



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Technical and Further Education Commission
(AG2021/7453)

TAFE COMMISSION OF NSW TEACHERS IN TAFE CHILDREN'S CENTRES ENTERPRISE AGREEMENT 2021

Educational services

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 7 OCTOBER 2021

Application for approval of the TAFE Commission of NSW Teachers in TAFE Children's Centres Enterprise Agreement 2021.

[1] An application has been made for approval of an enterprise agreement known as the *TAFE Commission of NSW Teachers in TAFE Children's Centres Enterprise Agreement 2021*. (**Agreement**). The application was made pursuant to section 185 of the *Fair Work Act 2009* (**Act**). The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of sections 186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Australian Education Union being a bargaining representative for the Agreement, has given notice under section 183 of the Act that it wants the Agreement to cover it. In accordance with subsection 201(2) of the Act, I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with section 54 of the Act, will operate from 14 October 2021. The nominal expiry date of the Agreement is 30 June 2022.



DEPUTY PRESIDENT

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**TAFE COMMISSION OF NSW TEACHERS IN TAFE CHILDREN'S CENTRES
ENTERPRISE AGREEMENT 2021**

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1. Coverage

- 1.1 This Agreement covers the Technical and Further Education Commission and the Employees employed in the classifications of Early Childhood Teacher and Early Childhood Director as defined under this Agreement.

2. Date and Period of Operation

- 2.1 This Agreement shall come into operation on the seventh day after approval by the Fair Work Commission. The nominal expiry date will be 30 June 2022.
- 2.2 This Agreement operates to the exclusion of any Modern Award, Enterprise Agreement, Transitional Instrument or unregistered agreement that could otherwise apply.
- 2.3 No term of this Agreement will operate to exclude the NES or any provision of the NES.
- 2.4 This Agreement must be read in conjunction with TAFE NSW policies, procedures and guidelines, including those referred to in this Agreement. These policies, procedures and guidelines do not form part of this Agreement. In the event of any inconsistency, the Agreement will prevail.

3. Dictionary

- 3.1 **"Agreement"** means the TAFE Commission of NSW Teachers in TAFE Children's Centres Enterprise Agreement 2021.
- 3.2 **"Casual Teacher"** means a teacher employed as required by TAFE NSW, who is not a Full-time or Part-time Teacher.
- 3.3 **"College/Campus"** means a TAFE NSW establishment or other centre where instruction is provided by TAFE NSW and includes any place designated as part of, or as an annexe to, such College/Campus.
- 3.4 **"De Facto Partner"** has the same meaning as the definition provided in Part 1-2, Division 2, the Dictionary of the *Fair Work Act 2009* (Cth).
- 3.5 **"Degree"** means a course of study in a Tertiary Institution leading to a degree at levels 6 and 7 as defined in the Australian Qualifications Framework.
- 3.6 **"Diploma"** means a course of study in a Tertiary Institution leading to a diploma at levels 5 and 6 as defined in the Australian Qualifications Framework.
- 3.7 **"Early Childhood Director"** means a person appointed as such by TAFE NSW and who is an Early Childhood Teacher, as defined, who is responsible to TAFE NSW for the direct supervision of other employees and/or the management of a TAFE Children's Centre.
- 3.8 **"Early Childhood Teacher"** means an Employee in a TAFE Children's Centre who is classified by the Managing Director as either a four year trained teacher or a three year trained teacher, provided that all teachers employed at the time of the making of this agreement shall be so classified.

3.8.1 **"Four Year Trained Teacher"** means:

a teacher who holds a four-year early childhood education degree from a Tertiary Institution;

a teacher who holds a degree from a tertiary institution and who has, in addition, satisfactorily completed a one year early childhood education diploma from a Tertiary Institution;

a teacher who has completed other such courses as the Managing Director determines as satisfying requirements.

3.8.2 **"Three Year Trained Teacher"** means:

a teacher who has satisfactorily completed a course of early childhood education of three years duration at a Tertiary Institution;

a teacher who has completed other such courses as the Managing Director determines as satisfying requirements.

- 3.9 "**Employee**" means all persons employed in TAFE Children's Centres, including Early Childhood Directors and Early Childhood Teachers.
- 3.10 "**Employer**" means the Technical and Further Education Commission.
- 3.11 "**Full-time Teacher**" means any teacher engaged as such who is not a Part-time or Casual Teacher and who works 38 hours per week.
- 3.12 "**Graduate**" means a person who has obtained a degree from a Tertiary Institution or possesses qualifications determined by TAFE NSW to be equivalent to such a degree.
- 3.13 "**Graduate Diploma**" means a course of study in a Tertiary Institution leading to a Graduate Diploma as defined in the Australian Qualifications Framework.
- 3.14 "**Household**" is defined as one or more persons usually resident in the same private dwelling.
- 3.15 "**Managing Director**" means the person appointed as such under the *Technical and Further Education Commission Act 1990* (NSW) or a person authorised by the Managing Director.
- 3.16 "**NES**" means the National Employment Standards outlined at Chapter 2, Part 2-2, Division 2, Section 61(1), 61(2) and 61(3) of the *Fair Work Act 2009* (Cth).
- 3.17 "**Part-time Teacher**" means a teacher who is engaged to work regularly and not more than 0.8 of the ordinary hours which a Full-Time Teacher at the centre is required to work, provided that a Part-Time Teacher may work up to 0.9 of the ordinary hours of a Full-time Teacher if the teacher is entitled to a preparation session equivalent to 0.1 of a teacher's ordinary hours. The rate of pay, all conditions and leave entitlements of a Part-time Teacher are on a pro rata basis with reference to the proportion the teacher's ordinary attendance hours at the centre bear to the hours which a Full-time Teacher at a centre is normally required to attend.
- 3.18 "**Service**" means continuous service, unless otherwise specified in the Agreement.
- 3.19 "**Shift**" means a daily period of work in a TAFE Children's Centre and shall be one of the following:
- 3.19.1 "**Afternoon shift**" means any shift finishing after 7.00 p.m. and at or before midnight.
 - 3.19.2 "**Night shift**" means any shift finishing after midnight and at or before 8.00 a.m. or any shift commencing at or after midnight and before 5.00 a.m.
 - 3.19.3 "**Early morning shift**" means any shift commencing at or after 5.00 a.m. and before 6.00 a.m.
 - 3.19.4 "**Night shift, non-rotating**" means any shift system in which night shifts are worked which do not rotate or alternate with another shift so as to give the teacher at least one third of their working time off night shift in each roster system.

- 3.20 "**TAFE NSW**" means the Technical and Further Education Commission.
- 3.21 "**TAFE Children's Centre**" means a long day care centre established on TAFE NSW premises with the primary purpose of providing child care and/or educational development programs and/or centres for children under school age, over a period of eight hours or more a day and for not less than 48 weeks per annum.
- 3.22 "**Teacher in Charge**" means a teacher appointed as such by TAFE NSW in TAFE Children's Centres where the director is employed on a part-time basis and who is responsible to the director for the management of the Centre when the director is not in attendance.
- 3.23 "**Temporary Teacher**" means a teacher employed to work full-time or part-time for a specified period which is not more than a full Centre year but not less than five days, provided that a teacher may be employed for a specific period in excess of a full year but not more than two full years where such a teacher is replacing a teacher who is on leave for a specified period in excess of a full year.
- 3.24 "**Tertiary Institution**" means a university or other tertiary education provider.
- 3.25 "**Union**" means the Australian Education Union New South Wales Teachers Federation Branch.

4. Dispute Resolution Procedures

- 4.1 TAFE NSW and its Employees have an interest in the proper application of this Agreement and in minimising and settling disputes about matters in this Agreement in a timely manner.
- 4.2 Where a dispute arises in relation to:
- 4.2.1 a matter under this Agreement; or
 - 4.2.2 the NES;
- it will be dealt with in accordance with the procedures set out in this clause.
- 4.3 An Employer or Employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 4.4 In the first instance Employee(s) or their appointed representative(s), must notify the appropriate representative of management of the dispute in writing ('the dispute notification'). An appropriate representative of management may be the relevant line manager or if the employee believes the line manager is not appropriate the Employee may ask the Regional People Manager to refer the matter to another officer.
- 4.5 The dispute notification must be in writing and include details of the dispute. The dispute notification should also make reference to clause(s) of the Agreement or the NES in relation to which the dispute has arisen and indicate the resolution(s) sought. A copy of the dispute notification will be sent to the Regional People Manager. The Employee(s), Employee representative(s) if one has been appointed, and

management representative(s) will meet within five working days, unless otherwise agreed, in an effort to resolve the dispute.

- 4.6 Where after the completion of subclause 4.5 the dispute remains unresolved, the matter may be referred in writing to the next level of management. A meeting must be held within five working days of the dispute being referred in a further effort to resolve the dispute, unless otherwise agreed.
- 4.7 Where a dispute is not resolved following the steps in subclauses 4.5 and 4.6, the matter may be referred by either party to the dispute to the Fair Work Commission for resolution by mediation and/or conciliation and, if necessary arbitration.
- 4.8 If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the *Fair Work Act 2009* (Cth).
- 4.9 The parties agree to be bound by and implement any decision of the Fair Work Commission subject to either party exercising a right of appeal against the decision of the Fair Work Commission to the Full Bench.
- 4.10 Until the dispute resolution procedures referred to at subclauses 4.1 to 4.9 have been exhausted:
 - 4.10.1 work shall continue in the normal manner;
 - 4.10.2 no industrial action shall be taken by a party to the dispute in respect of the matter that is the subject of the dispute;
 - 4.10.3 the parties to the dispute shall not take any other action likely to exacerbate the dispute.

5. Deduction of Union Membership Fees

- 5.1 The Union shall provide TAFE NSW with a schedule setting out Union fortnightly membership fees payable by members of the Union in accordance with the Union's rules.
- 5.2 The Union shall advise TAFE NSW of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Union fortnightly membership fees payable shall be provided to TAFE NSW at least one month in advance of the variation taking effect.
- 5.3 Subject to 5.1 and 5.2 above, TAFE NSW shall deduct fortnightly membership fees from the pay of any Employee who is a member of the Union in accordance with the Union's rules, provided that the Employee has authorised TAFE NSW to make such deductions.
- 5.4 Monies so deducted from Employees' pay shall be forwarded regularly to the Union together with all necessary information to enable the Union to reconcile and credit subscriptions to Employees' Union membership accounts.
- 5.5 Unless other arrangements are agreed to by TAFE NSW and the Union, all Union membership fees shall be deducted on a fortnightly basis.

- 5.6 Where an Employee has already authorised the deduction of Union membership fees from their pay prior to this clause taking effect, nothing in this clause shall be read as requiring the Employee to make a fresh authorisation in order for such deductions to continue.

6. No Further Claims

- 6.1 Prior to 30 June 2022 there shall be no further claims with respect to this Agreement for changes to salaries, rates of pay, allowances, or conditions of employment in relation to matters expressly contained in this agreement.
- 6.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing Agreement provisions.
- 6.3 The parties recognise that the 0.3% salary increase payable from the first pay period commencing on or after 19 June 2020 and the 2.04% salary increase payable from the first pay period on or after 1 July 2021, represents the total increase available under the NSW Public Sector Wages Policy for the period of the agreement.

7. Flexibility

- 7.1 TAFE NSW and an Employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- 7.1.1 the agreement deals with 1 or more of the following matters:
- (a) arrangements about when work is performed – such arrangements may be made to vary the operation of Clause 10, Hours of Work;
 - (b) Salary Packaging – an employee may elect a salary packaging arrangement in accordance with Clause 9.8 of this agreement; and
- 7.1.2 the arrangement meets the genuine needs of TAFE NSW and the Employee in relation to 1 or more of the matters mentioned in 7.1.1; and
- 7.1.3 the arrangement is genuinely agreed to by TAFE NSW and the Employee.
- 7.2 TAFE NSW must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the Employee being better off overall than the Employee would be if no arrangement was made.
- 7.3 TAFE NSW must ensure that the individual flexibility arrangement:
- (a) is in writing; and

- (b) includes the name of TAFE NSW and the Employee; and
- (c) is signed by TAFE NSW and the Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.

7.4 TAFE NSW must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

7.5 TAFE NSW or the Employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if TAFE NSW and the Employee agree in writing – at any time.

8. Consultation

8.1 Consultation term.

This term applies if:

- (a) TAFE NSW has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to have a significant effect on employees; or
- (b) TAFE NSW proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

8.2 Major change.

- (a) For a major change referred to in clause 8.1(a) sub-clauses 8.3 to 8.8 apply
- (b) For a change referred to in clause 8.1(b):
 - (i) TAFE NSW must notify the relevant Employees of the proposed change; and
 - (ii) sub-clauses 8.9 to 8.14 apply.

- 8.3 The relevant Employees may appoint a representative, to accompany and / or represent them for the purposes of the procedures in this term.
- 8.4 As soon as practicable after making its decision, TAFE NSW must within a reasonable time frame:
- (a) discuss with the relevant Employees and / or their representatives, including the union:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Employees; and
 - (iii) measures TAFE NSW is taking to avert or mitigate the adverse effect of the change on the Employees; and
 - (b) for the purposes of the discussion – provide, in writing, to the relevant Employees and / or their representatives, including the Union:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the Employees; and
 - (iii) any other matters likely to affect the Employees.
- 8.5 However, TAFE NSW is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 8.6 TAFE NSW must give prompt and genuine consideration to matters raised about the major change by the relevant Employees and their representatives.
- 8.7 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of TAFE NSW, the requirements set out in sub-clauses 8.2, 8.3 and 8.5 are taken not to apply.
- 8.8 In this term, a major change is likely to have a significant effect on Employees if it results in:
- (a) the termination of the employment of Employees; or
 - (b) major change to the composition, operation or size of TAFE NSW's Workforce or to the skills required of Employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain Employees; or

- (f) the need to relocate Employees to another workplace; or
- (g) the restructuring of jobs.

8.9 Change to the regular roster or ordinary hours of work of Employees. The relevant Employees may appoint a representative for the purposes of the procedures in this term.

8.10 If:

- (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
- (b) the Employee or Employees advise TAFE NSW of the identity of the representative;

TAFE NSW must recognise the representative.

8.11 As soon as practicable after proposing to introduce the change, TAFE NSW must:

- (a) discuss with the relevant Employees the introduction of the change; and
- (b) for the purposes of the discussion – provide to the relevant Employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what TAFE NSW reasonably believes will be the Effects of the change on the Employees; and
 - (iii) information about any other matters that TAFE NSW reasonably believes are likely to affect the Employees; and
- (c) invite the relevant Employees to give their views about the impact of the Change (including any impact in relation to their family or caring Responsibilities).

8.12 However, TAFE NSW is not required to disclose confidential or commercially sensitive information to the relevant Employees.

8.13 TAFE NSW must give prompt and genuine consideration to matters raised about The change by the relevant Employees.

8.14 In this term, relevant Employees means the Employees who may be affected by the major change.

9. Salaries and Allowances

9.1 The minimum annual rate of salary payable to Early Childhood Teachers and Early Childhood Directors in TAFE Children's Centres shall be as set out in Schedule 1 - Early Childhood Teachers - Salaries. A teacher shall progress after each 12 months

of service along the steps of the salary scale, subject to the teacher demonstrating continuing satisfactory performance and professional growth.

9.2 Part-time Teachers -

9.2.1 A Part-time Teacher, including a temporary Part-time Teacher, shall be paid at the same rate as a Full-time Teacher with the corresponding classification, but on a pro rata basis.

9.2.2 The days of attendance of a Part-time Teacher may be varied at the commencement of each semester or at any time by mutual agreement between TAFE NSW and the teacher. Where mutual agreement has not been obtained a notice period of seven (7) days will be provided prior to the change taking effect. The ordinary weekly hours of the employee shall not be varied without agreement.

9.3 Calculation of Service -

9.3.1 For the purpose of this clause, any teacher, if required by TAFE NSW to do so, shall, upon engagement, establish to the satisfaction of TAFE NSW the length of their service as an early childhood teacher (up to 8 years of age) and that period so established shall be taken to be the length of such service for the purpose of that employment.

9.3.2 For the purpose of this clause, a period of service other than service within paragraph 9.3.1 shall be counted as service in accordance with the following principles:

- (i) A period of service as a lecturer in early childhood education or child development as a child development officer, or as a family day care coordinator or equivalent, shall be recognised as service.
- (ii) A period of service as a carer in the child care industry and a period of time during which the teacher is wholly engaged in child rearing, shall be recognised as service at the rate of one increment for each complete three years so engaged. Provided that, during the time of child rearing, the teacher was a qualified Early Childhood Teacher.

9.3.3 For the purpose of calculating service:

- (i) Any full-time employment (including temporary full-time employment) as referred to in paragraphs 9.3.1 and 9.3.2 shall be counted as service.
- (ii) The amount of part-time service (including temporary part-time service) shall be calculated by reference to proportion that the part-time employment bears to full-time employment in that occupation.
- (iii) Casual Teachers shall be entitled to normal incremental progression for each 1,600 hours of service or its equivalent in early childhood education services.

- (iv) For the purpose of calculating service in this subclause, periods of part-time, temporary or casual service shall be aggregated to determine years of full-time service.

9.4 Directors' Allowances -

9.4.1 Early Childhood Directors shall be paid an amount as set out in Schedule 2 - Early Childhood Directors - Allowances, by way of a fixed loading.

9.4.2 For the purposes of determining the number of Employees directly supervised by a director, each Employee who works for 19 hours or more per week in the centre shall be counted as one Employee. The hours worked by each Employee whose hours of work are less than 19 hours per week, as at 1 February and 1 July in each year, shall be aggregated and divided by 38 to determine the full-time equivalent.

9.4.3 A teacher required by TAFE NSW to act as an Early Childhood Director for a period of at least five consecutive days shall be paid the appropriate allowances prescribed in Schedule 2 for such period.

9.4.4 A teacher shall not be required to carry out acting duties for more than a full year, except that a teacher may be required to carry out acting duties for up to two full years where the teacher is replacing a director who is on leave for a specified period in excess of a full year.

9.5 Teacher in Charge allowances -

A teacher appointed as a Teacher in Charge shall be paid in addition to the amounts payable pursuant to subclause 9.1, an allowance in accordance with Schedule 3 – Early Childhood Teachers in Charge - Allowance.

9.6 Casual Teachers -

9.6.1 A Casual Teacher shall be paid a 25 per cent loading in addition to the appropriate rate for their classification, up to a maximum of the fourth step of the appropriate scale. This rate shall be calculated by dividing the annual rate by 26.07 to obtain a fortnightly rate and the result by ten to obtain a daily rate and then by 7.6 to obtain an hourly rate.

9.6.2 The casual loading specified at clause 9.6.1 is in recognition of the casual nature of the employment and compensates the casual employee for all leave outlined at Clause 14 of this Agreement and all incidence of employment except overtime.

9.6.3 Casual Teachers are entitled to long service leave in accordance with the *Long Service Leave Act 1955 (NSW)*.

9.6.4 The minimum start for any Casual Teacher shall be three (3) continuous hours for any day or shift. Time worked thereafter shall be rounded to the nearest half hour.

9.6.5 Compassionate Leave for Casual Teachers -

- (i) Casual Teachers are entitled to two days unpaid leave on each occasion where a person prescribed in subclause 14.3.5 of clause 14.3 Personal/Carer's Leave contracts, develops or sustains an illness or injury that poses a serious threat to his or her life or dies.
- (ii) The leave in this clause is subject to the evidentiary and notice requirements set out in subclause 14.3.6 and 14.3.7.
- (iii) TAFE NSW must not fail to re-engage a Casual Teacher because the Casual Teacher accessed the entitlements provided for in this clause.

9.6.6 Personal/Carer's leave for Casual Teachers -

- (i) Casual Teachers are entitled to two days unpaid leave on each occasion they need to provide care or support for a person prescribed in subclause 14.3.5 of clause 14.3 Personal/Carer's Leave due to an unexpected emergency, illness or injury.
- (ii) The unpaid leave in this clause is subject to the evidentiary and notice requirements in subclause 14.3.6 and 14.3.7.
- (iii) TAFE NSW must not fail to re-engage a Casual Teacher because the Casual Teacher accessed the entitlements provided for in this clause.

9.7 Reclassification -

9.7.1 Where a Three Year Trained Teacher completes a course of training as set out in the definition of "Four Year Trained Teacher" in clause 3, Dictionary, the teacher shall be transferred to the salary step on the higher salary scale determined by the teacher's years of service on the scale.

9.7.2 When a teacher is transferred to a higher salary scale in accordance with paragraph 9.7.1, the date of the transfer shall be the date of completion of formal course requirements, provided that the teacher advises TAFE NSW of the date of such completion within one month of that date. Otherwise the date transfer shall be one month prior to the date on which such advice was furnished by the teacher to TAFE NSW.

9.8 Salary packaging -

For the purposes of this clause "salary" means the salary or rates of pay prescribed by Schedule 1, Early Childhood Teachers - Salaries, of this Agreement and any allowances paid to an Employee which form part of the Employee's salary for superannuation purposes.

9.8.1 An Employee may, by agreement with TAFE NSW, enter into a salary packaging arrangement including salary sacrifice to superannuation where they may convert up to 100% of their salary to other benefits.

Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of salary available to be packaged.

9.8.2 The terms and conditions of the salary packaging arrangement, including the duration as agreed between the Employee and Employer, will be provided in a separate written agreement, in accordance with TAFE NSW's salary packaging scheme, or its replacement. Such agreement must be made prior to the period of service to which the earnings relate.

9.8.3 Salary packaging must be cost neutral for TAFE NSW. Employees must reimburse TAFE NSW in full for the amount of:

- (i) any fringe benefits tax liability arising from a salary packaging arrangement; and
- (ii) any administrative fees.

9.8.4 Where the Employee makes an election to salary package the following payments made by TAFE NSW in relation to an Employee shall be calculated by reference to the annual salary which the Employee would have been entitled to receive but for the salary packaging arrangement:

- (i) Superannuation Guarantee Contributions;
- (ii) any salary-related payment including but not limited to allowances and workers compensation payments; and
- (iii) payments made in relation to accrued leave paid on termination of the Employee's employment or on the death of the Employee.

10. Hours of Work

10.1 The ordinary working hours, inclusive of crib breaks taken at the Centre, shall not exceed an average of 38 per week, over a 12 month cycle, between the hours of 6.00 a.m. to 7.00 p.m. Monday to Friday to be worked by one of the following methods:

10.1.1 A teacher working in shifts of no more than eight hours duration.

- (i) A teacher shall accrue 0.4 of one hour for eight hours duty on each day of attendance to a maximum of one (1) paid rostered day off (RDO) in each 20 days of service. RDOs are to be taken during TAFE NSW breaks where possible. There shall be a maximum of 12 RDOs in any 12 consecutive months of employment.
- (ii) Each day of paid leave taken including each public holiday and the annual holiday (but not including long service leave) shall be regarded as a day worked for accrual purposes.
- (iii) A teacher shall be entitled to be paid on termination of employment for rostered days off which have been accumulated but not taken at the rate of pay effective on the date of termination.
- (iv) A teacher shall not be entitled to personal/carer's leave in respect of illness whilst on a rostered day off. In the event of a rostered day off falling on a

public holiday, the teacher and Employer shall agree on an alternative day off as a substitute.

10.1.2 A teacher working in shifts of more than eight ordinary hours on one or more days during the work cycle:

- (i) may work three 10 hour shifts and one eight hour shift per week; or
- (ii) four 9.5 hour shifts per week; or
- (iii) any other shift arrangement whereby a teacher works no more than 10 hours per day or 38 hours per week.

If the teacher works a shift longer than eight hours the teacher shall receive an additional paid crib break of 10 minutes which shall be taken at a time convenient to TAFE NSW.

10.1.3 Any Part Time or Temporary teacher who, immediately prior to commencement of this agreement, was receiving a loading of 5 per cent in lieu of having access to rostered days off, is entitled to retain this loading for the duration of their continuous employment with TAFE NSW.

10.1.4 Any Casual teacher who, immediately prior to commencement of this agreement, was receiving a loading of 5 per cent in lieu of having access to rostered days off, is entitled to retain a 3.3 per cent loading for the duration of their continuous employment with TAFE NSW

10.2 Rostering

10.2.1 A teacher shall be advised by the manager in charge of the centre at least seven (7) days in advance of the day or days on which the teacher is to be rostered off duty.

10.2.2 An individual teacher may, with the agreement of the manager in charge of the centre, substitute the day that teacher is rostered off duty for another day.

10.3 Rostered Days Off -

10.3.1 A teacher may elect, with the consent of TAFE NSW, to take a rostered day off at any time.

10.3.2 A teacher may elect, with the consent of TAFE NSW, to take rostered days off in part-day amounts.

10.3.3 A teacher may elect, with the consent of TAFE NSW, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between TAFE NSW and Teacher, or subject to reasonable notice by the teacher or TAFE NSW.

10.4 Crib Breaks -

10.4.1 A teacher shall be entitled to 30 consecutive minutes crib break within the centre

10.4.2 Where a meal is taken at the centre, it shall be counted as time worked. A teacher is not to be required to work for more than five hours without being given the opportunity to take a crib break.

10.5 Make-up Time -

10.5.1 A teacher may elect, with the consent of TAFE NSW, to work "make-up time", under which the teacher takes time off ordinary hours and works those hours at a later time during the spread of ordinary hours, at the ordinary rate of pay.

10.5.2 A teacher on shift work may elect, with the consent of TAFE NSW, to work "make-up time" (under which the teacher takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

10.6 Lactation Breaks –

10.6.1 This clause applies to teachers who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period or crib break as provided for in this Agreement.

10.6.2 A full time teacher or a part time teacher working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.

10.6.3 A part time teacher working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.

10.6.4 A flexible approach to lactation breaks can be taken by mutual agreement between a teacher and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the teacher.

10.6.5 TAFE NSW shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.

10.6.6 Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and teacher will take place to attempt to identify reasonable alternative arrangements for the Teacher's lactation needs.

10.6.7 Teachers experiencing difficulties in effecting the transition from home-based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.

10.6.8 Teachers needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise personal/carer's leave in accordance with subclause 14.3 and 9.6.6 of this Agreement.

11. Non Contact Time

11.1 Both TAFE NSW and the Union recognise that all teachers and directors should be relieved from face to face duties in order to perform programming, record keeping, liaison with parents and outside agencies and administration duties.

11.1.1 Directors Administration Time

Full time directors shall receive a minimum of 5 hours per week of non contact time to perform administrative duties.

11.1.2 Full Time Teachers Non Contact Time

Teachers shall receive a minimum of 2 hours per week of non contact time.

11.1.3 Directors or teachers who receive non contact time in excess of this shall not have this time reduced as a result of the making of this Agreement.

11.1.4 Non contact time for Part-time Teachers and directors shall be on a pro rata basis.

12. Shift Work

12.1 For the purposes only of calculating the loadings provided for in this clause:

12.1.1 a fortnightly rate of pay shall be obtained by dividing the teacher's annual rate by 26.07;

12.1.2 a daily rate of pay shall be obtained by dividing the fortnightly rate, as provided for in paragraph 12.1.1, by ten;

12.1.3 the rate of pay for a Casual Teacher shall be calculated in accordance with subclause 9.6.

12.2 In addition to the weekly or daily rate of salary provided for in Clause 9, a loading shall be payable to a teacher required to perform shift work as follows:

12.2.1 early morning shift - 10 per cent;

12.2.2 afternoon shift - 15 per cent;

12.2.3 night shift, rotating with day or afternoon shift - 17.5 per cent;

12.2.4 night shift, non rotating - 30 per cent.

12.3 Where a teacher is required to work on a Saturday, Sunday or a public holiday, they will be paid for each such day or shift worked on the following basis:

12.3.1 Saturday - at one and a half times the daily rate of pay.

12.3.2 Sunday - at double the daily rate of pay.

12.3.3 Public holidays - at two and a half times the daily rate of pay.

12.3.4 The payments prescribed by this subclause shall be in substitution for, and not cumulative upon, the shift loading prescribed in subclause 12.2.

13. Public Holidays

13.1 The following days shall be holidays in this Agreement: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day. All days proclaimed as public holidays for the State shall be holidays, provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.

14. Leave

This clause does not apply to Casual Teachers.

14.1 Annual Leave -

14.1.1 Teachers are entitled to a minimum of 4 weeks annual leave for each year of service. Annual leave accrues progressively during the year according to the teacher's hours of work and accumulates from year to year.

14.1.2 All annual leave is to be taken during TAFE NSW non-teaching and vacation periods where possible.

14.1.3 A teacher may elect, with the consent of TAFE NSW, to take annual leave not exceeding ten days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.

14.2 Annual Leave Loading –

14.2.1 For the purpose of this clause the leave year shall commence on 1 December each year and shall end on 30 November of the following year.

14.2.2 Teachers shall accrue a loading of 17.5 per cent of their weekly salary for each week of annual leave accrued by the teacher.

14.2.3 Payment for accrued annual leave loading shall occur following the first full pay period after 1 December each year and will be based on the amount of annual leave loading accrued by the teacher during the previous leave year.

14.2.4 Where a teacher's employment is terminated or a teacher resigns from their employment they are entitled to receive payment for any accrued but unpaid annual leave loading up to the date of termination on a pro rata basis.

14.3 Paid Personal/Carer's Leave -

14.3.1 Full time Teachers are entitled to 15 days paid personal/carer's leave for each year of service.

- 14.3.2 The personal/carer's leave entitlement for a Part-time Teacher employed in a centre shall be on a pro rata basis.
- 14.3.3 A teacher may take paid sick personal/carer's leave if they are not fit to attend work because of a personal illness or injury.
- 14.3.4 A teacher may take paid personal/carer's leave to provide care or support to a person set out in subparagraph 14.3.5 who needs the teacher's care or support because of an illness, injury or unexpected emergency affecting the person. Such leave may be taken for part of a single day.
- 14.3.5 The entitlement to use personal/carer's leave in accordance with subclause 14.3.4 is subject to the person concerned being:
- (a) a spouse of the teacher; or
 - (b) a De Facto Partner; or
 - (c) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the teacher or spouse or de facto partner of the teacher; or
 - (d) a member of the teacher's household.
- 14.3.6 The teacher shall, if required, establish, either by production of a medical certificate or statutory declaration, the illness, injury or unexpected emergency affecting the person concerned and that the person requires care or support. In normal circumstances, a teacher would not take carer's leave under this subclause where another person has taken leave to care for the same person.
- 14.3.7 A teacher shall, wherever practicable, give TAFE NSW notice, prior to the absence, of the intention to take leave, the name of the person requiring care and that person's relationship to the teacher, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the teacher to give notice of absence, the teacher shall notify TAFE NSW as soon as practicable after the leave starts.
- 14.3.8 Special sick leave shall be available in line with TAFE NSW policy.

14.4 Unpaid Carers Leave -

- 14.4.1 If paid personal/carer's leave has been exhausted, a teacher is entitled to take unpaid leave when they need to provide care or support to a person set out in subparagraph 14.3.5 who is ill, injured or affected by an unexpected emergency.

14.5 Compassionate Leave -

- 14.5.1 A teacher shall be entitled to up to two days compassionate leave, without deduction of pay, on each occasion when a person prescribed in

subparagraph 14.3.5 contracts, develops or sustains an illness or injury that poses a serious threat to his or her life or dies.

14.5.2 The teacher must notify TAFE NSW as soon as practicable of the intention to take compassionate leave and will, if required by TAFE NSW, provide, to the satisfaction of TAFE NSW, proof of the relevant death, illness or injury.

14.5.3 Compassionate leave may be taken in conjunction with other leave available to the teacher. In determining such a request, TAFE NSW will give consideration to the circumstances of the teacher and the reasonable operation requirements of the business.

14.6 Family and Community Service Leave (FACS) –

14.6.1 The maximum amount of FACS leave that may be granted for Full-time Teachers is:

- (i) during the first 12 months of service - 2.5 working days;
- (ii) after completion of 12 months of service - five working days in any two-year period; or
- (iii) one working day for each year of service after two years of continuous service, less any period of family and community service leave already taken.

14.6.2 The FACS leave entitlement for a Part-time Teacher employed in a centre shall be on a pro rata basis.

14.6.3 FACS leave is provided in addition to the entitlement to Personal/Carer's Leave under this Agreement and the TAFE NSW Policy - Special Leave.

14.7 Community Service Leave –

14.7.1 TAFE NSW Policy – Special Leave provides for paid leave for jury service and for emergency service volunteers subject to the conditions outlined in the policy.

14.8 Leave for Matters Arising from Domestic Violence -

14.8.1 The definition of domestic violence for the purpose of this clause is as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.

14.8.2 Full Time Employees are entitled to access 10 days of paid domestic and family violence leave per calendar year. This leave may be accessed without the need to exhaust other leave entitlements first.

14.8.3 Employees other than Full Time Employees will be entitled to the paid leave in clause 14.8.2 on a pro rata basis however all employees will be able to access a minimum of five days paid leave each calendar year.

- 14.8.4 Domestic and family violence leave is able to be taken in part-days, single days, or consecutive days.
- 14.8.5 Domestic and family violence leave under this clause is non-cumulative and does not accrue year to year.
- 14.8.6 The Employer will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the police force, a court, a doctor, a domestic violence support service or lawyer.
- 14.8.7 Personal information concerning domestic violence will be kept confidential by the Employer. Any documentation sighted by the Employer will be returned to the Employee, unless the Employee requests otherwise.
- 14.8.8 The Employer and Employee should discuss how to address the Employee's safety and support needs at work. The Employer and Employee may, if necessary, develop a plan to eliminate or minimise risks in the workplace related to family and domestic violence. Where appropriate TAFE NSW will facilitate flexible working arrangements, subject to operational requirements, including changes to working times and changes to work location, telephone number and email address.
- 14.8.9 Entitlements provided for in subclauses 14.3 Paid Personal/Carer's Leave, 14.6 FACS Leave and 9.6.5 Compassionate Leave for Casual Teachers of this Agreement may also be used by an Employee experiencing domestic violence.

15. Overtime and Time Off in Lieu of Payment for Overtime

15.1 Overtime

- 15.1.1 Subject to 15.1.2 and 15.1.3, all hours required by TAFE NSW to be worked outside the ordinary hours of work prescribed by Clause 10, Hours of Work, including where a teacher is required to stay back to supervise children who have not been picked up or to cover related emergency situations including staff absences, but excluding the normal preparation and programming duties of a teacher, shall be paid at the rate of time and one half for the first two hours and double time thereafter.
- 15.1.2 Notwithstanding 15.1.1, teachers may be required to attend out of hours enrolment sessions, in-service, staff meetings, parent and committee management meetings and other duties not including the supervision of children without any payment being due.
- 15.1.3 Teachers, other than Casual Teachers, shall be allowed three days paid compensatory leave per annum, in lieu of attendance at out of hours enrolment sessions, in-service, staff meetings, parent and committee management meetings and other duties not including the supervision of children. This compensatory leave shall be granted and taken on a day or days determined by the director or line manager and be mutually convenient.

15.2 Time Off in Lieu of Payment for Overtime

- 15.2.1 A teacher may elect, with the consent of TAFE NSW, to take time off in lieu of payment for overtime at a time or times agreed with TAFE NSW.
- 15.2.2 Time off taken during ordinary-time hours shall be paid at the ordinary time rate, that is, an hour for each hour worked.
- 15.2.3 If the time off is not taken for whatever reason, payment at overtime rates shall occur after 12 months or on termination.

16. Job Share

16.1 Job share is a five-day full-time position which is shared by two teachers, working a predetermined number of full days each per week.

16.2 Job share under this clause is only available to Early Childhood Teachers, not Early Childhood Directors.

16.3 Procedures for implementing job share:

16.3.1 Teachers interested in job share may put forward a proposal in writing to the director. This proposal should include the following:

- (i) reasons;
- (ii) benefits to the centre;
- (iii) strategies for the management of job share;
- (iv) nominated days of work.

16.3.2 The director and the prospective job share teacher will then meet to discuss the following issues:

- (i) advantages/disadvantages of proposal;
- (ii) strategies for communication between job share teachers;
- (iii) strategies for communication with other staff members;
- (iv) attendance at parent meetings and preparation of written reports;
- (v) attendance at staff meetings, regional meetings, in-service courses and other out of hours meetings or functions;
- (vi) curriculum and programming issues.
- (vii) The parties note that attendance at meetings on days that a job share teacher is normally not expected to attend is at the discretion of the teacher.

- 16.3.3 If there is an in principle agreement between the above parties, the written proposal will be forwarded to the General Manager.
- 16.3.4 The General Manager will confirm, in writing, whether the proposal is approved or not.
- 16.3.5 If job share is approved, the second position is advertised and both positions will become Permanent Part-time.
- 16.3.6 Following the appointment of the second job share teacher, the issues identified in paragraph 16.3.2 will be discussed at a full staff meeting.
- 16.4 TAFE NSW reserves the right to:
- 16.4.1 view each situation on an individual basis;
- 16.4.2 nominate, if necessary, a number of staff or an overall percentage of teachers in TAFE Children's Centres who are able to job share;
- 16.4.3 determine the number of job share positions in each centre.
- 16.5 Absences that occur due to approved leave, including sick leave, by one of the two job share teachers will be offered in the first instance to the other person. The teacher cannot be directed to work such absences.
- 16.6 Resignations - In the event that the position of one job share teacher at a particular centre becomes vacant, the following procedure will occur:
- 16.6.1 the remaining Part-time Teacher may be offered the option of a full-time position;
- 16.6.2 another permanent staff member, including a Part-time Teacher, may transfer to the job share position;
- 16.6.3 if neither of the above occurs, then the part-time position will be advertised.

17. Duties of Teachers

- 17.1 The normal duties of teachers shall include the usual duties performed in attendance at a centre as well as the usual planning, resourcing and extracurricular activities associated with a centre, including attendance at parent and committee management meetings.
- 17.2 A director shall, in addition to subclause 17.1, have responsibility for the supervision of Teachers and the security and maintenance of a centre.

18. First-Aid Certificate

- 18.1 Teachers, other than Casual Teachers, will be required to obtain and maintain a first-aid certificate under the following conditions:

18.1.1 Teachers in the first six months of employment will be required to have or to obtain a senior first-aid certificate.

18.1.2 Teachers will be required to maintain the currency of their first-aid certification.

18.1.3 Teachers will be granted paid leave to attend a first-aid course or, when the Teacher attends the course in their own time, the teacher will receive time in lieu at ordinary rates for course attendance time.

Schedule 1 – Early Childhood Teachers - Salaries

The following minimum annual salaries shall apply with effect from the beginning of the first pay period commencing on or after the date specified.

Three Year Trained Teachers	Rates From the first pay period to commence on or after 19 June 2020	Rates From the first pay period to commence on or after 1 July 2021
	Per annum \$	Per annum \$
	0.3% Increase	2.04% Increase
Step 1	62,315	63586
Step 2	62,490	63765
Step 3	68,913	70319
Step 4	72,072	73542
Step 5	75,355	76892
Step 6	79,002	80614
Step 7	80,990	82642
Step 8	82,955	84647
Step 9	86,263	88023
Step 10	89,706	91536
Step 11	92,127	94006
Four Year Trained Teachers	Rates From the first pay period to commence on or after 19 June 2020	Rates From the first pay period to commence on or after 1 July 2021
	Per annum \$	Per annum \$
	0.3% Increase	2.04% Increase
Step 1	66,262	67614
Step 2	70,370	71806
Step 3	74,326	75842
Step 4	78,709	80315
Step 5	82,794	84483
Step 6	86,263	88023
Step 7	89,706	91536
Step 8	93,597	95506
Step 9	97,336	99322

Schedule 2 – Early Childhood Directors - Allowances

The following minimum rates shall apply with effect from the beginning of the first full pay period commencing on or after the date specified.

Units	Rates From the first pay period to commence on or after 19 June 2020 Per annum \$ 0.3% Increase	Rates From the first pay period to commence on or after 1 July 2021 Per annum \$ 2.04% Increase
1 to 6 Employees	11,442	11675
7 or more Employees	13,844	14126

Schedule 3 – Early Childhood Teacher in Charge - Allowances

The following minimum rates shall apply with effect from the beginning of the first full pay period commencing on or after the date specified.

Units	Rates From the first pay period to commence on or after 19 June 2020 Per annum \$ 0.3% Increase	Rates From the first pay period to commence on or after 1 July 2021 Per annum \$ 2.04% Increase
1 to 6 Employees	5,722	5839
7 or more Employees	6,923	7064

SIGNING PAGE

Signed on behalf of the TAFE Commission of New South Wales (ABN 89 755 348 137)



Signature

Julian Oliveux

Print Name

Ultimo Campus, Mary Ann Street, Ultimo, NSW 2007

Address

Head of Workplace Relations

Position

In the presence of:



Signature

James Canavan

Print Name

Manager Industrial Relations

Position

Signed on behalf of the Australian Education Union New South Wales Teachers Federation Branch (ABN 86 600 150 697)



Signature

MAXINE SHARKEY

Print Name

23-33 MARY ST SURRY HILLS

Address

GENERAL SECRETARY

Position

In the presence of:



Signature

Angelo GAVRIELATOS

Print Name

PRESIDENT.

Position