

**From:** Chambers - Ross J  
**Sent:** Thursday, 26 May 2016 9:50 AM  
**To:** 'Liz Gilmour'  
**Cc:** Kerri Knopp; [aodgers@ieu.org.au](mailto:aodgers@ieu.org.au); AMOD  
**Subject:** RE: Annual Leave decision and the Educational Services (Teachers) Award 2010

Dear Ms Gilmour,

I refer to your email below in which you attach a letter to Justice Ross. The Annual Leave decision has now been republished noting a correction in relation to the matter AM2015/6 modern awards ( see [\[2016\] FWCFB 3177](#)).

Kind regards,

**MIRIAM HENRY**

Associate to The Hon. Justice IJK Ross  
**President**

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**4 Yearly Review of Modern Awards  
AM2014/47 and AM2015/6 – Annual leave**

Dear President Ross

**Re: 4 yearly review of modern awards – Annual Leave and the *Educational Services (Teachers) Award 2010***

We are concerned that as a result of the most recent decision of the Full Bench in the Annual Leave matter [[2016] FWCFB 3177], the *Educational Services (Teachers) Award 2010* [MA000077] (the Award) may have inadvertently been included in the list of awards to be varied contained in Attachment 6 to that decision. We respectfully request that the Full Bench reviews and amends its decision.

The Associations of Independent Schools (AIS) and the Independent Education Union (IEU) (the parties) first filed separate submissions, in accordance with the Commission's directions, objecting to the inclusion of the draft determinations in the Award, in July 2015. Consistent with the further directions of the Full Bench, the parties filed separate new submissions and witness statements in October 2015. The parties' submissions clearly explain that teachers use their annual leave entitlements during each school year, as all annual leave is deemed to be taken during the non-term weeks of the school year. Accordingly, there is no capacity for a teacher to accrue an excessive balance of annual leave or to cash out annual leave. It is the parties' contention that the Full Bench's proposed clause has no work to do in the Award.

Paragraph 11 of the Commission's Statement of 23 November 2015 [[2015] FWCFB 8030] referred the implementation of the annual leave terms in the Award and two other educational services awards to the Full Bench constituted to deal with the substantive claims in those awards. This decision was given effect by the direction issued by the Commission on 8 April this year. That Full Bench has yet to hear and determine the matters.

Yours sincerely

Anthony Odgers  
Independent Education Union of Australia

Kerri Knopp  
Independent Schools Victoria, on behalf of  
the Associations of Independent Schools