

**IN THE FAIR WORK COMMISSION
AT SYDNEY**

MATTER: AM2018/9

APPLICATION BY THE INDEPENDENT EDUCATION UNION OF AUSTRALIA (130N)

Independent Education Union of Australia

Issues for Discussion at Conference dated 24 May 2021 [17 May 2021]

Issues arising from the Commission's proposed classification and pay structure

Service - satisfactory service

1. Levels 2 and 3 of the proposed structure require that to move to the next level, a teacher is proficient and has 3 years satisfactory service at each level.
2. In the award reliant sector, many workplaces are small with no specialist HR staff. The union is concerned that a positive requirement to establish satisfactory service before progression would become a hard barrier to progression for teachers. Such a requirement could lead to disputation and difficulties in enforcement.
3. Early childhood education and care and non-government school employers are not required to make similar assessments of other staff and most would not have established procedures to determine this on an annual basis.
4. The question of satisfactory service is properly a matter for determination by teacher accreditation and registration authorities, because satisfactory service is central to the requirement that teachers attain Proficiency and maintain Proficiency, pursuant to the teacher accreditation / registration schemes. Therefore, in the Award, the existing concept of "service" can replace "satisfactory service".
5. At [21] of the Full Bench decision it is acknowledged that the National Framework for Teacher Registration (NFTR) requires that teachers demonstrate their ongoing proficiency and suitability to teach in order to renew or maintain their registration. The Framework provides for a *recognised authority to impose sanctions or withdraw a teachers' registration if they fail to meet the required standards of personal and professional behaviour or professional performance.*

Level 1 – classification criteria

6. Level 1 needs to cover a range of teachers not otherwise covered, including:
 - a. a person recognised "as a suitably qualified person" by ACECQA in respect of the requirement to employ a teacher or a teacher who has conditional registration/accreditation with a teacher accreditation/registration authority, because they have not completed all qualification requirements; and
 - b. all other teachers as defined.

Levels 3 and Level 4 – classification criteria

7. Requiring service *at particular levels* creates issues with respect to recognition of prior service. To address this, the IEU suggests that the criteria description for Level 3 and Level 4 be varied as shown in Table 1 (below). The changes to the criteria description as suggested in Table 1 have the same practical effect as the FWC’s proposed structure, whilst avoiding conflict with recognition of previous service.

Level 5 - classification criteria

8. Due of the incapacity of teachers in some States & Territories (e.g. Victoria) to access accreditation beyond Proficient, the criteria for progression to Level 5 should be the attainment of either Highly Accomplished Teacher Accreditation, Lead Teacher Accreditation or significant service at a proficient level and a Masters in Education or equivalent.
9. In recognition of the matters raised above the IEU proposes that the Classification Criteria be amended to read as follows (red shows edits):

Table 1 – IEU suggested changes to proposed Classification Criteria

Classification	Criteria
Level 1	Graduate Teacher and all other teachers (as defined) including those holding provisional or conditional accreditation where applicable
Level 2	Teacher with proficient accreditation or equivalent
Level 3	Teacher with proficient accreditation after three years' satisfactory service at a proficient level at Level 2
Level 4	Teacher with proficient accreditation after six three years' satisfactory service at a proficient level at Level 3
Level 5	Teacher with Highly Accomplished / Lead Teacher accreditation or significant service at a proficient level and a Masters Degree in Education or equivalent

Note: a reference to accreditation includes a reference to registration. A reference to proficient accreditation is also a reference to full registration (e.g. Queensland).

Transition of teachers covered by the Modern Award

10. The IEU proposes that teachers covered by the Modern Award as at the implementation date transition to the new structure in accordance with either Table 2 (Proposed transition mechanism) or Table 1 (proposed Classification Criteria), whichever provides for the higher classification.

Table 2 – Proposed transition mechanism

Current Award Structure	Current Rate	Proposed Award Structure	Proposed Rate
Level 1	\$ 52,420	Level 1	\$ 59,545
Level 2	\$ 53,500	Level 1	\$ 59,545
Level 3	\$ 54,956	Level 1	\$ 59,545
Level 4	\$ 56,938	Level 1	\$ 59,545

Level 5	\$ 58,922	Level 2	\$ 65,085
Level 6	\$ 60,769	Level 2	\$ 65,085
Level 7	\$ 62,615	Level 2	\$ 65,085
Level 8	\$ 64,597	Level 3	\$ 70,854
Level 9	\$ 66,582	Level 3	\$ 70,854
Level 10	\$ 68,565	Level 3	\$ 70,854
Level 11	\$ 70,550	Level 4	\$ 76,623
Level 12	\$ 72,531	Level 4	\$ 76,623
No transition		Level 5	\$ 82,392

Transition of teachers potentially covered by the Modern Award

11. In recognition that the modern award does not presently cover all persons currently qualified as teachers because, for example, they are not presently in employment, the transition provisions should be retained in an Award Schedule. Such transition provisions would subsequently be applied to any person who held relevant teaching qualifications or teaching accreditation / registration status as at the transition date, but not in the case teachers who became qualified after that date.

Progression of Teachers Following Transition

12. Progression will occur in accordance with Table 1. To determine the number of additional years required before the teacher progresses to the next Level, the number of years of service as a Proficient teacher would be calculated and applied to the criteria in Table 1. Provided however the number of years of service at a proficient level will be deemed to be not less than the total service of the teacher minus two years.

Other Issues

13. Until jurisdictions such as Queensland and the ACT require early childhood teachers (ECTs) to be accredited/registered, for the purposes of the operation of the new structure, all ECTs in these jurisdictions should be deemed proficient either: after two years of service; or obtaining on full registration, whichever occurs sooner. That is they can progress beyond Level 1 and all service beyond the first 2 years of service, or after they obtain full registration, will be service at a proficient level with respect to Table 1.
14. Teachers with at least two years service who were previously proficient who:
 - a. are returning to teaching following a long break of service (e.g. post child rearing etc), where they have not maintained proficient status; or
 - b. otherwise no longer hold proficient accreditation/registration status;

shall for the purposes of the Modern Award, be deemed to be proficient and all service (beyond the first 2 years of service) will count as service at a proficient level.
15. Where provisional accreditation/registration is obtained for the first time by a teacher with overseas teaching service, all teaching service since completion of the relevant qualification (beyond the first two years) shall count as service at a proficient level.