

**Fair Work Commission: 4 Yearly Review of Modern Awards  
AM2019/17**

***Educational Services (Teachers) Award 2010 [MA000077]  
AM2014/266***

**SUBMISSION**

**3 March 2020**

**Associations of Independent Schools**

1. These submissions are made on behalf of:
  - Association of Independent Schools of New South Wales
  - Association of Independent Schools of South Australia
  - Association of Independent Schools of Western Australia
  - Independent Schools Queensland
  - Independent Schools Tasmania
  - Independent Schools Victoriatogether known as the Association of Independent Schools (AISs).
2. This submission is made by the AISs in response to the Decision issued by the Fair Work Commission (**the Commission**) on 29 January 2020, and the most recent Exposure Draft issued on the same date. The Exposure Draft reflects the Commission's provisional view of the amendments that should be made to the *Educational Services (Teachers) Award 2010 (the 2010 Award)*.
3. The Exposure Draft does not reflect the consent position put forward by the AISs and the Independent Education Union (IEU) with respect to the unpaid meal break (cl.16.1 of the Exposure Draft). Detailed below is a brief summary of the history of this issue:
  - a. On 02/03/15 the AISs made a submission seeking to vary the meal break clause
  - b. On 30/06/16 the IEU and the AISs made a joint submission seeking a variation to the meal break clause
  - c. On 06/12/16 the IEU, on behalf of the IEU and the AISs, raised the issue of meal breaks at a Full Bench hearing (PN514 – 516)

- d. On 25/01/17 the IEU and the AISs made a joint submission following on from the Hearing on 6 December 2016. The submission extended the claim to Schedule A of the 2010 Award, and dropped the claim with respect to cl.16.6(b)
  - e. Commissioner Cirkovic issued a Report, dated 15 March 2017, and a final Report to the Full Bench, dated 27 July 2017, where at Item 24 it was noted that the IEU & AISs had made submissions on this matter.
4. The issue of meal breaks was part of a wider raft of changes that the major industry parties – being the AISs and the IEU – were able to settle on a consent position, and no other interested party has filed a reply submission on this matter.
  5. The AISs met with the IEU on 24 February 2020 to discuss the latest version of the Exposure Draft and the IEU confirmed their continued support of the variations sought regarding meal breaks. The IEU are aware of these submissions and support their making.
  6. The AISs and the IEU request that the variations sought regarding meal breaks be included in the 2020 Award. For completeness, these are:

Deleting cl.16.1(a) of the Exposure Draft and replacing it with:

*“(a) An employer is required to provide an unpaid meal break of not less than 30 consecutive minutes to an employee who is engaged or rostered to work for more than 5 hours on a day. Such meal break will start no later than 5 hours after the employee commenced work on that day.”*

Deleting Sch.A.3.1(a) of the Exposure Draft and replacing it with:

*“An employer is required to provide a paid meal break of between 20 and 30 consecutive minutes to an employee, who is engaged or rostered to work for more than 5 hours on a day. Such meal break will start no later than 5 hours after the employee commenced work on that day.”*

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