal risks:

- Breaches of the *Fair Work Act 2009* (Cth) (FW Act) or the modern award by not providing minimum conditions of employment.
- Breaches of sham contracting provisions of the FW Act.
- Breaches of obligations in relation to income tax, payroll tax, superannuation and long service leave (LSL).
- Penalties for failing to obtain workers' compensation in respect of the worker.
- The worker may have unfair dismissal rights if their contract is terminated.
- The school may be vicariously liable for acts of the worker (e.g. negligence, sexual harassment).

Appendix A of the [Guide](#) contains a useful table that sets out the factors a court will consider in determining whether a worker is an independent contractor or an employee. If in doubt, contact the IR Unit for assistance.

Note that even where the relationship is a true independent contractor arrangement, relevant legislation may nonetheless deem the worker to be an employee for the purposes of superannuation, worker's compensation, payroll tax and income tax.

What else should I consider?

When engaging an independent contractor, it is important for a school to consider the following:

- All contractors must have an ABN.
- All contractors should have the necessary insurance required by the school.
- Whether the school requires the contractor to have a Working with Children Check.
- The extent to which the school requires a strong commitment to it alone, because a contractor can perform services for other contractees.
- OHS considerations (see the document [Managing Contractors](#) available from the [CECV website](#) under *Industrial Relations / Guidelines*).

What induction does an independent contractor require?

Schools should provide contractors with a modified induction that covers the following matters:

- location of work area and amenities
- relevant policies (e.g. OHS, anti-bullying, equal opportunity)
- evacuation procedures
- first-aid facilities.

Ideally, schools should require the worker to sign a document confirming they have been informed of the above matters. A useful way of covering off on these matters is to prepare a standard handbook for contractors to read and sign upon commencement.

For specific enquiries, please contact the IR Unit. The [Guide](#) and accompanying template contracts are available from the [CECV website](#) under *Industrial Relations / Guidelines*.

Notice Requirements for Conclusion of Fixed-Term Employment and Positions of Leadership (POLs)

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

Clause 11.2(a) of the [VCMEA](#) 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 amount equal to an additional three weeks ordinary wages must be paid to the employee at the conclusion of the employment period.

Employers must also provide the same amount of written notice to employees who will not have their POL renewed at the conclusion of the current tenure.

[Template notice letters](#) for each classification of employee are available from the [CECV website](#) under *Industrial Relations / Template Letters*.

Visa Checks

Employers must not employ staff or contractors who have no right to work in Australia, otherwise severe penalties can apply. The *Migration Amendment (Reform of Employer Sanctions) Act 2013* (Cth) makes it a strict liability offence to employ/allow to be employed/refer for work any person without work rights in Australia. A strict liability offence means that employers can be in breach of these laws if they have not taken reasonable steps to verify if a person is allowed to work in Australia. Most temporary visa holders have work rights for Australia, although some classes of visas allow limited work only e.g. working holiday and student visas.

If a school wishes to check if a person with a visa has work rights in Australia, the Department of Immigration and Citizenship (DIAC) has a system called the Visa Entitlement Verification Online (VEVO) service. VEVO is a free internet-based service that allows a school to check the work entitlements of a person with a visa. To use VEVO, the school must register to use the service at the following address:

www.immi.gov.au/Services/Pages/vevo/vevo-overview.aspx.

Once registered, the school may need to supply certain details such as the name of the person and their passport number and type.

Working Alone

Definition

'Working alone' is defined as any situation where the worker is alone and unable to get immediate assistance. This normally refers to after-hours work but it also applies to normal school hours where staff cannot be seen or heard by another person.

What is the risk?

The main hazard of working alone relates to the fact that no one is there in the event of an emergency. This may increase the likelihood and/or consequences of accidents such as slips/trips/falls, the sudden onset of a medical condition (e.g. heart attack) or exposure to violence. In these events, there is likely to be poor access to emergency assistance when working alone.

Who is at risk?

There are a number of roles in schools that may require working alone or in isolation from contact with other workers. These include:

- teachers
- administration staff
- maintenance/ground staff
- contractors
- cleaners
- IT staff
- sports coaches
- bus drivers.

Suggested strategies for staff working alone

If staff are required or intend to work alone, the following strategies should be considered:

- A risk assessment can be conducted to identify the potential hazards of working alone.
- An authorised person should be notified of the planned work, when it will commence and the expected completion time. An easily accessible means of communication to gain assistance in an emergency (e.g. mobile phone) might be used.
- All required personal security measures should be undertaken (e.g. lock doors, school gates, walk in well-lit areas).
- Relevant training and education should be completed (e.g. working alone policy/procedures, emergency management processes and safe operation instructions for use of equipment).
- Low-risk tasks (e.g. with hazardous substances or materials, working at heights or with hazardous equipment).
- An established check-in procedure could be established.

Any medical conditions that may give rise to a dangerous or life threatening situation should be taken into account in any strategy used.

Further information

WorkSafe has a useful [Working Alone Information Sheet](#) on their website www.worksafe.vic.gov.au, which provides further guidance including a risk-assessment checklist that can be adapted for use in schools.

WorkSafe Inspectors Targeting Anti-Bullying and Social Media Policies

WorkSafe inspectors are currently visiting schools in the Geelong and Western suburbs areas. They are specifically requesting to see Anti-Bullying and Social Media policies.

The [CECV website](#) (under *Industrial Relations / Guidelines*) has materials to assist schools in addressing these issues:

- [Anti-Bullying Policy](#) (policy template with instructions on how to adapt it to an individual school)
- [Anti-Bullying Guide](#) (a 30-page guide for principals and school leaders)
- [Social Media](#) (policy template with instructions on how to adapt it to an individual school).

If a school does NOT have Anti-Bullying or Social Media policies, the principal should:

- download the above policy templates and adapt them for the school
- make the policies easily accessible to staff by methods such as placing them on the staff OHS noticeboard or on the school server/intranet.

For further assistance, please contact the IR Unit on 03 9267 0431.

Gallagher Bassett Leadership Networking Lunch

Gallagher Bassett, the WorkCover insurer of the Catholic Education Office Melbourne, is pleased to invite school leaders to attend a networking lunch with refreshments.

This forum will provide a rich opportunity to network with leaders from organisations operating in the education sector.

Discussions will encompass topical issues, key challenges and emerging issues with a view to defining industry best practice through shared experiences and knowledge.

Motivated school leaders are invited to register their interest to attend this forum, to be held during the July/August period in the Melbourne CBD.

See the [CECV website](#) under *Industrial Relations / Communications* for further details.

OHS FAQs

Where can we find information on how to manage safety in schools?

Schools can access OHS guidelines and checklists on the [CECV website](#) under *Industrial Relations/ Occupational Health and Safety*. This section has guidance materials and checklists on a range of OHS hazards that are relevant to Catholic schools.

Where can we find OHS videos that are relevant to Catholic schools?

There are nine OHS videos available on the [CECV website](#) under *Industrial Relations/Occupational Health and Safety / Occupational Health and Safety Training Material*. The videos are around five minutes in length and include topics such as:

- how to find, assess and fix hazards
- why it is important to get health and safety right
- ergonomics for computers and laptops.

They are also supported by downloadable manuals and questionnaires.

Industrial Relations and OHS Courses: Terms 2 & 3, 2015

The following Industrial Relations and OHS Professional Learning training sessions are available for the remainder of Term 2 and Term 3, 2015:

June 2015

Training Session:	Date:	Activity Code:
OHS Incident Investigation	10 June 2015	15IST202B
Redundancy & Introduction of Change	11 June 2015	15IST106A
VCMEA Leave	17 June 2015	15IST102B
OHS Hazard Management	18 June 2015	15IST201B

July 2015

Training Session:	Date:	Activity Code:
OHS Chemical Management	23 July 2015	15IST206C

August 2015

Training Session:	Date:	Activity Code:
OHS Hazard Management	5 August 2015	15IST201C
OHS for School Leaders	11 August 2015	15IST203C
OHS Incident Investigation	13 August 2015	15IST202C
Return-to-Work Coordinator Training	19–20 August 2015	15IST205C

September 2015

Training Session:	Date:	Activity Code:
Basic Claims Management	3 September 2015	15IST204C

Details of Industrial Relations and OHS training sessions can be found, and bookings made through the CEVN website <http://www.cecv.catholic.edu.au> under *Professional Learning / My PL (IPLS)*.

For further information on training venues and bookings please contact the CECV OHS Unit on 03 9267 0228 or via email dvictor@ceomelb.catholic.edu.au.

OHS INCIDENT INVESTIGATION: 10 JUNE

This workshop provides knowledge and guidance on the process involved in managing/investigating workplace incidents, including incident reporting, the incident investigation process and the Victorian WorkCover Authority Incident Notification requirements.

**REDUNDANCY & INTRODUCTION OF CHANGE:
11 JUNE**

This workshop focuses on the sections of the [VCEMEA](#) that are most commonly used by principals in their role of managing change. The program would also be of benefit to business managers and deputy principals.

VCEMEA LEAVE: 17 JUNE

This workshop is aimed at principals, deputy principals, business managers and administration staff in their role of managing leave entitlements including parental leave, personal leave and LSL.

**OHS HAZARD MANAGEMENT: 18 JUNE & 5
AUGUST**

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.

OHS CHEMICAL MANAGEMENT: 23 JULY

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).

OHS FOR SCHOOL LEADERS: 11 AUGUST

This one-day course 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 a school.

OHS INCIDENT INVESTIGATION: 13 AUGUST

This workshop provides knowledge and guidance on the process involved in managing /investigating workplace incidents, including incident reporting, the incident investigation process and the Victorian WorkCover Authority Incident Notification requirements.

**RETURN-TO-WORK COORDINATOR TRAINING:
19 & 20 AUGUST**

Under current legislation, schools with \$2.169 million or more rateable remuneration (indexed annually) must appoint a suitably trained RTW coordinator. This two-day course (WorkSafe approved) provides the underpinning knowledge required for Return-to-Work coordinators.

BASIC CLAIMS MANAGEMENT: 3 SEPTEMBER

What happens when a worker lodges a WorkCover claim? This workshop provides an overview of the claims management process, including employer obligations and return-to-work requirements.

**Summary of Communications:
April & May 2015****May 2015**

- [CECV Circular](#) – Guidance Notes – Victorian Catholic Education Multi Enterprise Agreement 2013
- [Joint Statement CECV IEU 1 May 2015](#)
- [Category B staff - Recall and end of year procedures](#)
- [Personal Leave Deductions \(Teachers\)](#)
- [Teacher Attendance Time.](#)

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

