

**CROWN EMPLOYEES (CHIEF EDUCATION OFFICERS -
DEPARTMENT OF EDUCATION) SALARIES AND CONDITIONS
AWARD 2017**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education.

(Case No. 2016/00365597)

/Before Commissioner Tabbaa

9 December 2016

AWARD

PART A

1. Arrangement

PART A

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2. Purpose and Principles of This Award

- 2.1 This award establishes the conditions of employment, including salaries, of chief education officers.
- 2.2 The parties to this award are the Department and the ISEA.

- 2.3 The parties will support chief education officers by:
- (a) providing clear lines of communication on matters affecting individuals and their work;
 - (b) developing individual and collective talents;
 - (c) promoting co-operation and teamwork;
 - (d) recognising individual and team contributions; and
 - (e) promoting career planning and development.
- 2.4 This award aims to assist the Department and chief education officers in pursuing the goal of continuous improvement by:
- (a) supporting schools in carrying out the government agenda;
 - (b) facilitating teaching and learning processes which will improve student opportunities and outcomes;
 - (c) improve organisation-wide productivity and efficiency;
 - (d) assisting and accelerating cultural change in the workplace towards greater participation and flexibility;
 - (e) promoting better and more satisfying jobs;
 - (f) developing and pursuing constructive changes aimed at improving teaching and learning in schools on a co-operative, continuing basis by using a consultative approach;
 - (g) maintaining essential standards of employment conditions;
 - (h) providing certainty, stability and equity in salaries and conditions arrangements for the period of the award;
 - (i) laying a foundation for further workplace improvement through a commitment to improved teaching and learning in schools, greater customer focus and commitment to quality service and to joint development of performance measures;
 - (j) enhancing the opportunities of chief education officers for career progression and mobility; and
 - (k) improving the effectiveness of the Department.

3. Definitions

- 3.1 "Act" means the Teaching Service Act 1980.
- 3.2 "Chief Education Officer" means a person appointed as such by the Secretary under the Act.
- 3.3 "Department" means the Department of Education.
- 3.4 "Industrial Relations Commission" means the Industrial Relations Commission of New South Wales, established by the Industrial Relations Act 1996.
- 3.5 "ISEA" means the Institute of Senior Educational Administrators of New South Wales.
- 3.6 "Officer" means and includes all persons permanently or temporarily employed in the Teaching Service under the provisions of the Act.

- 3.7 "Parties" means the Department and the ISEA.
- 3.8 "Secretary" means the Secretary, Department of Education.
- 3.9 "Senior Officers" means employees employed as senior officers whose working conditions are prescribed under the Crown Employees (Public Service Conditions of Employment) Award 2009 published 21 October 2016 (380 I.G. 1292) as varied, or its successor.

4. Qualifications

- 4.1 The parties agree that the qualification requirements of positions should accurately reflect their requirements and should conform with equal employment opportunity principles.
- 4.2 The position criteria for future vacant chief education officer positions will, in the main, reflect the need for relevant educational experience.
- 4.3 Qualifications for appointment as a chief education officer will be as determined by the Secretary.

5. Salaries and Other Remuneration

- 5.1 Except as otherwise provided in subclause 5.5 of this clause, chief education officers must be employed at an annual salary not less than that for the classifications as set out in Table 1 - Salary Scale, of Part B, Monetary Rates.
- 5.2 Subject to the provisions of the Act and to the regulation made thereunder, chief education officers covered by this award will be paid the salary as set out in the said Table 1.
- 5.3 The salaries payable in Table 1 include remuneration of all incidents of employment other than:
- (a) annual leave loading;
 - (b) travel or subsistence or motor vehicle allowances;
 - (c) allowances in relation to relocation expenses; and
 - (d) climatic living and disability (Broken Hill) allowances.
- 5.4 Persons appointed as chief education officers subsequent to the making of this award will be appointed to the appropriate salary level based on their background, experience and, where applicable, previous salary level.
- 5.5 Chief education officers not on salary level 3 shall be entitled to progress to a higher level of salary after each 12 months of service subject to satisfactory performance.
- 5.6 Salary packaging

For the purposes of this clause "salary" means the salary or rates of pay prescribed by Part B, Table 1 of this award and superable allowances.

- 5.6.1 An employee may, by agreement with the employer, enter into a salary packaging arrangement including salary sacrifice of 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. Such payroll deductions may include but are not limited to, compulsory superannuation payments, HECS payments, child support payments, judgment debtor/garnishee orders, union fees, health fund premiums.

- 5.6.2 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 the Department's salary packaging guidelines. Such agreement must be made prior to the period of service to which the earnings relate.
- 5.6.3 Salary packaging must be cost neutral for the employer. Employees must reimburse the employer in full for the amount of:
 - 5.6.3.1 any fringe benefits tax liability arising from a salary packaging arrangement; and
 - 5.6.3.2 any administrative fees.
- 5.6.4 Where the employee makes an election to salary package the following payments made by the employer 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:
 - 5.6.4.1 Superannuation Guarantee Contributions;
 - 5.6.4.2 any salary-related payment including but not limited to allowances and workers compensation payments; and
 - 5.6.4.3 payments made in relation to accrued leave paid on termination of the employee's employment or on the death of the employee.

6. Conditions of Employment

- 6.1 The provisions of this award prevail over any award, industrial agreement, public sector agreement, determination under the Teaching Service Act 1980 or the Public Sector Workforce Office or award of the Industrial Relations Commission which deal with the same matters in so far as they purport to apply to a chief education officer bound by this award.
- 6.2 Chief education officers will have access to working hours consistent with the flexible working hours conditions afforded Senior Officers, subject to operational requirements and departmental convenience.
- 6.3 Deduction of Association Membership Fees.
 - 6.3.1 The ISEA shall provide the employer with a schedule setting out ISEA fortnightly membership fees payable by members of the ISEA in accordance with ISEA's rules.
 - 6.3.2 The ISEA shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of ISEA fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
 - 6.3.3 Subject to 6.3.1 and 6.3.2 above, the Department shall deduct ISEA fortnightly membership fees from the pay of any employee who is a member of the ISEA in accordance with the ISEA'S rules, provided that the employee has authorised the Department to make such deductions.
 - 6.3.4 Monies so deducted from employees' pay will be forwarded regularly to the ISEA together with all necessary information to enable the ISEA to reconcile and credit subscriptions to employees' ISEA membership accounts.
 - 6.3.5 Unless other arrangements are agreed to by the Department and the ISEA, all ISEA membership fees shall be deducted on a fortnightly basis.
 - 6.3.6 Where an employee has already authorised the deduction of ISEA membership fees from his or her 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.

7. Recreation Leave

- 7.1 Chief education officers are entitled to four weeks recreation leave per annum.
- 7.2 Recreation leave will be taken at a time and for a period agreed between the chief education officer and the supervisor.
- 7.3 Payment will be made at the chief education officer's salary rate at that time.

8. Deferred Salary Scheme

- 8.1 The Department's deferred salary scheme provides chief education officers with an opportunity to take a year away from work for professional development and other experience such as industry experience, post graduate study, working in overseas education and training systems or other activities.
- 8.2 Under the deferred salary scheme, chief education officers are able to defer 20 per cent of their salary for the first four years and be paid the deferred salary in the fifth year whilst on leave.

9. Performance Management and Professional Development

- 9.1 The performance of chief education officers will be reviewed in accordance with the DoE performance management and development scheme.
- 9.2 The parties confirm a commitment to professional and career training and development for chief education officers and to their obligation to maintain and update their professional skills for the benefit of students, staff and the Department.
- 9.3 The Department is committed to providing access to and support for professional, management development and technological training, and to enhance the career mobility of chief education officers.
- 9.4 Where the chief education officer is required to undertake a professional development activity by the Department, the compulsory fees involved will be met by the Department. Where the professional development activity is voluntary, the Department may, at its discretion, refund all or part of the compulsory fees incurred by chief education officers approved to undertake such training and professional development programs.

10. Mobility Provisions

- 10.1 The parties agree to develop and implement strategies to enhance the mobility between chief education officers and senior administrators in the Department.

11. Technological Change

- 11.1 The ISEA agrees to support the implementation of the Department's Technology Strategy.
- 11.2 The Department will assist chief education officers in meeting the demands of the Department's technology strategy by providing access to equipment and professional development opportunities designed to increase chief education officers' efficiency and productivity.

12. Dispute Resolution Procedures

- 12.1 Subject to the provisions of the Industrial Relations Act 1996, should any dispute (including a question or difficulty) about an industrial matter arise, then the following procedure shall apply.
 - 12.1.1 Should any dispute, question or difficulty arise as to matters occurring in a particular workplace, then the chief education officer will raise the dispute, question or difficulty with the supervisor as soon as practicable.

12.1.2 The supervisor will discuss the matter with the chief education officer within two working days with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and timeframe for proceeding.

12.1.3 Should the above procedure be unsuccessful in producing a resolution of the dispute, question or difficulty or should the matter be of a nature which involves multiple workplaces, then the chief education officer may raise the matter with an appropriate officer of the Department with a view to resolving the dispute, question or difficulty or negotiating an agreed method and timeframe for proceeding.

12.1.4 Where the procedures in paragraph 12.1.3 of this subclause do not lead to resolution of the dispute, question or difficulty, the matter will be referred to the Deputy Secretary and the Secretary of the ISEA. They or their nominees will discuss the dispute, question or difficulty within five working days with a view to resolving the matter by negotiating an agreed method and timeframe for proceeding.

12.1.5 Should the above procedures not lead to resolution then either party may make application to the Industrial Relations Commission of New South Wales.

13. Duties as Directed

13.1 The Secretary, delegate, nominee or representative may direct a chief education officer to carry out such duties as are within the limits of the chief education officer's skills, competence and training, provided that such duties do not promote deskilling.

13.2 The Secretary may determine the location at which such duties will be carried out.

13.3 Any direction issued by the Secretary pursuant to subclauses 13.1 and 13.2 of this clause shall be consistent with the Secretary's responsibility to provide a safe, healthy working environment.

14. Redeployment

14.1 To allow greater flexibility to place a permanent chief education officer displaced through organisational change or the regrading of a position, the parties agree, subject to personal and geographic considerations, to place the chief education officer in:

14.1.1 another non school-based position under the Act of annual salary level for which the officer is qualified; or

14.1.2 an appropriate school-based position having regard to the chief education officer's salary, experience and background.

14.2 In implementing paragraph 14.1.2 of subclause 14.1 of this clause, the Department will take into account the experience of the chief education officer in both school-based and non-school based positions, the salary level of the chief education officer and the salary levels and locations of appropriate vacant school based positions, including executive positions.

15. Right of Return of Permanent Officers Temporarily Appointed to Chief Education Officer Positions

15.1 A permanent officer of the Department temporarily appointed to a chief education officer position for a period not exceeding twelve consecutive months will have right of return to their substantive position in the Department at the conclusion of the temporary appointment.

15.2 A permanent officer of the Department temporarily appointed to or acting in a chief education officer position for a period exceeding 12 consecutive months will have right of return to a position of equivalent salary and status as the substantive position occupied prior to the temporary appointment or acting arrangement.

16. No Further Claims

- 16.1 Except as provided by the Industrial Relations Act 1996, prior to 31 December 2017, there shall be no further claims by the parties to this award for changes to salaries, rates of pay, allowances or conditions of employment in relation to matters expressly contained in this Award.

17. Anti-Discrimination

- 17.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 17.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed in clause 12, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 17.3 Under the Anti-Discrimination Act 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 17.4 Nothing in this clause is to be taken to affect:
- any conduct or act which is specifically exempted from anti-discrimination legislation;
 - offering or providing junior rates of pay to persons under 21 years of age;
 - any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti-Discrimination Act 1977, or
 - a party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- 17.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

18. Work, Health and Safety

- 18.1 For the purposes of this subclause, the following definitions shall apply:
- 18.1.1
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- 18.1.2 A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- 18.2 Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- 18.2.1 consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - 18.2.2 provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - 18.2.3 provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - 18.2.4 ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- 18.3 Nothing in this subclause (a) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Work Health and Safety Act 2011 or the Workplace Injury Management and Workers Compensation Act 1998.

19. Area, Incidence and Duration

- 19.1 This award covers all chief education officers employed by the Department under the Act.
- 19.2 This award replaces and rescinds the Crown Employees (Chief Education Officers - Department of Education) Salaries and Conditions Award 2014 published 27 November 2015 (378 IG 222) as varied.
- 19.4 This award shall commence on and from 1 January 2017 and remains in force until 31 December 2017.

PART B

MONETARY RATES

Table 1 - Salary Scale

Chief Education Officer	Salary from first pay period on or after 1.1.2017 \$
Increase	2.5%
Level 3	168,650
Level 2	161,705
Level 1	150,126

I. TABBAA, Commissioner

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