



# News**e**xtra

NSW/ACT Independent Education Union

Website: [www.ieu.asn.au](http://www.ieu.asn.au)  
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## Preserve your working conditions

### Important information for Teachers in the Early Childhood Sector

#### Special case increases

As a result of the Independent Education Union's special case, the NSW Industrial Relations Commission has awarded a 12% increase in salaries and allowances for teachers in early childhood services and preschools.

A 4% rise is payable from the first pay period after 24 November 2009, with a further two 4% increases to follow in September 2010 and September 2011. The Commission also awarded non-contact time for teachers and directors.

These increases will apply immediately to all teachers in workplaces which are non-constitutional corporations. The Union's view is that community-based preschools are non-constitutional corporations, however community-based long day care centres may not be. This view was not opposed by employer representatives (including Community Connections Solutions Australia - CCSA) in the case.

The Union also recommends that if an employer is unsure whether they are a constitutional corporation, they should comply with the new award provisions to avoid potential back pay cases in the future and because the new award provisions are a fair, arbitrated outcome of the Union's claim.

As a result of the special case decision of 24 November, new awards have been made: the *Teachers (Non-Government) (Preschools) (State) Award 2009*; and the *Teachers (Non-Government Early Childhood Services other than Preschools) (State) Award 2009*. Copies of these awards and salary scales can be found at [www.ieu.asn.au](http://www.ieu.asn.au) (under awards and salaries).

**"The new award provisions are a fair, arbitrated outcome of the Union's claim."**

#### Industrial relations referral of state employers

##### ■ Non-constitutional corporations

It had been widely anticipated that employers in the state system would be referred to the federal system under legislation passed by the NSW and Commonwealth governments. This occurred on the last sitting day of Parliament.

Under the legislation, NSW awards will continue to operate for at least a further 12 months. This means that the *Teachers (Non-Government Preschools) (State) Award* and the *Teachers (Non-Government Early Childhood Service Centres other than Preschools) (State) Award* will continue to have effect until at least January 2011.

However, you will need to get an agreement in place by January 2011.

##### ■ Constitutional corporations

The modern awards for early childhood services that are constitutional corporations will commence from 1 January 2010. The *Educational Services (Teachers) Award 2010* will apply to teachers in early childhood services while child care workers and assistants will be covered by the *Children's Services Industry Award 2010*. These awards were finalised by Fair Work Australia on 4 December and are now available on the Fair Work Australia website.

The conditions of the modern awards provide a minimum standard of protection only and are inferior to your current NAPSA conditions and salaries. Some protections apply to the rate currently paid to existing employees at a workplace but, for new employees, rates of pay may be phased down from July 2010 to modern award levels by 2014.

**"Many members have appointed the Union as their bargaining agent. If you have not already done this, we would encourage you to do so now."**

**Please contact the Union if you require further information.  
Visit [www.ieu.asn.au](http://www.ieu.asn.au) or contact 1800 467 943**

While your employer may not seek to reduce your conditions of employment to those of the modern award immediately, it is important that all members take steps to ensure their working conditions are protected for the future. The Union is seeking that existing conditions are maintained, together with the rates of pay awarded by the Commission in the recent special case.

Fair Work Australia has restored many of the rights of employees which were lost under WorkChoices. Your employer is required to 'bargain in

good faith' and negotiate an agreement for your working conditions. This is important for all ECS teachers, including those moving to new positions after 1 January. Your new employer could offer you the inferior pay and conditions of the modern award.

Many members have appointed the Union as their bargaining agent. If you have not already done this, we would encourage you to do so now.

## STEPS YOU NEED TO TAKE TO PROTECT YOUR WORKING CONDITIONS AND IMPROVE YOUR SALARIES

These steps apply to teachers working in constitutional corporations.

### STEP 1

The Union has developed template agreements for both preschool and long day care centres. These agreements reflect your current conditions with improvements in salaries, allowances and conditions as awarded in the special case. Copies of these agreements can be found on the IEU website at [www.ieu.asn.au/356.html](http://www.ieu.asn.au/356.html) (scroll down to: ECS Latest News – Protect your working conditions).

### STEP 2

You should approach your employer indicating that you want an agreement to protect your salaries and conditions and that you are proposing the IEU template agreement. A copy of the agreement should be provided to them.

### STEP 3

If your employer agrees, they are required to give you and any other teachers employed at your service a representational rights notice advising you and any other teachers of your rights to be represented in any discussion regarding the agreement, and a copy of the proposed agreement. A template of the representational rights notice can be found at [www.ieu.asn.au/356.html](http://www.ieu.asn.au/356.html) (scroll down to ECS Latest News – Protect your working conditions).

### STEP 4

Details of your employer will need to be added in a number of places in the agreement and in the representational rights notice.

### STEP 5

Twenty one days after issuing the bargaining representational rights notice, every teacher who is employed at your service will be eligible to vote on the proposed agreement. A simple majority ensures that the agreement is approved.

### STEP 6

The agreement needs to be signed by the employer and two forms will also need to be completed by your employer. Form 16 (Application for Approval) and Form 17 (Employers Declaration) can be found at [www.ieu.asn.au/356.html](http://www.ieu.asn.au/356.html) (scroll down to ECS Latest News – Protect your working conditions). Return these forms to the IEU and your Union will then file the agreement with Fair Work Australia.

## What is in the new template agreement?

The template agreements contain the conditions of employment in your previous award or NAPSA with 4% per annum increases in salaries and allowances and non contact time. They also have some additions which are required by Fair Work Australia, such as a flexibility clause and comprehensive dispute procedures. Salaries and allowances are expressed as hourly rates based on a 38 hour week. We have added in the days of attendance taken from the *Education Services (Teachers) Award 2010* (the modern award) for preschools of up to 205 days of attendance. Obsolete NAPSA provisions have been omitted.

## What happens if your employer refuses to discuss an agreement?

You should contact the Union immediately. Your employer cannot refuse to negotiate an agreement if a majority of the teachers employed at your service have agreed that they wish to negotiate an agreement. The Union will seek bargaining orders from the Commission to ensure that your employer bargains in good faith.

## What happens if your employer wants to make changes to the template agreement?

Again you should talk to the Union. If you are in agreement with the proposed changes, then we can amend the agreement to reflect these changes.

You should not agree to any changes to the agreement without first seeking advice from the Union.

## What happens if this is not completed by 1 January 2010?

You should request that your employer confirms in writing that they will not change your working conditions, and will consider the proposed agreement early in the New Year. As a gesture of good faith, they could implement the salary increase. A draft letter can be found at [www.ieu.asn.au/356.html](http://www.ieu.asn.au/356.html) (scroll down to ECS Latest News – Protect your working conditions).

## What happens if your employer says they are changing your working conditions to the modern award: the *Educational Services (Teachers) Award*?

You should contact the Union immediately.

## What happens if your employer has more than one early childhood service?

The agreement would apply to all of the teachers employed in all their services. If your employer has three or more services, please contact the Union.

Please also contact the Union if you require further information.

Further information on agreement making can be found at [www.fwa.gov.au](http://www.fwa.gov.au).