



**s.156 of the Fair Work Act 2009  
4 yearly review of modern awards**

***Educational Services (Teachers) Award 2010 [MA000077]  
AM2018/18, AM2018/20***

**SUBMISSION**

**29 June 2020**

1. This submission is made in response to the Decision [[2020] FWCFB 3011] and Statement [[2020] FWCFB 3118] issued by the Fair Work Commission (the Commission) on 10 June 2020 and 15 June 2020 respectively, regarding coverage of the *Children's Services Award 2010* and the *Educational Services (Teachers) Award 2010*.
2. This submission is made on behalf of the Association of Independent Schools (AISs) which is made up 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 Victoria

The AISs represent either all or a large majority of award dependent school employers.

**Provisional view**

3. In its Decision, the Commission expressed its provisional view that

'[559] We see no good reason why the operator of an ECEC centre should have to refer to two awards in order to determine the terms and conditions applicable to the employees at their centre. It is our provisional view that the relevant part of the Teachers Award be transferred to the Children's Services Award.'

4. Furthermore, in its Statement the Commission said

'[5] ... In order to give effect to that *provisional* view, the Children's Services Award would be amended to include teachers working in the ECEC sector and consequential amendments would then be made to the Teachers Award.'

The intention of the *provisional* view is not to vary the conditions for teachers in the ECEC sector.'

### School setting

5. There are already two awards that apply in the school education industry, being the *Educational Services (Schools) General Staff Award 2020* (GS Award) and the *Educational Services (Teachers) Award 2010* (Teachers Award).
6. Many independent schools will have an early learning centre that is seen as being attached to the school. Often the ECEC centre is operated by the same legal entity that controls the school. Accordingly, these employees are currently covered by the Teachers Award or GS Award, as appropriate.
7. In addition to this, there are also schools where the ECEC centre is operated by a separate legal entity. The Teachers Award still applies to these centres, meaning the same industrial instrument applies to the teachers across the school and the ECEC centre.

### Our response to the Commission's provisional view

8. Whilst we understand that the provisional view of the Commission is to include teachers working in the ECEC sector in the Children's Service Award without changing entitlements, we are not clear as to what the implications will be for teachers working in an ECEC centre attached to or connected with a school.
9. At this stage, we do not have an understanding as to what 'consequential amendments will then be made to the Teachers Award' to give effect to the Commission's provisional view.
10. To the extent that the Commission may be considering moving coverage of ECEC Teachers to the Children's Award, we would strongly oppose that approach. Employers in a school setting are already required to consult two awards, and we do not believe it is reasonable or appropriate to amend the coverage of one of these awards to require schools to consult three. Furthermore, the issue of coverage was determined when the Teachers Award was established in 2010.
11. We would also oppose any amendment to the coverage of the Teachers Award regarding an ECEC centre not operated by the same legal entity as the school but seen as connected to the school. Given teachers in the ECEC centre are currently covered by the Teachers Award, we see no reason for this to change.
12. We do not believe there should be any change to the coverage of the Teachers Award. We do not object to the Commission making any amendments to the Children's Services Award provided that the coverage and operation of the Teachers Award is not impacted and the status quo remains.