

Industrial Relations News



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Welcome from the Executive Director

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

It has been a busy but fulfilling year in schools, in particular with the implementation of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA). Regular updates in relation to the VCEMEA can be found on the [CECV website](#).

This edition includes information on school-holiday pay, annual leave loading and letters of appointment to assist with end-of-year arrangements and with the transition to the 2015 school year.

Information is also provided on the new CECV Anti-Bullying Guide, along with important updates on other industrial relations issues, including changes to obligations regarding the Working With Children (WWC) Check.

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

The CECV wishes all those who work in Catholic education a very Merry Christmas, a restful and safe holiday break and a productive and happy New Year.

Stephen Elder
EXECUTIVE DIRECTOR

CECV & IEU Joint Statement: Recall for Category B Employees

The CECV and Independent Education Union Victoria Tasmania (IEU) have released a [Joint Statement](#) to clarify the recall arrangements for Category B employees for the end of the 2014 school year.

The Joint Statement details the following:

Background

The IEU lodged a dispute in relation to the interpretation of the recall arrangements set out in clause 25.9 of the VCEMEA with the Fair Work Commission (FWC) for Category B employees. The dispute concerns the finishing date for Category B staff at the end of Term 4 of the current school year at a Catholic secondary college.

A recent FWC conciliation was not able to resolve the matter. The IEU have now referred the matter to FWC arbitration. This will be conducted in May 2015.

End-of-Year Arrangements

The Joint Statement says that agreement has been reached regarding arrangements for the end of the 2014 school year in relation to the secondary college named in the dispute.

The Joint Statement also outlines the agreement reached in relation to all other Catholic schools covered by the VCEMEA. They are as follows:

- The finishing day for Category B staff at each school is a matter for decision-making at the local level, and the agreement does not require Category B staff to work up until the last gazetted day of the term.
- If new arrangements have not been made for the end of the 2014 school year, the schools should not make new arrangements, unless there are good reasons.
- Any arrangements already put in place for the end of the 2014 school year with good reasons do not need to be changed as a result of this dispute.

Principal's Checklist Reminder

A reminder that a [Checklist](#) identifying the key practical industrial relations issues that may need to be actioned during Term 4 in preparation for the 2015 school year is provided for schools on the [CECV website](#) under *Industrial Relations / 2013 Agreement Implementation / 2013 Agreement Implementation Updates*.

The Checklist includes information about:

- reduction in scheduled class time for primary teachers in 2015
- calculating part-time teacher FTE and additional hours in primary schools in 2015
- reduction in the number of extras per year for secondary teachers in 2015
- calculating pro-rata holiday pay and leave loading
- notice requirements for changes to part-time hours and end-of-fixed-term contracts and POLs.

School-Holiday Pay and Annual Leave Loading

For the Christmas 2014 holiday period, clause 25 of the [VCEMEA](#) applies for pro-rata holiday pay and pro-rata annual leave loading.

A pro-rata 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.

School-Holiday Pay

Pro-rata 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:

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

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 leave loading is paid no later than 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 Assistance

Further information 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.

Letters of Appointment

A reminder that [template letters of appointment](#) are available on the [CECV website](#) under *Industrial Relations / Template Letters* for use when appointing staff for 2015.

These template letters are regularly updated. It is therefore important to check the website for current template letters, rather than using template letters from previous years. The website now also states when letters were last reviewed, to assist with this process.

The 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 letters

The [CECV website](#) also contains additional [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 WWC Check.

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

Template letters and forms for parental leave are also available under *Industrial Relations / Parental Leave*.

Anti-Bullying Guide for Principals and School Leaders

An [Anti-Bullying Guide for Principals and School Leaders](#) is available on the [CECV website](#) under *Industrial Relations / Guidelines*.

The Guide has been specifically developed for principals and other school leaders with responsibility for Human Resources, OHS and/or management of staff generally (e.g. business managers and deputy principals).

The Guide covers the fundamentals of preventing and responding to workplace bullying and aims to:

- provide clarity around what constitutes workplace bullying
- provide an overview of the legal framework and risks in relation to workplace bullying
- provide advice and guidance for preventing workplace bullying (including the implementation of appropriate training and policies for staff)
- advise how to respond if a complaint of workplace bullying is received, or school leaders otherwise become aware of a bullying situation among staff
- direct school leaders to other appropriate and useful resources.

The Guide notes when it is appropriate to seek further advice from the IR Unit.

Social Media Policy: Reminder

A reminder that the IR Unit has drafted a [template policy](#) outlining expectations of employees when using social media, that schools can refer to when developing or reviewing their social media policies.

It is recommended that schools consider the template policy when implementing a new social media policy, or reviewing their existing social media policy. This will help ensure that employee obligations relating to the use of social media in a work or personal context are clearly outlined.

The updated template policy has been uploaded onto the [CECV website](#) under *Industrial Relations / Guidelines*.

Changes to the Working with Children Act

Changes have recently taken effect in relation to the *Working With Children Act 2005* (Vic) definition of 'child-related work'. This is now described as work where the contact with children is direct, unsupervised, and part of a person's duties. Although it is already a requirement in Catholic schools for all employees and parish priests to hold and maintain a Working With Children (WWC) Check, it is nevertheless important to be aware of the changes.

Ministers of Religion

Previously, ministers of religious organisations were not required to hold a WWC Check unless their contact with children was regular, direct and unsupervised.

All ministers of religion are now required to get a WWC Check unless the contact they have with children is only occasional and incidental to their work.

Child-related work for ministers is defined more broadly than for everyone else. For ministers, child-related work is not limited to work involving direct and unsupervised contact with children. Any contact with children, unless it is only occasional and incidental, is enough to trigger the requirement to get a WWC Check. This includes ministers who have children present in their congregation, or who attend schools or children's camps, even when all their contact with children is supervised.

WWC Check Not a Suitability Assessment

The WWC Act no longer has a reference to the WWC Check as an appropriate means to assess a person's suitability to work with or care for children in a particular role. The Department of Justice, which administers the WWC Check, and the Royal Commission into Institutional Responses to Child Sexual Abuse have emphasised that this task is more properly left to sound employment screening and checks.

The Victorian government is currently developing minimum 'child-safety' standards for organisations involved in child-related work and have recently sought feedback on the proposed standards from the CECV. These will be canvassed in a forthcoming newsletter.

Fair Work Commission Annual Report 2013–14

The Fair Work Commission (FWC) has tabled its [Annual Report](#) with the Senate.

The Annual Report includes a two-page commentary on the assistance provided by the FWC in negotiations for the current VCMEA. A [video](#) has also been uploaded on the FWC Youtube channel, which provides more detail on the VCMEA bargaining process, including interviews with key members of the CECV and IEU bargaining teams.

It is worth noting that the Commission has a variety of powers to assist the bargaining process if requested to do so under the *Fair Work Act 2009* (Cth). The assistance provided by the FWC in the bargaining process for the current VCMEA was made pursuant to such a request.

Although parties generally negotiate directly between themselves, the Report notes that FWC assistance with bargaining can resolve deadlocks and lead to positive outcomes, as the 99% 'yes' vote among Victorian Catholic school employees for the current VCMEA abundantly demonstrates.

Employers' Duty of Care Around End-Of-Year Work Functions

The festive season is almost upon us. It is therefore timely to note that end-of-year functions organised or sanctioned by employers are held to be a work activity under OHS and workers compensation legislation. Schools and their employees have a duty of care towards the safety and welfare of other workers and guests during these functions just as they do during ordinary working hours at the workplace. This applies no matter where or when the function is held. If there is no advertised end time for a work function and employees continue the celebrations at another venue after the work function this could potentially be seen as a continuation of the work function.

Employers can also be responsible for inappropriate behaviours at work functions including out of hours events, for example, bullying, sexual harassment or discrimination.

Unwelcome staff behaviour such as bullying or sexual harassment may result in claims against the workplace for workers' compensation or damages against both the offending individual and the employer, or a WorkSafe investigation. These claims have the potential to create ongoing relationship issues within the organisation and can be costly and damaging.

The IR Unit would like to provide the following tips to safeguard against inappropriate staff behaviour at these functions:

Before:

- Remind staff of their behavioural responsibilities (including those contained in school policies) in advance via email, or pin a reminder to the noticeboard.
- Audit the venue beforehand for possible hazards and cordon off potential risk areas if possible. An IR Unit OHS officer can help you do this.
- Specify the function's start and finish times in advance and make sure that you stick to these times (in particular the finish time).

- Nominate an appropriate person to address any issues promptly and to bring the function to an end if necessary. This person should refrain from the consumption of alcohol during the function.
- Specify a dress code for the party such as smart casual. Open-ended footwear should be avoided.

During:

- The focus of the catering should be on the food, which should ideally be healthy and prepared and served professionally.
- Alcohol should only be served by the holder of a Responsible Service of Alcohol certificate – ideally a professional bartender – with last drinks served 30 minutes prior to the end of the function.
- Low alcohol and non-alcoholic beverages including water should be readily available and displayed.
- Food should be refrigerated prior to the function. Buffets should be avoided as they present a particularly high risk of food poisoning.
- Finish the work function at the advertised time. Make attendees aware that all post-function activities are considered to be non-work related.

After:

- Depending on cost, consider providing a minibus or Cabcharge to staff who are over .05 when departing, or to those who request a Cabcharge.

Please contact IR Unit OHS Officer Danielle Victor on 03 9267 0228 with any queries.

WorkCover Remuneration Update

A reminder that large schools (i.e. those schools with more than \$200,000 in remuneration in the 2012/13 financial year) should have provided their WorkCover insurer with certification of their 2013/14 remuneration by **28 October 2014**.

For schools that do not provide the required certification by the due date, the Victorian WorkCover Authority (VWA) automatically generates its own remuneration estimate, which is calculated as a 20% increase on the 2012/13 financial year remuneration.

This may result in an overpayment of premium if the school's remuneration has decreased, or increased by less than 20% in that time.

However, schools can still submit a late declaration of rateable remuneration online using VWA's [Online Employer Services](#). Any overpayment of premium made as a result of the late lodgement will be refunded.

Schools can contact Gallagher Bassett's Premium Department on 03 9297 9277 with any queries.

Industrial Relations and OHS Training for 2015

The Industrial Relations and OHS professional learning training sessions at the Catholic Leadership Centre for 2015 will be made available for booking prior to the end of the 2014 school year.

Registration will be open through the [CEVN website](#) under *Professional Learning / My PL (IPLS)*.

CEOM Christmas Office Closure

The Catholic Education Office Melbourne and the IR Unit will be closed from midday on **24 December 2014** (Christmas Eve) and will reopen on **12 January 2015**.

If you have an Industrial Relations emergency during this time, contact Mr John Jordan on 0413 839 280.

The IR Unit staff wish you a happy Christmas and a safe and prosperous New Year.

Summary of Communications: October/November 2014

October 2014

- [Scheduled Class Time – Primary Teachers 2015 School Year](#)
- [Occupational Health and Safety Assistance for Schools](#)
- [Victorian Catholic Education Multi Enterprise Agreement 2013 Implementation Update](#)

November 2014

- [CECV and IEU Joint Statement: Recall arrangements for Category B employees - end of 2014 school year](#)

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