

**Kaiarahi i te Reo, Therapists', ATSSD and Special Education
Assistants' Collective Agreement
Effective 6 June 2014 to 5 December 2016**

Agreed revision effective 11 May 2016

Part 1: Coverage/Term of the Agreement

- 1.1 Parties to the Agreement
- 1.2 Coverage
- 1.3 Interpretation and Definitions
- 1.4 Term of the Agreement
- 1.5 Variation Clause

Part 2: Terms of Employment

- 2.1 Good Employer/Equal Employment Opportunities and Pay and Employment Equity
- 2.2 Appointments
- 2.3 Appointment Criteria
- 2.4 Fixed Term Appointment
- 2.5 Hours of Work (Other Than Therapists)
- 2.6 Therapist Hours of Work
- 2.7 Meal Breaks
- 2.8 Paid Breaks

Part 3: Remuneration

- 3.1 Special Education Assistants
- 3.2 Kaiarahi i te Reo and ATSSD
- 3.3 Therapists
- 3.4 Review Process
- 3.5 Part-time Employees
- 3.6 Direct Crediting of Salaries
- 3.7 Recognised Qualifications

Part 4: Training and Professional Development

- 4.1 Training
- 4.2 Professional Development

Part 5: Expenses and Allowances

- 5.1 Motor Vehicle Allowance
- 5.2 Protective Clothing
- 5.3 First Aid Allowance
- 5.4 Overnight Allowance
- 5.5 Dirty Work Allowance
- 5.6 Reimbursement of Expenses
- 5.7 Supervision of Therapists

Part 6: Holidays

- 6.1 Public Holidays and Additional Paid Holidays
- 6.2 Service for Leave Purposes for Therapists
- 6.3 Annual Leave
- 6.4 Long Service Leave
- 6.5 Sick Leave
- 6.6 Bereavement/Tangihanga Leave
- 6.7 Parental Leave
- 6.8 Maternity Grant
- 6.9 Re-entry After Absence Due to Childcare
- 6.10 Jury Service
- 6.11 Other Special Leave

Part 7: Other Working Conditions

- 7.1 Sexual Harassment
- 7.2 Health and Safety
- 7.3 Immunisation
- 7.4 Privacy Act

Part 8: Complaints and Discipline

- 8.1 General
- 8.2 Ngā-Kōrero Me Ngā Tikanga
- 8.2 Discussions in a Māori Context
- 8.3 Discipline and Dismissal
- 8.4 Suspension
- 8.5 Instant Dismissal

Part 9: Termination and Abandonment of Employment and Record of Service

- 9.1 Termination of Employment
- 9.2 Abandonment of Employment
- 9.3 Record of Service

Part 10: Employment Protection and Surplus Staffing Provisions

- 10.1 Employment Protection Provision
- 10.2 Surplus Staffing Provisions
- 10.3 Staffing Merger Provisions

Part 11: Union Related Rights

- 11.1 Access
- 11.2 Deductions
- 11.3 Paid Union Meetings

Part 12: Employment Relationship Problems

- 12.1 What is an Employment Relationship Problem?
- 12.2 Resolving an Employment Relationship Problem
- 12.3 Personal Grievances
- 12.4 Services Available

Signatories

Part 1: Coverage/Term of Agreement

1.1 Parties to the Agreement

1.1.1 The parties to this agreement shall be NZEI Te Riu Roa and the Secretary for Education acting under delegation from the State Services Commissioner made pursuant to s 23 State Sector Act 1988 and acting in accordance with s 74(5) of that Act.

1.2 Coverage

1.2.1 This agreement is binding on every employer as defined in 1.3.1.

1.2.2 This agreement is applicable to every employee employed as a kaiarahi i te reo, an assistant to teachers of students with severe disabilities (hereafter referred to as ATSSD), a special education assistant, an occupational therapist or a physiotherapist.

1.2.3 This agreement is binding on those employees who are or who become members of NZEI Te Riu Roa.

1.3 Interpretation and Definitions

1.3.1 “Employer” means a board of trustees (or Commissioner if applicable) of a state or integrated primary, intermediate, secondary or composite school, as defined in the Education Act 1989. It does not include the Board of Trustees of Te Aho o Te Kura Pounamu.

1.3.2 “ATSSD” means an employee who works alongside teachers, assisting with the education of students with severe disabilities.

1.3.3 Ko te kaiarahi i te reo he kaimahi e matatau ana i te reo Māori me ona tikanga, e mahi tahi ana i te taha o te kaiako, e tautoko ana i te reo Māori.

A “Kaiarahi i te reo” is an employee who is fluent in Māori language and has an in-depth knowledge of Māori traditions and beliefs and works alongside a teacher supporting Māori language.

1.3.4 “Special education assistant” means an employee who works alongside teachers and therapists, assisting with the education of students with physical disabilities.

1.3.5 “Therapist” means an employee engaged as a nationally registered physiotherapist and/or occupational therapist holding a current annual practicing certificate.

1.4 Term of the Agreement

1.4.1 The term of this agreement is 6 June 2014 to 5 December 2016.

1.5 Variation Clause

1.5.1 The parties agree that the terms and conditions in this agreement may be varied at any time by written agreement between NZEI Te Riu Roa and the Secretary for Education acting under delegation from the State Services Commissioner made pursuant to s 23 State Sector Act 1988.

Part 2: Terms of Employment

2.1 Good Employer/Equal Employment Opportunities and Pay and Employment Equity

- 2.1.1 Good Employer/Equal Employment Opportunities - Attention is drawn to Part VIIA State Sector Act 1988 which outlines the responsibilities of the employer with regard to the operation of a personnel policy that complies with the principle of being a good employer and the equal employment opportunity responsibilities of the employer.
- 2.1.2 Pay and Employment Equity - The Ministry of Education and NZEI Te Riu Roa agree that remuneration, job choice, and job opportunities in the state education sector should not be affected by gender.

2.2 Appointments

- 2.2.1 All appointments to positions shall be permanent unless identified as being fixed term.
- 2.2.2 Every appointee to a vacancy shall be notified in writing of:
- (a) the appointment
 - (b) the salary to be paid; and
 - (c) when or how the employment will end and the reasons for the employment ending in that way if the appointment is for a fixed term.

2.3 Appointment Criteria

- 2.3.1 Attention is drawn to the State Sector Act 1988 insofar as it provides that the person best suited to the position shall be appointed. In applying that provision the employer will have regard to the experience, qualifications and abilities relevant to the position and such other relevant matters as it determines.

2.4 Fixed Term Appointment

- 2.4.1 An employee and an employer may agree that the employment of the employee will end:
- (i) at the close of a specified date or period; or
 - (ii) on the occurrence of a specified event; or
 - (iii) at the conclusion of a specified project.
- 2.4.2 Before an employee and employer agree that the employment of the employee will end in a way specified in 2.4.1, the employer must:
- (i) have genuine reasons based on reasonable grounds for specifying that the employment of the employee is to end in that way; and
 - (ii) advise the employee of when or how his or her employment will end and the reasons for his or her employment ending in that way.
- 2.4.3 The following reasons are not genuine reasons for the purposes of 2.4.2:
- (i) to exclude or limit the rights of the employee under the Employment Relations Act 2000;
 - (ii) to establish the suitability of the employee for permanent employment.

2.5 Hours of Work (other than therapists)

- 2.5.1 The regular working hours of employees other than therapists will be set by the employer, in consultation with the employee, but will not exceed 40 hours per week unless otherwise agreed by the employer and employee.

2.6 Therapist Hours of Work

- 2.6.1 Except as provided under 2.6.2 below, the ordinary hours of a full-time therapist shall be 38 hours per week, Monday to Friday inclusive. Therapists' duties may include:
- (i) preparation, planning and organisation of equipment and therapy;
 - (ii) evaluation, reporting and follow-up;
 - (iii) professional liaison and home visits;
 - (iv) updating systems, contracts and case notes;
 - (v) administration and recording;
 - (vi) attending meetings and courses; and
 - (vii) professional development.
- 2.6.2 A therapist (either full-time or part-time) who, before 3 April 2002, chose to retain their hours of work based upon the then current 30 hours per week, shall retain those hours, noting 3.3.5 below.

2.7 Meal Breaks

- 2.7.1 No employee shall be required to work more than five hours without an uninterrupted break for a meal, such breaks to be not less than 30 minutes and no more than one hour in duration except where otherwise agreed.

2.8 Paid Breaks

- 2.8.1 Employees shall be entitled to paid breaks in accordance with 2.8.2 and 2.8.3 below.

- 2.8.2 Employees working 5 hours or more per day may, on any such day, take either:
- (a) one 20 minute break in the morning; or
 - (b) one 10 minute break in the morning and one 10 minute break in the afternoon.

The timing of the break(s) shall be such that it takes into account:

- (i) That the operational needs of the school are not compromised; and
 - (ii) That the employee concerned is afforded a genuine break.
- 2.8.3 Employees working 2 hours or more but less than 5 hours per day are entitled to either one break of 10 minutes in the morning or one break of 10 minutes in the afternoon. The timing of the break shall be such that it takes into account:
- (i) That the operational needs of the school are not compromised; and
 - (ii) That the employee concerned is afforded a genuine break.
- 2.8.4 Coffee, tea, sugar and milk shall be provided at all meal intervals and rest periods.

Part 3: Remuneration

3.1 Special Education Assistants

3.1.1 Salaries payable to special education assistants are:

Step	2013 rates	Rates effective 27 June 2014	Rates effective 29 June 2015	Rates effective 30 March 2016
1	\$30,300	\$30,755	\$31,063	\$31,807
2	\$31,643	\$32,118	\$32,440	\$32,738

3.1.2 Scale increments - special education assistants shall, upon the completion of 12 months service at Step 1, advance to the next step on the salary scale. This is provided that the employer attests that the employee has met or exceeded standards of performance as assessed by the employer against the job description and/or written requirements of the position. Where a job description and/or written requirements do not exist the employee will be consulted in determining the job description.

3.2 Kaiarahi i te reo and ATSSD

3.2.1 Salaries payable to Kaiarahi i te reo are:

Step	2013 rates	Rates effective 27 June 2014	Rates effective 29 June 2015	Rates and steps effective 30 March 2016
1	\$32,800	\$33,292	\$33,625	\$33,925
2	\$33,689	\$34,195	\$34,537	\$34,826
3	\$34,577	\$35,096	\$35,447	\$35,725
4	\$35,274	\$35,804	\$36,163	\$36,479
5	\$35,971	\$36,511	\$36,877	\$37,195
6	\$36,926	\$37,480	\$37,855	\$38,152
7	\$37,881	\$38,450	\$38,835	\$40,095
8	\$38,836	\$39,419	\$39,814	\$41,096
9	\$39,787	\$40,384	\$40,788	\$42,098
10	\$40,771	\$41,383	\$41,797	\$43,185
11	\$41,755	\$42,382	\$42,806	\$44,135
12	\$42,735	\$43,377	\$43,811	\$45,201
13	\$43,719	\$44,375	\$44,819	\$46,195
14	\$44,700	\$45,371	\$45,825	\$48,268
15	\$45,684	\$46,370	\$46,834	\$49,423
16	\$46,752	\$47,454	\$47,929	
17	\$47,821	\$48,539	\$49,025	

3.2.2 Salaries payable to ATSSD are:

Step	2013 rates	Rates effective 27 June 2014	Rates effective 29 June 2015	Rates effective 30 March 2016
1	\$31,178	\$31,646	\$31,963	\$32,257
2	\$32,021	\$32,502	\$32,828	\$33,130
3	\$32,869	\$33,363	\$33,697	\$34,007
4	\$33,532	\$34,035	\$34,376	\$34,692
5	\$34,196	\$34,709	\$35,057	\$35,380
6	\$35,101	\$35,628	\$35,985	\$36,316
7	\$36,008	\$36,549	\$36,915	\$37,255
8	\$36,916	\$37,470	\$37,845	\$38,193
9	\$36,994	\$37,549	\$37,925	\$38,274
10	\$38,755	\$39,337	\$39,731	\$40,097
11	\$39,689	\$40,285	\$40,688	\$41,062
12	\$40,623	\$41,233	\$41,646	\$42,029
13	\$41,556	\$42,180	\$42,602	\$42,994
14	\$42,490	\$43,128	\$43,560	\$43,961
15	\$43,424	\$44,076	\$44,517	\$44,927
16	\$44,440	\$45,107	\$45,559	\$45,978
17	\$45,457	\$46,139	\$46,601	\$47,029

3.2.3 Relieving employees - A relieving employee shall be paid a salary at the appropriate rate specified in 3.2.1 or 3.2.2 above.

3.2.4 An employee may upon appointment be placed at any point within the appropriate salary scale under 3.2.1 or 3.2.2 above. Factors to be considered in deciding the actual starting rate include:

- (i) previous relevant paid or unpaid work experience;
- (ii) level of skill required for the position;
- (iii) recognition of qualifications;
- (iv) level of responsibility required for the position;
- (v) the level of te reo Māori and understanding of ngā tikanga Māori required for the position;
- (vi) the ease or difficulty in recruiting and/or retaining the specific skills and/or experience required for the position.

3.2.5 Scale increments - On completion of one year's service on a step on the salary scale employees shall be paid on the next higher step until the maximum step is reached. This is provided that the employer attests that the employee has met or exceeded standards of performance as assessed by the employer against the job description and/or written requirements of the position. Where a job description and/or written requirements do not exist the employee will be consulted in determining the job description.

Note: Movement for kaiarahi i te reo to steps 13, 14 and 15; and for ATSSDs to steps 16 and 17 is subject to 3.2.6.

3.2.6 Movement for kaiarahi i te reo to steps 13, 14 and 15, and ATSSD to steps 16 and 17: after one year's service on each step, is subject to the employer attesting that the employee has met or exceeded standards of performance, and shown proven initiative in the performance of their duties, as assessed by the employer against the job description and/or written requirements of the position. Where a job description and/or written requirements do not exist the employee will be consulted in determining the job description.

3.2.7 Shared positions - Employees who are in shared positions shall be paid on a proportion of the salary rate that they would have been paid had they been employed full-time, excluding any allowances to which they would otherwise have been entitled.

3.3 Therapists

3.3.1 This shall include all positions with the following or similar designations:

- Charge physiotherapists and occupational therapists;
- Sole charge physiotherapist and occupational therapists;
- Staff physiotherapists and occupational therapists.

3.3.2 The salaries listed are minimum rates of pay.

Step	2013 rates	Rates effective 27 June 2014	Rates effective 29 June 2015	Rates and steps effective 30 March 2016
1	\$43,838	\$44,496	\$44,941	\$47,569
2	\$46,052	\$46,743	\$47,211	\$50,195
3	\$48,541	\$49,270	\$49,763	\$52,762
4	\$51,031	\$51,797	\$52,315	\$55,356
5	\$53,564	\$54,368	\$54,912	\$58,085
6	\$56,160	\$57,003	\$57,574	\$60,712
7	\$58,703	\$59,584	\$60,180	\$63,315
8	\$61,246	\$62,165	\$62,787	\$66,085
9	\$63,896	\$64,855	\$65,504	\$68,712
10	\$66,492	\$67,490	\$68,165	\$71,356
11	\$69,088	\$70,125	\$70,827	\$74,589
12	\$72,143	\$73,226	\$73,959	\$77,603
13	\$75,037	\$76,163	\$76,925	

3.3.3 Incremental progress on the pay scale shall be on an annual basis providing the employer assesses that the employee has met or exceeded the agreed performance objectives for the position.

3.3.4 Any employee paid in excess of \$42,000 at the time of settlement of the Support Staff in Schools' Collective Agreement 2001-2003 as per clause 3.9.5 of that agreement shall retain that rate until it is exceeded by progression from which point progression as per clause 3.3.3 will apply. Any additional salary payments may continue to be paid by a board at their discretion from their own funding.

3.3.5 A therapist (either full-time or part-time) who retained their hours of work based on a 30 hour week as per 2.6.2 of this agreement shall retain that salary, until through incremental movement that salary would be less than 0.8 of the new rate on the current scale, before an increase would apply.

Appointment

Note: Clauses 3.3.6 - 3.3.8 shall not apply to appointments made before 2 January 2008.

3.3.6 A therapist shall, upon initial appointment, be placed on a step in the salary scale in accordance with their relevant academic or professional qualification(s) and recognised previous relevant service.

3.3.7 As a guide, a therapist who has a relevant academic or professional qualification(s) but who has no recognised previous relevant service should be placed in the salary scale according to the following:

Relevant Academic or Professional Qualification(s) and entry steps

- A three year (360 credit) Bachelor Degree - step 1
- A four year (480 credit) Bachelor Degree - step 1
- A three-year (360 credit) Bachelor Degree plus a one-year (120 credit) Graduate (level 7) Diploma - step 1
- A Bachelor Degree plus a one-year (120 credit) Post-Graduate (level 8) Diploma - step 2
- A Masters Degree - step 3
- A Masters Degree plus a one – year (120 credit) Post – Graduate (level 8 or higher) Diploma - step 4

3.3.8 A therapist who, in addition to their relevant academic or professional qualification(s), has recognised previous relevant service shall be credited with a further step in the scale for each completed full-time year of recognized previous relevant service up to step 8. Recognised previous relevant part-time service shall be credited on a pro-rata basis. For the purposes of this provision:

- (i) Recognised previous relevant service shall include service in New Zealand as an Occupational Therapist or Physiotherapist.
- (ii) Recognised previous relevant service may also include other service relevant to the employee's position.
- (iii) Less than full credit may be given on appointment for other related, but not directly relevant, experience.

3.4 Review Process

3.4.1 Where an employee wishes to have their salary review reconsidered they shall refer the matter to the Board of Trustees. The employee shall have the right to representation at any stage.

3.5 Part-time Employees

3.5.1 Except as provided under 3.3.5 the salary of a part-time employee shall be a proportion of the rate in the basic scale which would apply to that employee if the employee were employed full-time.

3.6 Direct Crediting of Salaries

3.6.1 Salaries shall be paid fortnightly by direct credit to the employee's nominated bank account. However, individual employees may on religious or ethical grounds apply to the board of trustees to be paid by cheque.

Recognised Qualifications

3.7.1 Employees holding qualifications on the New Zealand Qualifications Framework that the employer, in discussion with the employee, agrees that the qualification is relevant to the employee's job description and current position shall be paid an allowance as follows:

- (a) Group One: level 4-5 qualifications and level 3 teacher aide qualifications - to a maximum of \$500 per annum
- (b) Group Two: level 6 qualifications - to a maximum of \$750 per annum
- (c) Group Three: level 7-8 qualifications - to a maximum of \$1000 per annum.

Note 1: This includes those qualifications agreed to be an equivalent level by the New Zealand Qualifications Authority and the Ministry of Education verified He Tohu Mātauranga.

Note 2: The effective date for payment of the allowance in clause 3.7.1 recognising qualifications that have been agreed at an equivalent level by the New Zealand Qualifications Authority (as per Note 1. above) is from the date the employee lodged an application with the New Zealand Qualifications Authority.

3.7.2 Salaried employees shall receive the appropriate allowance of \$500, \$750 or \$1000 as the case may be in fortnightly instalments, pro-rated for part-time employees.

3.7.3 Only one allowance shall be paid for a qualification that the employer agrees is relevant to the employee's position which shall be for the highest qualification held by the employee. Upon obtaining a higher recognised qualification that the employer agrees is relevant to the employee's position and job description, the employee shall become eligible for the higher payment.

3.7.4 Until 27 January 2012, employees that were entitled to be paid a qualifications allowance as per provisions in the *Kaiarahi i te Reo, Therapists', Assistants to Teachers of Students with Severe Disabilities and Special Education Assistants' Collective Agreement 27 January 2010 to 31 March 2011* as if those provisions were incorporated into this collective agreement.

3.7.5 Anyone that was eligible for a qualifications allowance under 3.7.4 will continue to be eligible for that allowance for as long as they remain employed by that employer in that position.

Note: A copy of the *Recognised Qualifications* provisions and the qualifications recognised under the provisions of *Appendix A Kaiarahi i te Reo, Therapists', Assistants to Teachers of Students with Severe Disabilities and Special Education Assistants' Collective Agreement 27 January 2010 to 31 March 2011* can be found on the Ministry of Education website.

<http://www.education.govt.nz/school/working-in-a-school/other-staff/kaiarahi-i-te-reo-therapists-atssd-and-special-education-assistants/20092011-kaiarahi-i-te-reo-therapists-assistants-to-teachers-of-students-with-severe-disabilities-and-special-education-assistants-collective-agreement/>

Part 4: Training and Professional Development

4.1 Training

- 4.1.1 The employer shall consult with employees on training on an annual basis.
- 4.1.2 Employees shall be offered such ongoing training as may be necessary as determined by the employer to ensure they maintain up to date skills and knowledge.
- 4.1.3 At the discretion of and with the prior agreement of the employer, the following may be granted:
 - (a) paid leave to attend training that is directly related to their work;
 - (b) reimbursement of expenses related to training.

4.2 Professional Development

- 4.2.1 The parties agree that ongoing professional development is an important component of the provision of quality support services within schools. Further the parties acknowledge that the provision of quality support services is aided by appropriately qualified staff.
- 4.2.2 Both the employer and employee are responsible for discussing and identifying appropriate professional development opportunities. This should occur on at least a 12 monthly basis and where possible be linked to the annual appraisal process.
- 4.2.3 Subject to 4.2.6, a Board may require an employee covered by this agreement to attend professional development opportunities for up to five days in each calendar year. The identification of such opportunities is likely to arise from the process referred to in 4.2.2.
- 4.2.4 The most appropriate opportunities may be in term time or during term breaks, and may be during the employee's normal working hours or outside those hours. When considering such opportunities, the employer will give every reasonable regard to the employee's external responsibilities and commitments.
- 4.2.5 Where an employee considers that s/he is not being provided with an appropriate professional development opportunity through the process referred to in 4.2.2, the employee may apply to the Board of Trustees to have her/his attendance at a particular course approved and reimbursed in accordance with this clause. Such approval will be at the discretion of the Board of Trustees based on the principles expressed in this clause (4.2).
- 4.2.6 Where professional development occurs outside of work hours or on a day not normally worked, the employee shall receive full pay for the time spent at the course, including reasonable travelling time, for a maximum of eight hours per day. In addition the course costs and reasonable expenses shall be met by the Board. A minimum of four weeks' notice of any such course will be given to the employee.
- 4.2.7 Where the professional development occurs on a day or days the employee would normally work, the employee will be entitled to have course costs and reasonable expenses paid by the employer in addition to normal wages for the day. Where the course length, including reasonable travelling time, exceeds the hours normally worked on the day, those additional hours shall also be on full pay to a maximum of eight.
- 4.2.8 Where the employer requires the employee to use their own vehicle reasonable expenses shall include mileage payments as per 5.1.

Part 5: Expenses and Allowances

5.1 Motor Vehicle Allowance

5.1.1 Employees required by their employer to use their own vehicles for school business shall be paid an allowance of 58 cents per kilometre.

5.2 Protective Clothing

5.2.1 Where necessary therapists, ATSSD and special education assistants shall be provided with appropriate protective clothing (such as gloves, smocks or overalls). The clothing shall remain the property of the employer.

5.2.2 Where any employee, in the course of her/his employment is expected to work in swimming pools assisting children with special needs, the employer shall meet the cost of swimwear up to a maximum of \$75 per year upon production of receipts.

5.3 First Aid Allowance

5.3.1 Where an employee holds a current first aid certificate or recognised nursing qualification and is a designated first aider in the school, such an employee shall be paid an allowance of \$0.35 per hour. The employer shall meet the cost (up to a maximum of \$160.00) of obtaining or reviewing a first aid certificate, from a recognised provider for a designated first aider.

5.4 Overnight Allowance

5.4.1 An employee who is required to stay overnight on any school camp or trip shall receive an overnight allowance of \$20 per night.

5.5 Dirty Work Allowance

5.5.1 The following provisions shall apply to therapists only.

5.5.2 Where a therapist is required to clean up a student soiled with vomit, excreta, urine or blood (other than blood associated with minor cuts and abrasions and minor nose bleeds) in the course of her/his duties, s/he shall be paid an allowance of \$3.85 per day or part thereof.

5.5.3 Where a therapist is required to clean up a student soiled with other forms of body fluids, the allowance shall be payable at the employer's discretion.

5.5.4 This allowance shall be payable for no more than one attendance to such duties per day.

5.6 Reimbursement of Expenses

5.6.1 The employer shall pay the actual and reasonable expenses incurred by the employee in carrying out duties required by the employer. This shall include, for example, expenses when the employee has been required to work outside normal working hours and has had to purchase an evening meal, or has incurred costs in the course of official business such as attending staff development courses or school trips as required by the employer. The employee may be asked to provide receipts to support a claim for expenses.

5.7 Supervision of Therapists

- 5.7.1 A therapist who is permanently employed for 0.6FTE or above and for whom there is a mandatory requirement for supervision for the demonstration of competency shall have the cost of the supervision met by the employer, where costs arise.
- 5.7.2 The employer shall, in consultation with the employee, determine whether the supervision can be provided internally or whether external supervision is required.

Part 6: Holidays

6.1 Public Holidays and additional paid holidays

6.1.1 The Holidays Act 2003 shall apply except where otherwise provided.

6.1.2 (a) The following days shall be observed as public holidays and paid in accordance with the provisions set out below:

Christmas Day
Boxing Day
New Year's Day
The day after New Year's Day
Waitangi Day
Good Friday
Easter Monday
Anzac Day
Sovereign's Birthday
Labour Day

Anniversary Day (as observed in the locality concerned)

(b) In addition to the public holidays listed in clause 6.1.2(a), all staff shall be entitled to observe Easter Tuesday as an additional paid holiday. Therapists shall also be entitled to observe the day after Boxing Day as an additional paid holiday.

(c) Employees, for whom clause 6.3.7 below applies, shall no longer be entitled to an additional paid holiday on Easter Tuesday and, for therapists, the day after Boxing Day.

6.1.3 In the event of a public holiday falling on a Saturday or Sunday, in accordance with the Holidays Act 2003, such holiday shall be observed on the following Monday, and in the event of another holiday falling on that Monday then the whole holiday shall be observed on the succeeding Tuesday. For clarity this clause does not apply to paid additional holidays listed in clause 6.1.2 (b).

6.1.4 Other than as provided in 6.1.6 below, employees shall be paid for the public holidays listed in 6.1.2(a) and the additional paid holidays listed in clause 6.1.2(b) above on the basis of the hours they would normally work on the day of the week on which the public holiday or additional paid holiday is observed. For clarity, public holidays and additional paid holidays which are observed during a term break shall be paid provided that the employee:

(i) During term time normally works on the day of the week on which the public holiday is observed; and

(ii) Is in continuous employment which extends beyond that term break.

6.1.5 An employee whose employment is terminated (including expiry of a fixed term agreement) but whose final date of work is notionally extended by any annual leave holiday entitlement (in accordance with s.40 of the Holidays Act 2003) to include a public holiday falling on a day normally worked (including during a term break), would receive the relevant daily pay for that day.

6.1.6 With regard to Christmas Day, Boxing Day, New Years Day and the day after New Year's Day, these shall be paid public holidays for all employees who are employed within ten working days of the last day the school is open for instruction in an academic year. Provided that this shall also apply where the employee's employment ceases due to termination of the delivery of the curriculum to a particular student or students and this occurs within one month prior to the last day the school is open for instruction in an academic year. Payment for these public holidays will be on the basis that the employee:

- (a) During term time normally works on the day of the week on which the public holiday is observed; and
 - (b) Is in continuous employment which extends beyond the particular period during which the school is not open for instruction.
- 6.1.7 Except as provided under 6.1.4 and 6.1.5 above, it is not intended an employee specifically on leave without pay would be eligible for a paid public holiday. Provided that an employee who has applied for and been granted a period of leave without pay which spans a term break shall not be entitled to payment for any public holiday which is observed within that term break.
- 6.1.8 An employee who is required to work on a public holiday shall be paid at the rate of time and one half of their relevant daily pay for all time worked and shall be entitled to a paid day in lieu to be taken at a subsequent mutually agreed date.

6.2 Service for Leave Purposes for Therapists

- 6.2.1
- (a) Except as provided in 6.2.2 below above 'Continuous service' for leave purposes shall mean the aggregate of the employee's employment with any state or state integrated school.
 - (b) 'Continuous service' shall not be broken by
 - any period of leave with pay; or
 - any period of approved leave without pay of up to 12 months; or
 - a break in employment (including between employers) of less than 3 months.
 - (c) 'Continuous service' for a fixed term employee shall not be broken by
 - a break of 20 consecutive working days or less between engagements; or
 - any period when the school is closed for instruction; or
 - absence on approved sick leave.
 - (d) For the purposes of leave aggregation under (a) above any break between engagements, or any period of leave without pay, in excess of 20 consecutive working days will interrupt but not break (except as provided under (b) or (c) above) service. Parental leave will, however, count as service as provided for under s43 of the Parental Leave and Employment Protection Act 1987.
- 6.2.2 All service or continuous service accumulated after 1 March 1995 shall be calculated on the basis set out in 6.2.1 above. Those employees who were party to the Support Staff in Schools Collective Employment Contract which applied prior to 1 March 1995 retain all service or continuous service which they had accumulated prior to 1 March 1995.

6.3 Annual Leave

- 6.3.1 All annual leave shall be taken at a time in which the school is officially closed for instruction (unless there is, or has been, agreement to do otherwise).
- 6.3.2 All employees are entitled, based on their current continuous service (as defined in clause 6.5) to the leave provisions contained in 6.3.5, 6.3.6 or 6.3.7. No employee shall be covered by more than one of these three clauses at any point in time.
- 6.3.3 For the purposes of annual leave, a 'week' of leave for an employee is based on his/her ordinary working week.
- 6.3.4 Holiday pay will be paid in the employees' fortnightly cycle as per clause 3.6. An employee can elect the option of having his/her holiday pay paid as a lump sum prior to taking annual leave by giving his/her employer two weeks' notice.

- 6.3.5 For all employees
- (a) All employees shall be entitled to four weeks annual leave in addition to public holidays and additional paid holidays provided for in clause 6.1.2
 - (b) Where the employee commences employment with an employer after the beginning of the school year the employer shall, in that first year, pay to the employee, when they take leave at the end of the school year, an amount equal to 8% of gross earnings for the period worked for that employer during that school year, less any annual leave payment made in advance by that employer.
 - (c) Where an employee's employment terminates before the end of the school year annual leave shall be paid in accordance with the Holidays Act 2003.
- 6.3.6 For all employees who have completed five years current continuous service in a state or integrated school
- (a) Upon completion of five years current continuous service (as defined in Part 6) in a state or integrated school employees shall for the sixth and subsequent years be entitled to accrue 4.6 weeks of annual leave in addition to public holidays and the additional paid holidays described in clause 6.1.2.
 - (b) Where the employee commences employment with an employer after the beginning of the school year the employer shall pay to the employee an amount equal to 9.2% of gross earnings for the period worked for that employer during that school year, less any annual leave payment made in advance by that employer.
 - (c) Where an employee's employment is terminated before the end of the school year, annual leave shall be paid in accordance with the Holidays Act 2003, except that holiday pay shall be calculated on the basis of annual leave entitlements provided for in 6.3.6(a) and (b).
- 6.3.7 For all employees who have completed ten years current continuous service in a state or integrated school
- (a) Upon completion of ten years current continuous service (as defined in Part 6) in a state or integrated school, each employee bound by this collective agreement shall for the eleventh and subsequent years be entitled to accrue five weeks annual leave in addition to public holidays and the additional paid holidays described in clause 6.1.2, subject to clause 6.3.7 (b) and (c) below.
 - (b) Employees entitled to five weeks annual leave under this clause, shall no longer be entitled to the day after Boxing Day (where provided for in the collective agreement) and Easter Tuesday as additional paid holidays (as outlined in clause 6.1.2 (b)). Notwithstanding clause 6.3.1, employees agree to take the day after Boxing Day and Easter Tuesday as paid annual leave days.
 - (c) Where the employee commences employment with an employer after the beginning of the school year the employer shall pay an amount equal to 10% of gross earnings for the period worked during that school year for that employer less any annual leave payment made in advance by that employer.
 - (d) Where an employee's employment is terminated before the end of the school year annual leave shall be paid in accordance with the Holidays Act 2003, except that the holiday pay shall be calculated on the basis of annual leave entitlements provided for in clause 6.3.7(a) and (b).

6.4 Long Service Leave

- 6.4.1 On the completion of 20 years service special education assistants and therapists shall be granted 4 weeks long service leave with full pay. Such leave is to be taken within 5 years of the completion of 20 years service.

6.5 Sick Leave

6.5.1 Minimum entitlement

An employee who works for the employer for a period of more than six months, or who has service recognised for the purposes of sick leave which exceeds 6 months, shall be entitled to 5 days sick leave on full pay on account of sickness or injury, in each ensuing period of 12 months. Unused sick leave under this provision may be accumulated and used at a later date but the next year's entitlement cannot be anticipated.

6.5.2 Additional entitlement (Table A)

In addition to the entitlement in 6.5.1, the following sick leave shall be granted:

Table A

Period of Service	Additional days for each period
Up to 3 months	7 days
Over 3 months and up to 6 months	7 days
Over 6 months and up to 9 months	7 days
Over 9 months and up to 5 years	5 days
Over 5 years and up to 10 years	19 days
Over 10 years and up to 20 years	14 days
Over 20 years and up to 30 years	25 days
Over 30 years	22 days

Unused sick leave granted under Table A can be accumulated and used at a later date. The employer may permit employees to anticipate part or all of their next sick leave entitlement under Table A.

6.5.3 Service for Sick Leave Purposes for Employees Other than Therapists

For the purposes of sick leave "service" means the aggregate of:

- (a) all full-time employment with any state or integrated school;
- (b) part-time employment with any state or integrated school counted on the basis that 80 hours equals one month's service or 1000 hours equals one year's service and so on except that where part-time teaching service consists of 20 or more class contact hours per week it shall be credited as full-time service.

6.5.4 Application

The provisions of this clause regulate the application of paid sick leave under 6.5:

- (i) Sick leave is to be debited on the basis of days of absence where absence is less than five consecutive working days on the basis of continuous days where the absence exceeds five consecutive working days.
- (ii) No deduction will be made for absences of less than two hours.
- (iii) An employee shall be granted, as a charge against the employee's sick leave entitlement, leave with pay if an employee's spouse (or partner) or a person who depends on the employee for care, is sick or injured.
- (iv) When in excess of five days sick leave is taken a medical certificate from a registered medical or dental practitioner must be produced if the employer so requires.
- (v) The employee must inform the employer of the intention to take sick leave as early as possible before they are due to start work, or if this is not practical as early as possible after that time.
- (vi) Sick leave shall not be paid in respect of any public holiday for which the employee is entitled to full pay.

6.6 Bereavement/Tangihanga Leave

- 6.6.1 An employee shall be granted bereavement/tangihanga leave on pay to allow a reasonable opportunity for the employee to discharge his or her obligations and/or to pay his or her respects to a deceased person with whom he/she has had a close association. The entitlement to this leave extends to the death of any members of the employee's family, or person who, because of particular cultural requirements on the employee, he or she is obliged to attend to as a part of a tangihanga or its equivalent.
- 6.6.2 In exercising its discretion to grant this leave, and in fixing the length of leave, the employer must discharge its obligations in a culturally sensitive manner, taking into account the following:
- (a) the closeness of the association between the employee and the deceased;
 - (b) the responsibilities of the employee for any or all of the arrangements for the ceremonies resulting from the death;
 - (c) the amount of time needed properly to discharge any responsibilities or obligations by an employee; and
 - (d) reasonable travelling time, provided that the employer need not take into account total travelling time where an employee must attend a funeral overseas.
- However, any decision regarding the length of bereavement leave will be no less than the minimum amounts set out by s70 of the Holidays Act 2003.
- Note 1: The minimum entitlement prescribed in the Holidays Act 2003 for a bereavement on the death of the employee's spouse, parent, child, brother or sister, grandparent, grandchild or spouse's parent is three days' paid leave.
- Note 2: The minimum entitlement prescribed in the Holidays Act 2003 for a bereavement on the death of any other person where obligations (such as those in 6.6.1) exist is one day.
- 6.6.3 The employer's decision on this leave and the length of such leave will be made as quickly as possible so that the employee is given maximum time possible to make any arrangements necessary. In most cases the necessary approval will be given immediately, but may be given retrospectively where necessary. If paid leave is not appropriate then leave without pay shall be granted, but as a last resort.
- 6.6.4
- (a) Where an employee is absent on annual leave and a bereavement occurs the employer shall be notified and will determine the number of days of bereavement leave to be granted in accordance with 6.6.2 above. The days shall replace the annual leave.
 - (b) If bereavement leave is sought while an employee is absent on sick leave or any other leave with pay, the employer may agree to such leave being interrupted and bereavement leave being granted in its place.
 - (c) The above provisions will not apply if the employee is on leave without pay.
- 6.6.5 Payment of bereavement leave will be an amount that is equivalent to the employee's relevant daily pay for each day of bereavement taken by the employee that would otherwise be a working day for the employee.

6.7 Parental Leave

- 6.7.1 Parental leave shall be allowed in accordance with the requirements and provisions of the Parental Leave and Employment Protection Act 1987. The following provisions are by way of summary of the Act. Further details are available at <http://employment.govt.nz/er/> or free phone 0800 20 90 20.

- 6.7.2 This Act provides that on written application an employee shall be entitled to unpaid parental leave provided that:
- (a) the employee has worked for the same employer for 6 months before the expected date of delivery or the date of adoption; and
 - (b) the employee has worked at least 10 hours per week during that period.
- 6.7.3 Parental leave is:
- (a) maternity leave of up to 14 weeks;
 - (b) special leave of up to 10 days;
 - (c) paternity leave of up to 2 weeks; and
 - (d) extended leave of up to 52 weeks.
- 6.7.4 The same leave provisions apply to parents adopting children of not more than 5 years of age.
- 6.7.5 Attention is drawn to the employment protection clauses of the Parental Leave and Employment Protection Act 1987.
- 6.7.6 The following provision applies to kaiarahi i te reo and ATSSD:
The employee's position shall be held open, subject to any redundancy situation arising at the school or the expiry of the employee's employment agreement, for the duration of the leave.

6.8 Maternity Grant

- 6.8.1 The following provisions apply to special education assistants. They also apply to any therapist previously employed under the NZ Support Staff in Schools Composite (Doc 2646) as at 30 August 1992:
- (a) where an employee who is eligible for parental leave of 12 months returns to duty before or at the expiration of the leave and completes a further six months service, she qualifies for a payment equivalent to 30 working days leave on pay;
 - (b) an employee who is absent on parental leave for less than six weeks (30 working days) will receive that proportion of the payment provided in 6.8.1 (a) which her absence represents to 30 working days; and
 - (c) an employee who returns to work on a part-time basis qualifies for the payment provided in 6.8.1 (a) and (b) as appropriate at the end of six months service provided that she was previously employed on a full-time basis.

6.9 Re-entry After Absence Due to Childcare

- 6.9.1 An employee who resigns to care for pre-school children may apply to be re-employed by the employer from whose employment she/he resigned and be appointed to a vacancy with that employer under preferential provisions provided that:
- (a) the absence does not exceed four years from the date of resignation or, five years from the date of cessation of duties to take up parental leave; and
 - (b) the applicant must:
 - produce a birth certificate or the pre-school child;
 - sign a statutory declaration indicating that absence has been due to the care of a pre-school child and paid employment has not been entered into for more than 15 hours per week during absence.

6.9.2 Where the applicant meets all the provisions of 6.9.1 above and, at the time of application:
(a) has the necessary skills to fill competently, a vacancy which is available; and
(b) the position is substantially the same in character and at the same or lower salary and grading as the position previously held,
then the applicant under these provisions is to be appointed in preference to any other applicant for the position.

6.9.3 Absence for childcare reasons will interrupt service but not break it. The period of absence will not count as service for the purposes of sick leave or annual leave or any other leave entitlement.

6.9.4 The period of preferential appointment expires 3 months after the period in 6.9.1(a).

6.10 Jury Service

6.10.1 The employer will grant leave with pay when an employee is required to serve on a jury provided that all fees for service are reimbursed to the employer.

6.11 Other Special Leave

6.11.1 The employer may, where there are special circumstances, grant discretionary leave with or without pay to any employee during periods when the school is officially open for instruction, provided that such leave does not unreasonably impinge upon the operational requirements of the school.

6.11.2 Before approving any discretionary leave, the employer shall ensure that the granting of such leave complies with any funding arrangements applying to the school in respect of such leave.

Part 7: Other Working Conditions

7.1 Sexual harassment statement

7.1.1 The parties to this agreement consider sexual harassment in the workplace is not acceptable and attention is drawn to Part 12 of this Agreement.

7.2 Health and safety

7.2.1 Attention is drawn to the provisions of the Health and Safety at Work Act 2015, the Ministry of Education/New Zealand School Trustees Association *Health and Safety Practical Guide for Boards of Trustees and School Leaders 2016*, any amendment or any other relevant legislation or code subsequently introduced.

7.3 Immunisation

7.3.1 The parties agree in principle that responsibility for pre-exposure immunisation of employees rests with employers who should accept responsibility for safety in the workplace, advised as necessary by health officials.

7.3.2 In situations where employees may be at significantly increased risk of acquiring hepatitis B or similar diseases because of the nature of their job, the situation shall be assessed on an individual basis to decide if immunisation would be appropriate. Immunisation will be provided by the employer if appropriate.

7.3.3 In all situations where there is a risk of infection of the kind envisaged in clause 7.3.1, it shall be the duty of the employer to require safe working practices on the part of the employee and to ensure appropriate hygiene practices to reduce such risk to a minimum, whether or not immunisation is considered advisable.

7.4 Privacy Act

7.4.1 Attention is drawn to the Privacy Act 1993 which outlines responsibility for the collection, storage and availability of personal information.

Part 8: Complaints and Discipline

8.1 General

8.1.1 The following principles shall be used in addressing complaints against employees and matters of discipline to ensure that such matters can in the interests of the parties be fully and fairly addressed. Many complaints will be able to be resolved by discussion between the principal and the employee concerned without the need to take the matter any further. Boards should, wherever appropriate, seek to resolve complaints in this manner in the first instance. Questions of conduct and/or discipline should be handled in a manner which as far as possible protects the mana and dignity of the employee concerned. Employees may seek whanau, family, professional and/or NZEI Te Riu Roa or Service and Food Workers Union support in relation to such matters.

8.2 Ngā Kōrero Me Ngā Tikanga

8.2.1 Me tuku reta atu ki te kaimahi hei whakamā rama atu i nga raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tona tumuaki, e āhei ana ki te whakahaere tonutia ngā whakaritenga i raro i ngā tikanga Māori.

8.2.2 Anei ra ētahi momo tikanga hei kōwhiringa mā rātou:

- (a) he huihuinga kei te marae;
- (b) he whakawhiti kōrero kanohi ki te kanohi;
- (c) ka hui mai te whānau hei tuarā mō te katoa; ā
- (d) ka hui mai ngā kaumātua kuia hei arahi hei tohutohu i ā rātou katoa.

8.2.3 Mēnā ka whakaaetia te kaimahi rāua ko tōna tumuaki ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautu rānei e hainatia ngā whakaaetanga i tūhia. Makaia atu tētahi kape o ngā whakaaetanga nei ki te kōnae o te kaimahi.

8.2.4 He māmā noa iho ēnei whakawhiringa mehemea hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri ke ia ki ētahi (te katoa rānei) o nga whakaritenga, arā 8.3, 8.4 me 8.5 whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 8.3, 8.4 me 8.5 i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

8.2 Discussions in a Māori context

8.2.1 The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Māori context and manner.

8.2.2 A Māori context and manner relates to the following:

- (a) meetings can be held on marae;
- (b) there is face to face engagement;
- (c) there can be whānau support for all involved; and
- (d) guidance and advice is often provided by kaumātua and kuia for all involved.

8.2.3 Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this shall be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.

8.2.4 This is a discretionary option and either party may withdraw at any time, and nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in clauses 8.3, 8.4 and/or 8.5 will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in clauses 8.3, 8.4 and/or 8.5 will be notified in writing to the other party.

8.3 Discipline and dismissal

8.3.1 The following principles are to be followed when dealing with disciplinary matters:

- (a) The employee must be advised of the right to request representation at any stage.
- (b) The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation. Before making a final decision the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
- (c) The employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so.
- (d) If the offence is sufficiently serious an employee is to be placed on suspension with or without pay pending further inquiry under clause 0(b) above
- (e) The process and any disciplinary action are to be recorded, sighted and signed by the employee, and placed on their personal file.
- (f) The provisions in Part 12 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of their employer taken under these provisions.

8.4 Suspension

8.4.1 If the alleged conduct is deemed sufficiently serious an employee may be either suspended with or without pay or transferred temporarily to other duties.

8.4.2 The employer shall not, unless there are exceptional circumstances, suspend the employee without first allowing the employee a reasonable opportunity to make submissions to the employer about the alleged misconduct and the appropriateness of the suspension in all of the circumstances. The employer shall take into account any submissions made by the employee before determining the matter of suspension.

8.4.3 The employer shall use its best endeavours to ensure that the period of suspension is kept to the minimum possible time consistent with ensuring that the allegations of misconduct are properly investigated and that the employee is treated fairly at all times.

8.4.4 If the allegation that led to the suspension is without substance the employee shall be reinstated effective from the date of suspension.

8.5 Instant dismissal

8.5.1 Nothing in Part 8 prevents instant dismissal without notice in the case of serious misconduct.

Part 9: Termination and Abandonment of Employment and Record of Service

9.1 Termination of employment

- 9.1.1 Unless otherwise agreed between the employer and the employee and except as provided in clause 9.1.2, termination of employment shall be by one month's notice by either the employee or the employer, to the other party; except in cases of serious misconduct which may warrant instant dismissal.
- 9.1.2 Where an employee is appointed for a fixed term pursuant to clause 2.4.1(ii), and the date of the specified event is unknown at the time of appointment, the employee shall have their employment terminated on the occurrence of that specified event. The employer is required to give at least two weeks' notice of termination of employment.

9.2 Abandonment of employment

- 9.2.1 Where an employee is absent from work for a continuous period exceeding three days without the consent of the employer and without good cause or without notification to the employer they shall be deemed to have terminated their employment.

9.3 Record of service

- 9.3.1 Each employee on leaving or being discharged from her/his employment shall, on request, be given as soon as practicable, a certificate in writing signed by the employer and stating the position held and the length of service.

Part 10: Employment Protection and Surplus Staffing Provisions

10.1 Employment Protection Provision

- 10.1.1 'Restructuring' is given the same definition as in section 69OI of the ERA 2000 and includes:
- (i) Contracting out; or
 - (ii) Selling or transferring the employer's business (or part of it) to another person; but excludes mergers (in the case of mergers clause 10.3 will apply).
- 10.1.2 Where work undertaken by an employee covered by this Agreement will be, or is likely to be, undertaken by a new employer (whether or not the new employer is an "employer" defined in 1.3) the employer will notify the National Office of the union(s) where one or more of the employees affected by the restructuring is a member of the union(s). In such circumstances the employer will meet with representative(s) of the union(s) to:
- (a) Identify the issues the employee(s) wish to have considered by the new employer;
 - (b) Ensure that all current terms and conditions of employment of the employee(s) are accurately recorded; and
 - (c) Determine the process by which communications to/from the employee(s) will be conducted.
- 10.1.3 The employer will encourage the new employer to agree to the involvement of the union(s) in the processes described in clauses 10.1.4 and 10.1.5 below.
- 10.1.4 Having completed the process described in 10.1.2 above, the employer will meet with the new employer to:
- (a) provide the new employer with details of the work currently performed by the employees concerned together with details of the terms and conditions of their employment; and
 - (b) seek a proposal for the employment of the affected employees by the new employer, including clarification of the terms and conditions upon which those employees would be offered employment by the new employer.
- 10.1.5 The following shall be matters for clarification under clause 10.1.4(b) and again should be read in conjunction with the surplus staffing provisions of this collective agreement.
- (a) the number and type of positions that may be offered by the new employer to employees affected by the restructuring;
 - (b) the terms and conditions of employment to be offered to those employees (including whether the employees will transfer to the new employer on the same terms and conditions of employment);
 - (c) the arrangements, if required, for the transfer of any accrued benefits and entitlements in relation to those employees;
 - (d) the arrangements, if required, for when and how offers of employment are to be made to the affected employees and the mode of acceptance, including whether any offers of employment made by the new employer will be conveyed through the representatives of the union(s).
- 10.1.6 The notice provisions of the surplus staffing provisions shall apply as described in 10.2.3 and 10.2.4 below.
- 10.1.7 The process to be followed at the time of the restructuring to determine what entitlements, if any, are available for employees who do not transfer to the new employer are set out in 10.2 below. This clause as a whole shall be read in conjunction with those provisions.

10.1.8 Clause 10.1 shall be read in conjunction with clause 10.2.

10.2 Surplus Staffing Provisions

- 10.2.1 The surplus staffing provisions shall not apply to any employee who is employed on a fixed term basis as defined in 2.4. The provisions in relation to staff affected by a merger of 2 or more schools are set out under clause 10.3 and any provisions in 10.2 will only apply where they are specifically provided for in clause 10.3.
- 10.2.2 A surplus staffing situation may arise when the work undertaken by the employee ceases to exist. This may be the result of the restructuring of the whole or any part of the employer's operations because of, for example:
- the reorganisation or review of work;
 - a change in plant (or like cause) relevant to the individual employees employment; or
 - change of status or closure of the school, or the sale or transfer of all or part of the school.
- 10.2.3 The employer shall, at least one month prior to issuing notice of termination, advise any affected employee(s) of the possibility of a surplus staffing situation within an occupational category in the school.
- 10.2.4 The period of notice is to allow time for discussion between the employer and the employee(s) of the reasons for the possible surplus staffing situation and to determine whether this surplus can be absorbed by attrition. The employer shall consider whether or not it is able to offer an alternative position within the school with terms and conditions that are no less favourable, which may also entail on the job retraining.
- 10.2.5 If the required number of positions cannot be achieved through attrition (refer clause 10.2.4) and a surplus staffing situation still exists, all available positions in the occupational category will be internally advertised and appointments made from existing employees in that category. Where there is only one position in the identified occupational category in which the surplus exists identification of the position shall be automatic.
- 10.2.6 Employees who are not appointed in terms of 10.2.5 above, or who are identified as surplus in terms of 10.2.5 above shall be given a minimum of one month's written notice of termination of employment provided for in clause 9.1. Except in exceptional circumstances (e.g., long-term sick leave), or as agreed with the employee, this notice shall be given at such a time as to ensure it covers a period of a full month during which the employee is paid and at work.
- 10.2.7 During the notice of termination period both the employer and the employee shall make reasonable efforts to locate alternative employment for the employee. The employer will provide reasonable paid time to attend interviews, where prior approval will not be unreasonably withheld.
- 10.2.8 In the event that a reasonable offer of employment in the education or state service is made the employer's responsibilities under these provisions shall be fulfilled.
- 10.2.9 For the purposes of 10.2.8 a reasonable offer of employment shall constitute an offer of employment that:
- (a) is in the same location or within reasonable commuting distance;
 - (b) has comparable duties and responsibilities; and
 - (c) has terms and conditions that are no less favourable
 - (d) providing the employment being offered is available to be taken up by the employee prior to or at the conclusion of the notice of termination period.

- 10.2.10 If the offer of employment referred to in 10.2.9 is not a reasonable offer by reason only that it is not available to be taken up by the employee before or at the conclusion of the notice period, the employer may extend the notice period until such time as the position is available to be taken up by the employee; and under these circumstances the offer shall be deemed to be reasonable.

The employer must first ensure that in granting such extended notice that this complies with any funding arrangement applying to the school.

- 10.2.11 In the event of a school closure, the employee may be made an offer of employment prior to the disestablishment of the position at another state or integrated school. Where this is an offer of employment to a lower graded position or a position at a lower hourly/salary rate than that previously held, the employee shall be entitled to an equalisation allowance calculated in accordance with 10.3.10(f). Where this is an offer of employment to a position with reduced hours to that previously held, the employee shall be entitled to a partial redundancy payment calculated in accordance with 10.3.10(g). Where the employee accepts such an offer the employer of the closing schools' responsibilities under 10.2.12 below shall be fulfilled. Where the employee does not accept such an offer the provisions of 10.2.12 shall apply.

- 10.2.12 Except as provided under 10.2.11, above where a reasonable offer of employment is not made before the expiry of the notice of termination period the employee will be entitled to redundancy pay calculated as follows:

- (a) 6 weeks pay for the first year of service and two weeks pay for every subsequent year or part thereof to a maximum of 30 weeks pay in total.

Note 1: This is calculated on current gross weekly earnings as at the last day of service or on average gross weekly earnings over the previous 12 months service whichever is the greater.

Note 2: For the purposes of the redundancy calculation the definition of service for employees other than therapists is the same as that defined in 6.5.3 (a) and (b) provided that no period of service that ended with the employee receiving a redundancy or severance payment shall be counted as service.

Note 3: For the purposes of the redundancy calculation the definition of service for therapists is the same as that defined in 6.2.1 provided that no period of service that ended with the employee receiving a redundancy or severance payment shall be counted as service.

Note 4: An employee with less than one year's service shall receive a pro-rata payment.

- (b) All holiday pay and wages owing.

- 10.2.13 A work reference or record of service shall be provided on the employee's request.

10.3 Staffing merger provisions

(Note: Any reference to "support staff" in this clauses below means a Kaiarahi i te reo, an ATSSD, a special education assistant or a therapist.)

- 10.3.1 The purposes of these provisions are to:

- (a) Provide a staffing merger process that facilitates a fair and orderly transition;
- (b) Ensure an appropriate structure is in place to enable the merged school to function efficiently and effectively;
- (c) Ensure that as many employees as possible currently employed in a merging school are re-assigned or re-confirmed to positions in the merged school;
- (d) Ensure that employees of the merging schools who are not reconfirmed or reassigned to positions in the merged school have access to redundancy compensation in a fair and timely manner.

- 10.3.2 “Merging schools” includes the merging school(s) and the continuing school before the date of merger; and “merged school” is the continuing school from the date of merger.
- 10.3.3 “Employee” shall mean a permanent employee of one of the merging schools who falls within the coverage clause of this Agreement.
- 10.3.4 Employment Protection
- (a) Actual vacancies that arise at the schools involved in a merger or the merged school, from the earlier of the announcement of a staff review or Gazette notices shall be filled with temporary appointments. However, if operational needs require, the employer may determine, in consultation with the union, that any such position may be made permanent. This moratorium applies until the completion of the reconfirmation/reassignment process and notice period, except as provided elsewhere in clause 10.3.
 - (b) Throughout the staffing merger process the employer shall attempt to meet any reduction required by the use of attrition.
 - (c) Throughout the staffing merger process no support staff position at the merged school shall be externally advertised until the reconfirmation and reassignment processes described in clauses 10.3.9 and 10.3.10 respectively have been finalised.
- 10.3.5 Needs Analysis
- (a) The needs analysis is the process that designs the staffing structure for the merged school. This process will be conducted by representatives of all the boards involved in the merger (the joint schools’ committee or merger committee).
 - (b) This committee shall conduct a needs analysis in consultation with employees and the union.
 - (c) The needs analysis shall:
 - (i) identify the future support staff structure and needs of the merged school; and
 - (ii) ensure that the required staff roles have been clearly defined in terms of occupational category and appropriate grade
 - (d) As a result of the consultation process, a draft ‘staffing plan’ shall be developed and made available to each employee, and to the nominee(s) of the NZEI Te Riu Roa, for further consultation.
 - (e) No less than ten working days shall be made available for this consultation to occur before any further step is taken, unless otherwise agreed.
(Note: The parties agree that it is desirable to have the same number of days as the teachers in the affected school.)
 - (f) If, as a result of consultation, there are alterations to this draft, the amended versions shall also be made available for a further three working days.
 - (g) When the final staffing structure is announced, the employer shall invite all employees to express a preference (or preferences) in writing, for a position (or positions) at the merged school. Where this announcement identifies the possibility of a position or positions being disestablished, any affected employee(s) shall be given one month’s written notice of a possible surplus staffing situation within her/his occupational category in the school. This period of notice must be allowed before notice of termination, as described in clause 10.3.11(a) of this clause, may be given.
 - (h) Employees shall have at least one calendar week’s notice of the closing date for expressions of interest in the position(s) at the merged school.
- 10.3.6 Appointments Process
- (a) The boards involved in the merger may agree on a Joint Appointments Committee or use the committee referred to in 10.3.5 (a) above (hereafter referred to as the Committee). The Committee should be responsible for managing the reconfirmation and reassignment process for all staff.

- (b) The principal of the merged school, once appointed, should be included on the Committee.

10.3.7 Voluntary Option

- (a) Following the publication of the final staffing structure, the employer board shall invite written expressions of interest in the option of voluntary redundancy. Subject to the employee completing the required period of notice (two months, or less by mutual agreement) an employee whose application for voluntary redundancy is accepted shall receive her/his full entitlement to redundancy pay as prescribed by clause 10.2.12 (Surplus Staffing) of the Agreement.
- (b) An employee may continue to volunteer for this option without prejudice or withdraw from it at any point in the staffing merger process, providing the employer has not already accepted the application in writing. No letter of acceptance will be issued without the agreement of the Committee.
- (c) The employer shall not be bound to agree to any application for voluntary redundancy.

10.3.8 Appointment/Selection Process

- (a) For the purpose of clauses 10.3.9, 10.3.10 and 10.3.11 below:
 - (i) 'Reconfirmation' shall mean the process whereby employees are transferred to suitable positions at the re-organised school.
 - (ii) A 'suitable position' is one which has similar duties and/or for which the applicant is appropriately qualified and experienced or could become so with reasonable access to re-training. The new position shall have the same or a higher grading.
 - (iii) 'Reassignment' shall mean the process that applies to functionally equivalent positions.
 - (iv) 'Functionally equivalent' shall mean positions which are generally similar in role, duties and status and which require similar qualifications, training, skills and experience but may have different titles.
 - (v) 'Merit' means the most suitable person and primarily includes assessment of qualifications, training, skills and experience.

10.3.9 Reconfirmation

- (a) The employer shall reconfirm (as defined in clause 10.3.8(a)(i) above) employees to suitable positions at the merged school.
- (b) An employee may be reconfirmed to her/his preferred position or, subject to her/his agreement, to a position for which she/he is appropriately qualified and experienced.
- (c) Where there are two or more employees eligible for re-confirmation to a single position, the employer shall reconfirm the most suitable candidate(s) based on merit.
- (d) Where a permanent employee is reconfirmed, this must be into a position of at least the same hours. Provided that where an employee accepts redeployment to a position with reduced hours in a situation where a position with at least the same hours is not available, that employee will be entitled to a partial redundancy payment.
- (e) Partial redundancy will be calculated on the basis of applying the redundancy pay formula described in clause 10.2.12 (Surplus Staffing) of this agreement to the total number of reduced hours as set out under clauses 2.5 and 2.6 (Hours of Work) of this Agreement. This total shall be paid as an allowance over the number of weeks of entitlement. Should the employee's hours increase over this period the allowance will be reduced or removed accordingly.

10.3.10 Re-assignment to Functionally Equivalent Positions

- (a) Following completion of the reconfirmation process, the employer may reassign an employee, who has not been reconfirmed in accordance with clause 10.3.9, to a suitable position at the merged school.
- (b) Subject to the provisions in this section, if an employee expresses a preference for a position that is functionally equivalent (as defined under 10.3.8(a)(iv) above) to her/his current position, and she/he is the only suitably qualified and experienced employee for that position, she/he shall be reassigned to that position.
- (c) An employee may be reassigned to her/his preferred position or, subject to the agreement of the employee, to a position for which she/he is appropriately qualified and experienced.
- (d) Where there are more employees in positions that are functionally equivalent than there are such positions at the merged school, the employer shall seek internal applications for the position(s) from those employees and shall appoint the most suitable candidate(s) based upon merit.
- (e) An employee who is not appointed to a functionally equivalent position at the merged school may be reassigned to any vacant position for which she/he is suitable, or could become suitable with access to re-training, provided the terms and conditions are no less favourable and the duties and responsibilities are comparable.
- (f) An employee who accepts reassignment to a position assessed as being at a lower grade and/or offering a lower hourly rate/salary rate will be entitled to an equalization allowance for a period of one year from the date on which the reassignment takes effect. The equalisation allowance will be calculated on the basis of the difference between the hourly rate/salary rate paid to the employee prior to reassignment and that paid for the position to which she/he has been reassigned. Should the position be upgraded, or a higher graded position obtained during the 12 month period, the allowance would be reduced accordingly or removed.
- (g) An employee who accepts reassignment to a position with reduced hours will be entitled to a partial redundancy payment. Partial redundancy will be calculated on the basis of applying the redundancy pay formula described in clause 10.2.12 (Surplus Staffing) of this Agreement to the total number of reduced hours, as set under clauses 2.5 and 2.6 (Hours of Work) of this Agreement. This total shall be paid as an allowance over the number of weeks of entitlement. Should the employee's hours increase over this period it will be reduced or removed accordingly.
- (h) An employee who does not wish to accept reassignment to a position with less favourable terms and/or conditions will be deemed to have had her/his position disestablished. The provisions of clause 10.3.11 below will apply to any such employee.

10.3.11 Notice and Disestablishment of Positions

- (a) Any employee who is not reconfirmed or reassigned as per clauses 10.3.9 and 10.3.10 above will be deemed to have had their position disestablished and will be given written notice of termination advising of the date that the notice will take effect. This notice period will be a minimum of one month.
- (b) If, during the two-month notice period, a suitable permanent position arises at the merged school the employee may seek appointment to that position and, if she/he is suitably qualified and experienced, she/he shall be appointed to that position.
- (c) During the notice period the employer will provide reasonable paid time for the employee to attend interviews.

- (d) Clauses 10.2.7 – 10.2.10 (Surplus Staffing) shall apply in relation to the notice period. These provisions emphasise the responsibilities in relation to securing alternative employment on the employer and employee. Where a reasonable offer of employment, as defined in clauses 10.2.8 and 10.2.9, is made in the education or state service, the employer has no further obligation in relation to redundancy payments. Scope exists to co-ordinate the notice period and availability of the new position.
- (e) If at the completion of the notice period alternative employment is not found in accordance with clauses 10.3.9 and, 10.3.10 or clauses 10.2.7 and 10.2.8 (Surplus Staffing) of this Agreement, the employee will receive redundancy and a work reference or record of service in accordance with clauses 10.2.12 and 10.2.13 (Surplus Staffing) of this Agreement.

Part 11: Union Related Rights

11.1 Access

11.1.1 A representative of the NZEI Te Riu Roa shall be entitled to enter at all reasonable times upon the premises for purposes related to the employment of its members or for purposes related to the union's business or both. The representative shall enter at a reasonable time and in a reasonable way and comply with existing safety, health and security procedures applying in respect of the school.

11.2 Deductions

11.2.1 The employer shall deduct union fees from those employees who are bound by this Agreement and who have given the employer written authority to make such a deduction. The employer shall retain an administration fee of 2.5%. The employer shall remit such deductions to the NZEI Te Riu Roa at mutually accepted intervals of not more than three months.

11.3 Paid Union Meetings

11.3.1 The employer must allow every union member employed by the employer to attend at least 2 union meetings (each of a maximum of 2 hours' duration) in each calendar year.

11.3.2 The union must give the employer at least 14 days' notice of the date and time of any union meeting to be held.

11.3.3 The union must make such arrangements with the employer as necessary to ensure that the school remains open for instruction during any union meeting, including, where appropriate, an arrangement for sufficient union members to remain available during the meeting to enable the school to remain open for instruction.

11.3.4 Work must resume as soon as practicable after the meeting, but the employer is not obliged to pay any union member for a period longer than 2 hours in respect of any meeting.

11.3.5 An employer must allow a union member employed by the employer to attend a union meeting under clause 11.3 on ordinary pay to the extent that the employee would otherwise be working for the employer during the meeting.

11.3.6 For the purposes of clause 11.3.5 the union must:

- (i) supply to the employer a list of members who attended the union meeting; and
- (ii) advise the employer of the duration of the meeting.

Part 12: Employment Relationship Problems

12.1 What is an employment relationship problem?

- 12.1.1 It is a problem between employee and employer. For example, it might be a personal grievance or a dispute about a provision in an employment agreement.

12.2 Resolving an employment relationship problem

- 12.2.1 The employee and employer should first make a reasonable effort to discuss the problem and settle it by mutual agreement. (If it's a personal grievance, it **must** first be raised with the employer and **within 90 days** - Personal Grievances are explained further below).
- 12.2.2 An employee (or employer) has the right to be represented at any stage.
- 12.2.3 When a problem arises, union members should contact their local NZEI Te Riu Roa field officer or Service and Food Workers' Union organiser for advice and representation.
- 12.2.4 Employers should contact New Zealand School Trustees Association or other adviser/representative of choice.

12.3 Personal Grievances

- 12.3.1 A personal grievance is a particular type of employment relationship problem that normally must be raised with the employer within 90 days of the grievance arising.
- 12.3.2 An employee may have a personal grievance where:
- They have been dismissed without good reason, or the dismissal was not carried out properly.
 - They have been treated unfairly.
 - Their employment or a condition of their employment has been affected to their disadvantage by an unjustified action of their employer.
 - They have experienced sexual or racial harassment, or have been discriminated against because of their involvement in a union or other employee organisation, or have suffered duress over membership or non-membership of a union or other employee organisation.
 - They have been discriminated against in terms of the prohibited grounds of discrimination under the Human Rights Act 1993.

Note: The full meaning of the terms personal grievance, discrimination, sexual harassment, racial harassment, and duress, shall be the meaning given by sections 103 to 110 inclusive of the Employment Relations Act 2000 only. For ease of access these are available at:
<http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM60322.html>.

2.4 Services Available

- 12.4.1 To help resolve employment relationship problems, the Ministry of Business, Innovation and Employment (MBIE) provides:
- (a) An information service
This is free. It is available by contacting MBIE or by phoning toll free 0800 20 90 20. MBIE's Employment Relations Service internet address is www.dol.govt.nz/er/ and can be contacted by e-mail at info@ers.dol.govt.nz.

- (b) **Mediation Service**
The Mediation Service is a free and independent service available through MBIE.
This service helps to resolve employment relationship problems and generally to promote the smooth conduct of employment relationships.
Mediation is a mutual problem solving process, with the aim of reaching an agreement, assisted by an independent third party.
If the parties can't reach a settlement they can ask the mediator, in writing, to make a final and binding decision.
A settlement reached through mediation and signed by the mediator at the request of the parties is final, binding and enforceable. Neither party can then take the matter any further and either party can be made to comply with the agreed settlement by court order.
If the problem is unresolved through mediation either party may apply to have the matter dealt with by the Employment Relations Authority.
- (c) **The Employment Relations Authority**
This Authority is an investigative body that operates in an informal way. It looks into the facts and makes a decision on the merits of the case and not on the legal technicalities.
Either an employer or an employee can refer an unresolved employment relationship problem to the Authority by filing the appropriate forms.
The Authority may call evidence, hold investigative meetings, or interview anyone involved. It can direct the parties to try mediation. If mediation is unsuitable or has not resolved the problem, the Authority will make a decision that is binding on all parties. Any party can contest the Authority's decision through the Employment Court.

Note: All employment relationship problems, including personal grievances and any disputes about the interpretation or application of this agreement, must be resolved under Parts 9 and 10 of the Employment Relations Act 2000 - <http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html>

Signatories

This variation has been signed by the parties on the 11th day of May 2016.

Jane Porter
Executive Officer
NZEI Te Riu Roa

Tim Day
Senior Industrial Relations Adviser
for Secretary for Education

Witnessed by:

Robert Hegarty (Lawyer), Employment Relations Adviser, NZSTA