



2013 Victorian Catholic Education Multi Enterprise Agreement

Implementation Guide for Schools

Part 6: Variation of Part-Time Employees Hours of Work

Background

The purpose of this guideline is to outline the process for the variation of hours of work and/or days and/or times of attendance for part-time employees in accordance with clause 15 of the [Victorian Catholic Education Multi Enterprise Agreement 2013](#) (VCEMEA).

This guideline does not apply to:

- full-time employees
- employees who have returned to work on a part-time work agreement following a period of parental leave (Appendix 1 Clause 23 (8))
- employee requests for variations.

For school services officers, these provisions apply when there are changes to the **hours of work** only. However, where proposing a change to days and/or times of attendance, the provisions of Clause 68.12 - *Notice of Hours* of the VCEMEA 2013 should be applied.

The relevant clauses of the VCEMEA in relation to this guideline are as follows:

Entitlement	Clause
Ordinary rate of pay	5(m)
Service continuity	6
Variation of hours and/or days and/or times of attendance for part time Employees	
• Variations	15.1
• Significant reduction in hours	15.2
Consultation	16
Termination of employment	19
Annual leave, school holiday pay and leave loading	25
Notice of hours (school services officers only)	68.12
Long service leave (Appendix 3)	
• Entitlement in lieu of leave on termination	4
• Portability and process on termination	7

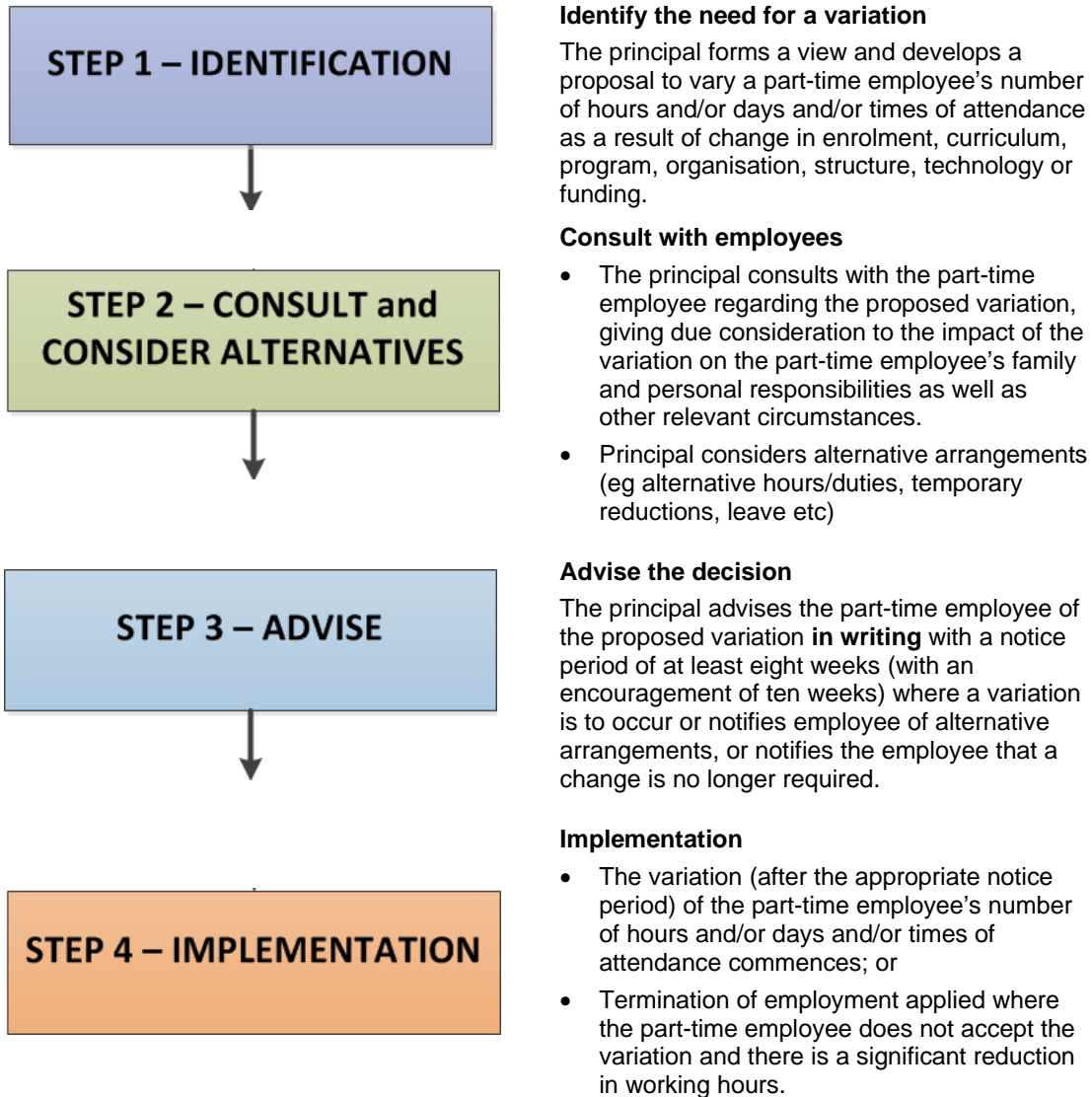
If you require further information please contact the Industrial Relations Unit (03) 9267 0431 or email <ceoir@ceomelb.catholic.edu.au>.

Overview

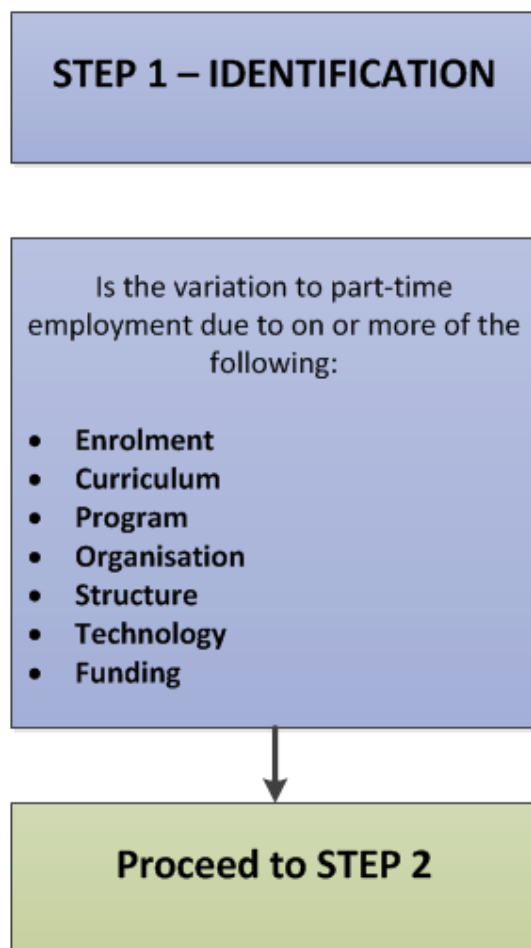
Principals cannot make a change to a part-time employee's hours, days and/or times of attendance unless it can be demonstrated that the change is required as a result of one or more of the following factors:

- | | | |
|----------------|--------------|--------------|
| • Enrolment | • Curriculum | • Program |
| • Organisation | • Structure | • Technology |
| • Funding | | |

The following diagram provides an overview of the process that must be used.



Step 1 Identify the need for a variation

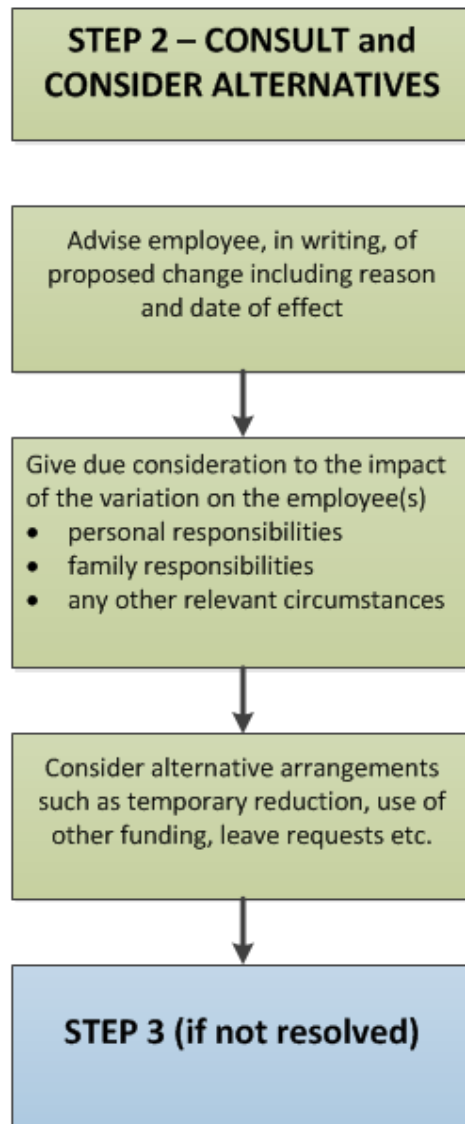


A principal can only make a variation to a part-time employee's number of hours and/or days and/or times of attendance where it can be demonstrated that such a variation is required as a result of a change in one or more of the following areas, and the principal provides not only the reason to the part-time employee but an explanation for the required change:

The reasons that may require consideration of variation of hours and/or days and/or times of attendance for part-time employees could include one or more of the following:

- The number of new enrolments is decreasing for the school
- The requirement for some specialist classes is decreasing
- There is a change in the delivery of a program e.g. change of day or times
- An employee is returning from parental leave on a part-time basis
- To avoid a redundancy
- The use of new technology, decreasing the number of hours required to undertake a task
- There is a reduction in funding for a particular program by 2 hours per week

Step 2 Consult with employee(s) and consider alternatives



The consultation provisions in Clause 15 of the VCMEA 2013 apply to the variation of a part-time employee's hours and/or days/times of attendance:

- The principal must **first consult** with the affected part-time employee regarding a **proposal** to vary the hours and/or days and/or times of attendance.
- The principal must advise the part-time employee of the reason for the variation of hours and/or days and/or times of attendance (enrolment, curriculum, program, organisation, structure, technology or funding).
- The employee must be provided with the opportunity to provide details of the change in relation to the employee's personal and family responsibilities as well as other relevant circumstances.
- The principal must give consideration to any matters raised by the employee in relation to the effect of the change on the employee's personal and family responsibilities as well as other relevant circumstances.

It is important that the principal also gives consideration to not only the matters raised by the employee but to other alternatives at the local level, including:

- a temporary reduction
- use of other funding
- leave requests from other staff.

Consultation means a serious attempt through a fair exchange of views is made in order to reach an understanding and consensus. Consultation does not necessarily mean agreement.

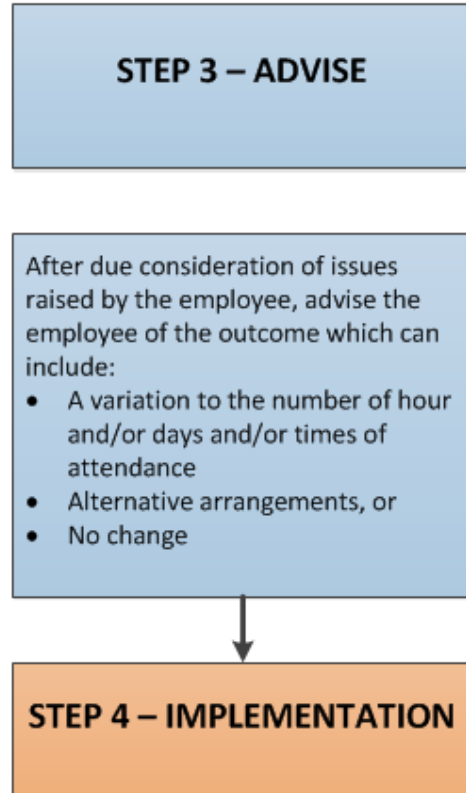
The following comments were made by Smith C. in *CPSU, the Community and Public Sector Union v Vodaphone Network Pty Ltd* (Print PR911257) and contained in Clause 16(d) of the VCEMEA provide guidance on the meaning of consultation:

Consultation is not perfunctory advise on what is about to happen. This is a common misconception. Consultation is providing the individual, or other relevant persons with a bona fide opportunity to influence the decision maker...Consultation is not joint decision-making or even a negative or frustrating barrier to the prerogative of management to make decisions. Consultation allows the decision making process to be informed, particularly as it may affect the employment prospects of individuals.



A template letter to advise a part-time employee of the proposal to vary their hours and/or days and/or times of attendance is available from the [Template Letters](#) section of the [CECV website \(http://web.cecv.catholic.edu.au\)](http://web.cecv.catholic.edu.au).

Step 3 Advise the decision



Only after giving due consideration to the part-time employee's personal, family and other responsibilities, the employer can vary the hours and/or days and/or times of attendance of a part-time employee.

In addition, the principal should have fully considered other alternatives and if practicable, implement the alternative arrangements.

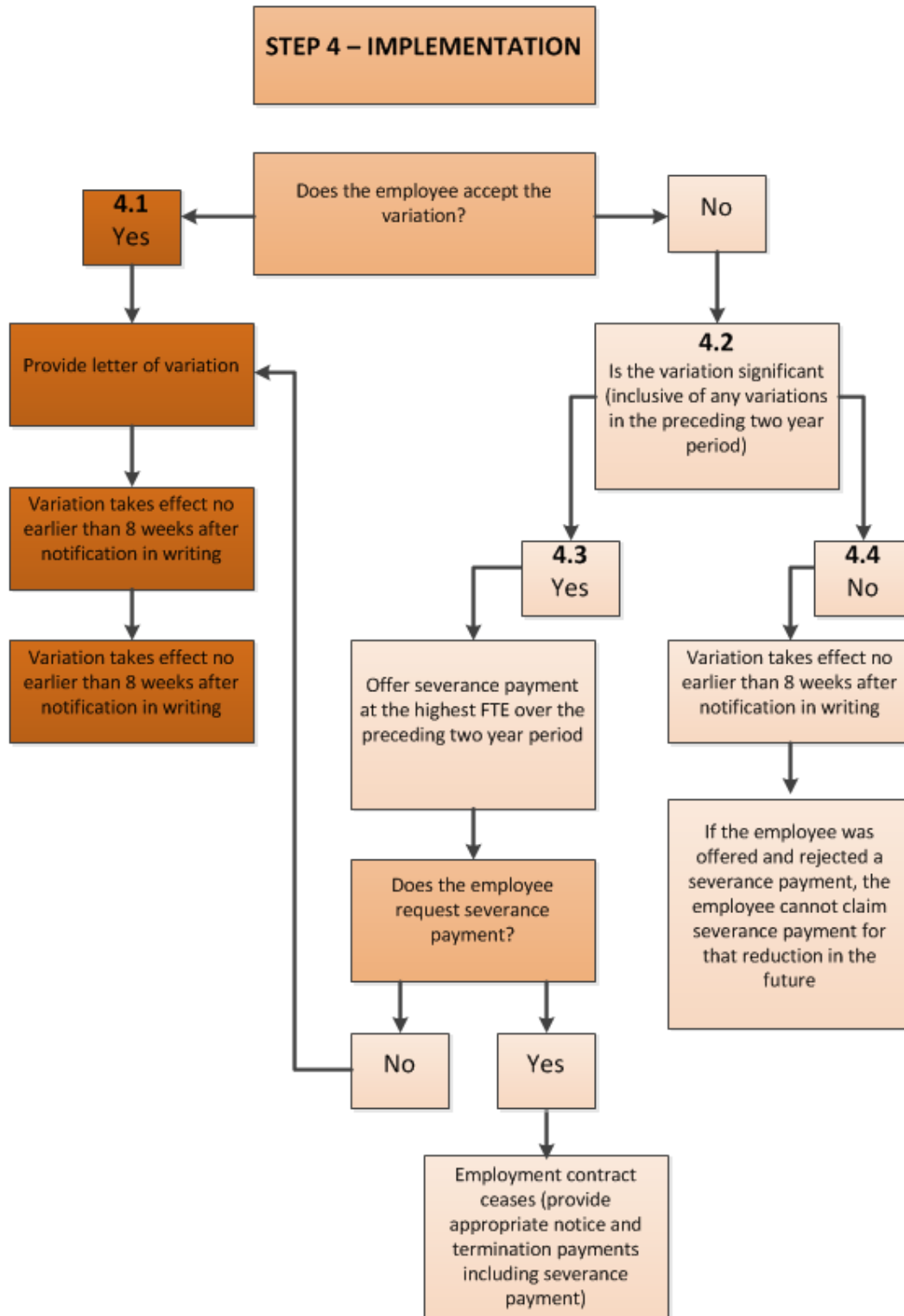
Prior to making any change, the principal first advise the part-time employee of the change in writing which includes:

- The new number of hours (FTE) and/or days worked and/or times of attendance
- The date of effect of the change (which should be no earlier than 8 weeks of the written notification)
- The part-time employee's new salary (if appropriate)
- Any payment where the required notice has not been provided.

Note that the part-time employee's salary should be maintained for the notice period (8 weeks) prior to the effective date of the variation.

Step 4 Implementation

If there are no other appropriate alternatives and following consideration of the employee's personal and family responsibilities as well as other relevant circumstances, then the implementation of the required variation can commence by providing written notice of the variation to the part-time employee.



4.1 Employee accepts variation

Where the part-time employee agrees to the variation of the hours and/or days and/or times of attendance then the part-time employee should be provided with a letter of variation to their letter of appointment.

If the change involves a decrease in hours (FTE) then the part-time employee's salary should be maintained for eight weeks.



A template letter to advise a part-time employee of the variation of their hours and/or days and/or times of attendance is available from the [Template Letters](#) section of the [CECV website](#) (<http://web.cecv.catholic.edu.au>).

4.2 Significant reduction in hours (clause 15.2 of VCEMEA)

A **significant reduction** in working hours occur where:

- the reduction in working hours is significant; or
- the part-time employee has had their hours of work reduced within the preceding two years, and the cumulative reduction in working hours is significant.

Where a part-time employee was offered and rejected a severance payment in lieu of a significant reduction in the employee's working hours, and the employee choose instead to accept a significant reduction in working hours, the employee cannot claim a severance payment in relation to that reduction in working hours.

The VCEMEA does not provide a quantum for a significant reduction in hours. An assessment is made on a case by case basis. The following illustrative examples provide guidance to principals.

Example	Description	Comment
Example 1	An ongoing part-time employee's FTE is reduced from 0.8 to 0.4 from the start of the 2016 school year.	Significant reduction Employee may elect to accept a severance payment
Example 2	An ongoing part-time employee's FTE is reduced from 0.80 to 0.75 from the start of the 2016 school year.	Not a significant reduction
Example 3	An ongoing part-time employee's FTE was reduced from 0.40 to 0.32 from the start of the 2015 school year and a further reduction of 0.1 in the middle of the 2015 school year. A further reduction of 0.15 is proposed at the start of the 2016 school year.	Significant reduction over 2 years Employee may elect to accept a severance payment
Example 4	An ongoing part-time employee's FTE was reduced from 0.80 to 0.40 at the start of the 2015 school year. The employee was offered a severance payment at the time the reduction of hours was made and decided to accept the reduction in hours. At the start of the 2016 school year, the employee's hours were reduced by a further 0.05 FTE.	Significant reduction, but does not trigger a severance payment

4.3 Employee does not accept variation – significant reduction in hours

Where the part-time employee **does not agree** to the variation **AND** there is a **significant reduction** in hours then the employee is entitled to a severance payment. The employee must provide their request for a severance payment in writing to the principal within 5 working days of receipt of the notification of the decision to decrease their hours of work.



A template letter to advise a part-time employee confirming their election of the severance payment is available from the [Template Letters](#) section of the [CECV website \(http://web.cecv.catholic.edu.au\)](http://web.cecv.catholic.edu.au).

4.4 Employee does not accept variation – no significant reduction in hours

If the part-time employee does not agree to the variation and the variation is **NOT** a significant reduction in hours, the principal may:

- consider alternatives (i.e. other employees volunteering to alternative hours/duties, employees commencing leave etc), or
- proceed with implementing the change and provide the employee with a letter of variation.

If the change involves a decrease in hours (FTE) then the part-time employee's salary should be maintained for eight weeks.

Termination payments

A part-time employee who elects to accept a severance payment where there is a significant reduction in hours is entitled the following payments as appropriate:

- severance payment
- payments in lieu of notice where the employment end before the conclusion of the notice period
- annual leave /school holiday pay
- leave loading
- pay out of long service leave entitlement.

Severance payment (clause 15.2(b))

Where the part-time employee elects to receive a severance payment where there has been a significant reduction in hours, the severance payment is determined based on:

- the employee's length of continuous service in Victorian Catholic Education
- where the significant reduction arises because of more than one change of hours, the severance payment will be paid on the highest FTE of the Employee in the preceding two year period except where the employee has previously rejected a severance payment in the last two year.

Period of continuous service	Severance Payment (Weeks)	
	Under 45 years of age	45 years of age or over
Less than 1 year	Nil	Nil
1 year but less than 2 years	4.0	5.0
2 years but less than 3 years	7.0	8.75
3 years but less than 4 years	10.0	12.5
4 years but less than 5 years	12.0	15.0
5 years but less than 6 years	14.0	17.5
6 years and over	16.0	20.0
15 years and over	21.0	25.0

"continuous service" is defined in accordance with Clause 6 – Service Continuity

"weeks' pay" means the ordinary rate of pay for the employee concerned in accordance with Clause 5(m)

Termination notice period (clause 19.3)

Where the employee elects to accept a severance payment in lieu of a significant reduction in working hours then the employee must either work through the notice period or receive payment in lieu of notice where the employment ends prior to the notice period.

Education support employees and school services officers should be given the following minimum notice periods

Period of continuous service	Under 45 years of age	45 years of age or over (2 or more years of continuous service)
Less than 1 year	1 week	2 weeks
1 year but less than 3 years	2 weeks	3 weeks
3 years but less than 5 years	3 weeks	4 weeks
5 years and over	4 weeks	5 weeks

Teachers and deputy principals should be given the following minimum notice:

Period of continuous service	Notice
Less than 10 years in Catholic education and less than five years in their current school	7 weeks, wholly within one term
10 or more years in Catholic education or 5 or more years in their current school	12 weeks, 9 of which shall be working weeks

Annual leave /school holiday pay (clause 25)

The employee who has elected to accept a severance payment is entitled to either a payment for any undertaken annual leave or the appropriate amount of school holiday pay.

Leave loading (clause 25.8)

The termination payment should also include the appropriate leave loading payment.

Long service leave (appendix 3 clauses 4 and 7)

An employee who has an entitlement to LSL at the time of the termination of employment may make a request to forgo the payment of the long service leave entitlement, provided that the employee intends to resume work in Catholic education within four full school terms.

Note, the employee must declare at the time of termination the details of the new employer or their intention to seek re-employment. In order to facilitate this declaration, employers will have an obligation to discuss with the employee their intentions and ensure that they complete a form which confirms as such. Appropriate template forms are available on the CEVN website under [LSL](#).

If an employee, despite declaring that they intended to be re-employed within four school terms does not resume work in Catholic education within that period, then the entitlement will be paid their accrued long service leave entitlement with effect from the date of termination.