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# **SPECIAL RESIDENTIAL SCHOOLS' COLLECTIVE AGREEMENT**

**2019-2021**

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## SECTION 1: INFORMATION

### 1.1 Parties

- 1.1.1 The parties to this Agreement shall be:
- (a) The Secretary for Education acting under delegation from the State Services Commissioner made pursuant to section 23 of the State Sector Act 1988 and acting in accordance with section 74(5) of the State Sector Act 1988; and
  - (b) The New Zealand Public Service Association Inc (PSA).

### 1.2 Application

- 1.2.1 The Agreement shall be binding on:
- (a) Each Employee who comes within the coverage clause and who is or becomes a member of the PSA.
  - (b) Each Employer, as defined in clause 1.5 below.

### 1.3 Coverage

- 1.3.1 Except as provided under clause 1.3.2 below this Agreement shall apply to residential, professional and administrative non-teaching Employees at Van Asch Deaf Education Centre, Kelston Deaf Education Centre, Halswell Residential College, Salisbury School, and from 28 January 2016, Westbridge Residential School.
- 1.3.2 The Employer shall not be required to offer this Agreement to a casual day to day reliever employed for no more than two weeks in any one engagement. This will apply to a short term casual Employee relieving for a staff member absent due to sickness, bereavement or staff training; or in emergency situations.
- 1.3.3 The Employer agrees that any casual Employees will be paid no less than the minimum salary rate they would receive if appointed under this Agreement.

### 1.4 New Employees

- 1.4.1 The parties agree that all new employees who are employed to perform work falling within the coverage clause shall be advised of this collective agreement, be given a copy of it and be offered the opportunity to be covered by this collective agreement by joining the PSA.

### 1.5 Definitions

"Day" - means the period from midnight to the next succeeding midnight, as prescribed in **Standard** or **Rostered** scales hours (see clause 3.1).

"Employee" - means a person employed on a full-time or part-time basis whether salaried or temporary/fixed-term.

"Employer" - means the Board of Trustees or Commissioner of Van Asch Deaf Education Centre, Kelston Deaf Education Centre, Halswell Residential College, Salisbury School, and from 28 January 2016, Westbridge Residential School.

"PSA" – means the New Zealand Public Service Association Inc.

"School" - means Van Asch Deaf Education Centre, Kelston Deaf Education Centre, Halswell Residential College, Salisbury School, and from 28 January 2016, Westbridge Residential School.

"Service" - Except where the Employer is Westbridge Residential School, "Service" is service with the Employer, together with any other service which has been recognised as at 30 September 2015. Where the Employer is Westbridge Residential School, only service from 28 January 2016 at Westbridge Residential School will be recognised for the purposes of this clause. Service relates to annual, cessation and retiring leave.

"Continuous service" - Except where the Employer is Westbridge Residential School, "continuous service" is unbroken service with a particular School, together with any other service which had been recognised effective 30 September 2015. Where the Employer is Westbridge Residential School only service from 28 January 2016 will be recognised for the purposes of this clause. Continuous service relates to redundancy severance compensation (but not cessation leave).

**Note:** (i) *In relation to service and continuous service, each existing Employee will be provided with a letter and have recorded on their personal file, details of their recognised continuous service with effect from 30 September 2015. (Refer to clause 4.2.2, Note (iii)f)*

**Note:** (ii) *for the avoidance of doubt Note (i) above does not apply to Employees of Westbridge Residential School.*

"Shift" - means a single period of continuous duty with or without a meal break rostered within the ordinary working week.

"Shiftwork" - means work performed to a weekly pattern of shifts rostered according to work requirements with commencing and finishing times as decided by the Employer.

"Week" - means the seven days commencing midnight Sunday/Monday.

## **1.6 Variations**

- 1.6.1 The parties agree that any or all of the provisions of this Agreement may be varied at any time by written agreement between the PSA and the Secretary for Education, acting under delegation from the State Services Commissioner made pursuant to section 23 of the State Sector Act 1988, in accordance with section 74 of the State Sector Act 1988.
- 1.6.2 Any such variation agreed will be binding on Employees and the Employer or Employers of those Employees covered by this Agreement in accordance with section 74(6) of the State Sector Act 1988 (as amended by the Employment Relations Act 2000).
- 1.6.3 Such agreement shall be recorded in writing and attached to this Agreement.
- 1.6.4 The PSA will advise at the commencement of negotiations for a variation, the ratification process that will be used.
- 1.6.5 The variation will be put for ratification to those PSA members directly affected by the variation.

## SECTION 2: TERMS OF EMPLOYMENT

### 2.1 Categories of Employment

2.1.1 Full-time, permanent employment will be the norm, however:

- (a) The Employer may engage **part-time** salaried Employees where the work is as follows:
  - (i) ongoing (that is, not temporary, seasonal or fluctuating in nature); and
  - (ii) of a type which would be performed by full-time Employees if it were full time; and
  - (iii) it involves a regular work pattern which should normally be at least 15 hours per week; and is
  - (iv) capable of being performed efficiently on a part-time basis.
- (b) Fixed term employment
  - (i) The Employer may engage **temporary or fixed-term** Employees where the work is temporary, seasonal or fluctuating in nature, including acting in a relieving capacity.
  - (ii) An Employee and an Employer may agree that the employment of the Employee will end:
    - (a) at the close of a specified date or period; or
    - (b) on the occurrence of a specified event; or
    - (c) at the conclusion of a specified project.
  - (iii) Before an Employee and Employer agree that the employment of the Employee will end in a way specified in subsection (b)(ii) the Employer must:
    - (a) have genuine reasons based on reasonable grounds for specifying that the employment of the Employee is to end in that way; and
    - (b) advise the Employee in writing of when or how his or her employment will end and the reasons for his or her employment ending in that way.
  - (iv) The following reasons are not genuine reasons for the purposes of subsection (b)(iii)(a) -
    - (a) to exclude or limit the rights of the Employee under the Employment Relations Act 2000;
    - (b) to establish the suitability of the Employee for permanent employment.

### 2.2 Re-entry After Absence Due To Childcare

2.2.1 A permanent Employee who resigned from the School to care for pre-school children may apply to re-enter that School 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.
- (b) The applicant must:
  - (i) produce a birth certificate for the pre-school child;
  - (ii) sign a statutory declaration to the effect 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 or other income received during that absence.

**Note:** *Where paid employment has been entered into for substantially more than 15 hours per week, or other income earned is in excess of \$8625 pa, eligibility will be at the discretion of the Employer.*

- (c) An applicant seeking to return to a School must give at least 3 months' notice and renew that notice at least one month before the date he/she wishes to return to work or one month before the expiry of the period in (a), whichever is the earliest.

2.2.2 Where the applicant meets all the provisions of clause 2.2.1 above and at the time of application:

- (a) has the necessary skills to fill competently a vacancy which is available in the School; 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.

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

2.2.4 There shall be no right of review against the appointment of an applicant under these provisions unless the applicant is appointed to a position at a higher grade than that held at the time of resigning.

2.2.5 If an applicant under these provisions is not appointed to any position within three months after the expiry of the period in clause 2.2.1(a) the benefits of these provisions will lapse.

## SECTION 3: HOURS OF WORK AND RELATED PROVISIONS

### 3.1 Hours of Work

#### 3.1.1 Principles:

Hours of work shall be continuous each day, aside from meal and rest breaks. Ordinary hours of work shall not exceed 8 per day. Days of work will normally be consecutive. All Employees shall enjoy regular and/or predictable work patterns. Any changes to working hours for Standard scale Employees shall be by mutual agreement, except in emergencies.

"Emergencies" are unforeseen events which adversely affect the functioning of the School.

#### 3.1.2 Scale working hours:

- (a) **Standard scale** hours: 40 hours each week to be worked between 7.30am and 7.30pm daily from Monday to Friday inclusive, with not more than one hour for lunch each day.

**Note:** *Employees on Standard scale hours will, wherever possible, be granted the opportunity to work flexible hours.*

- (b) **Rostered scale** hours: 40 hours each week (may be averaged over 2 weeks) between 9.00pm and 7.30am for night attendants, and between 6:30am and 10pm for other rostered scale Employees, to be worked as part of a regular roster cycle.

- i. Placement of an Employee on Rostered scale hours is at the discretion of the Principal.
- ii. It is acknowledged that Rostered Employees are required to undertake such duties as preparation, evaluation and assessment time generated by student contact, in addition to their normal contact time, and that these factors have been taken into consideration in determining the Employee's hours of work and leave entitlements.)
- iii. Rostered employees shall not be required to attend school during any time when the school is officially closed for instruction, other than in accordance with this clause. Boards may require Employees to attend school or elsewhere, when the school is closed for instruction (except on weekends or statutory holidays unless by agreement) to undertake planning, preparation and professional development for up to 15 days per annum.

Permanent changes to rosters may be made by the Employer after giving at least 5 working days' notice.

Where practicable (and especially where the day off is a single day) rosters are to be arranged so that the day's work finishes as early as possible on the day preceding the day/s off and resumes as late as possible on the day following the day/s off.

- 3.1.3 All Employees shall, wherever practicable, be allowed a **minimum break** of nine uninterrupted hours between one day's work and the next. Where such a break is not allowed, any time worked shall be paid at overtime rates until the break is able to be taken. Absence from work to achieve a nine hour break will be deemed to be time worked.



### **3.2 Meal and Rest Breaks**

3.2.1 An Employee shall be allowed a meal break of not less than 1/2 hour and not more than 1 hour after a maximum 5 hours worked.

3.2.2 An Employee shall be allowed two rest breaks of 10 minutes each during each period of duty, at times specified by his/her Employer.

### **3.3 Overtime**

3.3.1 Overtime is time worked in excess of 40 hours per week or 8 hours per day.

3.3.2 Equivalent time off may be granted on the basis of one hour off for one hour worked, by mutual agreement between the Employer and the Employee.

3.3.3 Overtime is payable at the rate of T1 1/2 for the first three hours worked between 6.00am Monday and 12 noon Saturday, except that all overtime worked between 10.00pm and 6.00am on these days is payable at T2. All overtime worked between noon on Saturday and 6.00am on Monday or after three hours overtime has been worked on any day, is payable at T2. Overtime worked on statutory or designated holidays is payable at T2.

**Note:** *Although these overtime rates apply to all staff, certain Rostered Employees may receive an allowance in lieu of rostered overtime.*

3.3.4 An Employee in receipt of **base** salary of \$60,000 per annum (including higher duties allowance) or more, is not entitled to overtime payments. Any Employee who through salary increases to grand-parented incremental steps has a base salary above \$60,000 per annum will not be affected by this provision in the term of this agreement.

### **3.4 Penal Rates**

3.4.1 For ordinary hours worked:

- (a) from 0000 to 1200 hours Saturday, T1/2 for the first 3 hours and T1 thereafter;
- (b) from 1200 hours Saturday to 2400 hours Sunday, T1;
- (c) between 2000 hours and 0600 hours any day, T1/4, with a minimum payment of 2 hours.

**Note (i):** *These penalty payments are assessed on base salary;*

**Note (ii):** *Employees first appointed to a School, or appointed to a new position at a School **on or after 1 May 1996** will have these penalty rates assessed at their actual salary or step 8 of the Base Salary scale (refer to clause 4.2.2), **whichever is less.***

3.4.2 Rostered Employees may, instead of receiving penal rates, receive a loading in addition to salary, taking into account actual days and hours worked over a 12 month period. The loading will be averaged out over the full year and will also be paid during paid leave.

### **3.5 Call Back**

3.5.1 Where an Employee is called back to work after completing the day's work and after leaving the School for the day, or is called back before the Employee's normal starting time and does not continue working until normal starting time that Employee shall be paid for a minimum of 3 hours at the appropriate overtime rate.

- 3.5.2 This provision applies to days off as well as ordinary working days.
- 3.5.3 Call backs commencing within the minimum period covered by an earlier call back shall be deemed one call back.

### **3.6 Transitional Arrangements**

- 3.6.1 Where any Employee had previously entered into a salary arrangement which incorporated various allowances into his/her salary package, the salary arrangements shall be put in writing, clearly specifying the individual elements of the remuneration and signed by the Employee, his/her Employer and a representative of the PSA. One copy of the agreement will be retained by the Employer on the Employee's personal file and one copy retained by the Employee.
- 3.6.2 Where various allowances have been incorporated into the salary package it is not the intention of the parties that the Employee shall be paid in addition any allowances which have been already incorporated into the salary package. All Employees bound by this Agreement shall have the benefit of all other minimum provisions in the Agreement.
- 3.6.3 By mutual agreement an Employee who has had their remuneration salarised as per clause 3.6.1 above, can revert to base salary plus allowances relevant to their position. In determining the relevant allowances the parties acknowledge that the allowances contained in the original salarisation agreement may have changed in this Agreement.
- 3.6.4 Allowances contained in this Agreement that are the same, amended or new, relevant to the position, shall apply.
- 3.6.5 If any allowance has not been carried forward into this Agreement there is no entitlement.

**Note:** *It is acknowledged that issues may arise under the Holidays Act 2003 regarding this clause which the parties will continue to work towards resolving.*

## SECTION 4: REMUNERATION

### 4.1 Specialist and Executive/Management Group

- 4.1.1 From 30 September 2015 a new Specialist and Executive/Management Group is established. The minimum salary entry point is \$70,000 per annum for the term of this Agreement.
- 4.1.2 Subject to clause 4.1.3 below, the Employer may assign an individual to this Specialist and Executive/Management Group at the Employer's sole discretion.
- 4.1.3 The Specialist and Executive/Management Group is reserved for staff who:
- (i) are part of the Senior Management Team (SMT) of the school; or
  - (ii) have whole of school responsibility for functions such as Finance and /or Human Resources and/or Property; or
  - (iii) are employed for their specialist skills.
- 4.1.4 For the purposes of clause 4.1.3(i), the SMT is by definition the group within the management structure of the school which has whole of school oversight and responsibility to the Board of Trustees.

### 4.2 Pay rates for grade A, grade B, grade C and grade D from 28 January 2019

- 4.2.1 This Agreement specifies minimum rates of pay.
- 4.2.2 With effect from 28 January 2019 the following pay scale will apply to all non-teaching staff employed by special residential schools, except those in the Specialist and Executive/Management Group:

Grade and Step	Current	From 28 January 2019	From 1 April 2020
A 1	\$32,959	\$37,000	\$39,600
A 2	\$34,014	\$37,400	\$40,000
A 3	\$35,102	\$37,800	\$40,400
B 4	\$36,225	\$38,200	\$40,800
B 5	\$37,385	\$38,949	\$41,200
B 6	\$38,581	\$40,145	\$41,600
B 7	\$39,815	\$41,379	\$42,200
B 8	\$41,090	\$42,654	\$43,500
C 9	\$42,404	\$43,551	\$44,420
C 10	\$43,761	\$44,908	\$45,800
C 11	\$45,162	\$46,309	\$47,230
C 12	\$46,607	\$47,754	\$48,700
C 13	\$48,098	\$49,245	\$50,230
D 14	\$49,637	\$50,784	\$51,800
D 15	\$51,226	\$52,373	\$53,420
D 16	\$52,865	\$54,012	\$55,090
D 17	\$54,557	\$55,704	\$56,810
D 18	\$56,303	\$57,450	\$58,590
Specialist	\$70,000	\$70,000	\$70,000

- 4.2.3 With effect from 28 January 2019, all employees on Grade C and Grade D will receive a single one-off lump sum payment of \$300 gross.

### 4.3 Position Elements table

Elements of the position:	Grade A	Grade B	Grade C	Grade D
<b>Level of skill and knowledge</b>	The position requires basic skills and knowledge including communication, literacy, and the ability to interact and build relationships with other people.	The position also requires specific skills and knowledge relevant to the role.	Highly-developed skills and knowledge, relevant to the position, are required.	Advanced specialist skills and knowledge, relevant to the position, are required.
<b>Degree of problem- solving ability</b>	The position requires the ability to identify basic problems and take appropriate action.	The position requires the ability to identify and take appropriate action to solve intermediate level problems.	The position requires the ability to identify and resolve complex problems.	The position requires the use of specialist skills and knowledge to anticipate, identify and resolve complex problems.
<b>Degree of freedom to act independently</b>	The position involves following instructions and carrying out set duties and tasks within defined procedures.	The position allows a degree of initiative in carrying out duties and tasks within defined procedures.	The position allows for initiative and flexibility in carrying out duties and tasks, including implementing procedures and adapting these to suit particular situations.	The position also involves the development and maintenance of procedures and/or systems as required, as well as ensuring these are effective and followed appropriately.
<b>Degree of accountability</b>	As the position is likely to operate within defined parameters, there is minimal accountability associated with the position.	As the position involves some decision-making, within defined parameters, there is limited accountability associated with the position.	The position involves greater flexibility to make decisions which carry risk. Accountability in the position will therefore require such decisions to be explained and justified.	The position involves significant accountability and risk. There is expectation to report and justify decisions to the SMT and/or the Board.
<b>Level of supervision and/or management</b>	None.	The position occasionally involves supervision and/or oversight of others' work.	The position usually involves supervision and/or oversight of others' work.	The position will involve supervision of others' work and is likely to involve management of staff.

### 4.4 Job Descriptions

- 4.4.1 The Employer will determine job descriptions and/or other written requirements for all positions.
- 4.4.2 Where a job description and/or written requirements for an existing position do not exist, the current Employee will be consulted in determining a job description.
- 4.4.3 The job description and/or written requirements for the position will be reviewed as part of the annual appraisal under clause 4.7.1.

- 4.4.4 The job description and/or written requirements may be updated by the Employer as required following consultation with the Employee (at the time of annual appraisal or at any other time). Substantial changes to the job description and/or written requirements for the position may not be made until after the Employer has consulted the Employee and endeavoured to reach agreement.

**Note:** For the avoidance of doubt, changes to a job description and/or written requirements can be made at any time by agreement between the Employer and the Employee.

## **4.5 Grading**

- 4.5.1 Every position shall be placed within one of the four grades A, B, C or D except for positions in the Specialist and Executive/Management Group.
- 4.5.2 The requirement set out in clause 4.5.1 has been met by automatic translation to the scale in clause 4.2.2 on 30 September 2015 and subject to clause 4.2.2 Notes (i), (ii), (iii) and (iv).
- 4.5.3 The Employer will determine the grade for each position after considering the job description and/or any other written requirements of the position against the position elements table in clause 4.3 and the requirements of clause 4.5.7.
- 4.5.4 A position element must be assessed by the Employer as being either Grade A, B, C or D for each of the five position elements.
- 4.5.5 Descriptors of the grades for each position element are found in clause 4.3.
- 4.5.6 Each position element shall be assessed by the Employer at the grade which most reflects the requirements of the position in terms of the position elements at clause 4.3 and the provisions of clause 4.5.7.
- 4.5.7 If one or more position elements are assessed by the Employer at different grades, then the Employer shall decide the grade of the position by assessing what grade most reflects requirements of the position. In so doing, the Employer shall take into account:
- scale of the school operation;
  - internal relativity;
  - external relativity (market, industry);
  - recruitment;
  - retention;
  - responsibility/autonomy of the role;
  - supervision of others;
  - experience required; and
  - relevant educational or other qualifications required.

## **4.6 Placement within a grade**

- 4.6.1 Employees may, upon appointment, be placed at any point within the appropriate salary scale in the grade applicable to the position. Criteria to be considered in deciding the actual starting rate of pay include:

- (a) previous work or relevant experience in relation to the position;
- (b) level of skill and responsibility which in the opinion of the Employer is required to be exercised in the position;
- (c) the relevant educational or other qualifications required;
- (d) the level of te reo Māori and understanding of nga tikanga Māori required for the position (where relevant);
- (e) the level of knowledge of deaf culture and NZSL required for the position (where relevant); and
- (f) the ease or difficulty in retaining or recruiting the specific skills and/or experience required for the position.

#### **4.7 Progression within grades**

4.7.1 Unless otherwise specified, progression within each grade shall be by annual increment, subject to satisfactory performance as measured in the latest performance appraisal.

4.7.2 For staff appointed prior to the coming into force of the SRSCA 2015-18, progression pursuant to clause 4.7.1 is restricted to the maximum remuneration level specified in clause 4.2.2, Note (ii).

#### **4.8 Movement between grades**

4.8.1 Unless otherwise specified movement between the grades shall occur:

- (a) by appointment or promotion; or
- (b) by re-grading of the position where the requirements of the position have altered substantially. The Employer shall consider the factors in clause 4.5 as the criteria for movement between the grades.

#### **4.9 Salary progression for employees on range of rates in Specialist and Executive/Management Group**

4.9.1 Where the Employee is paid on the Specialist and Executive/Management range of rates, the Employer will review the Employee's salary annually. This review will be carried out after discussion with the Employee.

4.9.2 The Employer will take into account whether 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 in reviewing the salary.

4.9.3 Other factors which the Employer will take into account are:

- (i) particular skills, qualifications, on the job experience and level of responsibility;
- (ii) the ease or difficulty in recruiting and/or retaining the specific skills and/or experience required for the position;
- (iii) whether the current salary level is commensurate with the duties required;
- (iv) salary rates shall not be reduced by reason of the operation of the ranges of rates.

#### **4.10 Part-Time Salaried Employees**

4.10.1 Wages, salaries and allowances will be paid to part-time Employees pro rata, using the following formula:

$$\frac{\text{Hours worked per week} \times 100}{40 \text{ hours}} = \% \text{ of salary payable}$$

#### **4.11 Payment of Salaries**

- 4.11.1 Salaries shall be paid fortnightly in arrears by direct credit to a bank account on receipt of the appropriate written authority from an Employee. In the event of a direct credit not being able to be actioned, the amount of salary due to the Employee shall be paid direct to the Employee by cheque.
- 4.11.2 The Employer shall provide to an Employee a written advice of the gross pay and deductions made each time the Employee's gross pay or any deduction is altered.

#### **4.12 Deductions from Salary**

- 4.12.1 The Employer shall be entitled to make a deduction from the salary of an Employee:
- (a) pursuant to the Wages Protection Act 1983 with the required notice being given to the Employee; or
  - (b) where required to by legislation or by court direction; or
  - (c) at the Employee's written request or consent.

#### **4.13 Extra Payment Based On Average Weekly Earnings**

- 4.13.1 A 'top up' extra payment based on average weekly earnings, will be made to Employees who qualify, once a year before the Christmas/New Year close down. Rostered Employees receiving a specific regular allowance incorporating penal rates and/or overtime do not qualify. The process in clauses 4.13.2 to 4.13.4 will be used to calculate the extra payment.
- 4.13.2 Average weekly earnings will be calculated over a 52 consecutive week calculation year (normally December to November) by dividing gross earnings (as defined in s14 of the Holidays Act 2003) by 52. Absences on sick leave for a complete week are to be excluded from both the gross taxable earnings and the divisor.
- 4.13.3 Where average weekly earnings are less than ordinary pay at the end of the calculation year, no payment is due.
- 4.13.4 Where average weekly earnings exceeds ordinary weekly pay, then a payment will be made based on the difference, multiplied by the annual leave entitlement.

#### **4.14 Savings**

- 4.14.1 Unless specifically varied by negotiation as part of the settlement, nothing in this Agreement shall operate to reduce the wages and conditions of employment applying to any Employee at 29 September 2015.
- 4.14.2. Further to clause 4.14.1, each current Employee who was employed on 29 September will receive a letter from their Employer detailing the provisions which specifically continue to apply to that Employee, with effect from 30 September 2015. (Clause 4.2.2 Note (iii) refers.)

## **SECTION 5: HOLIDAY AND LEAVE PROVISIONS**

**Note:** *The parties acknowledge that the leave provisions of this Agreement (and their administration) operate to provide entitlements equal to, or in excess of, those provided under the Holidays Act 2003. To this extent, and except as provided via changes within this Agreement, the parties agree that current administrative practices will continue to operate. As with clause 4.13.4 above, where inconsistencies with the Holidays Act 2003 exist the parties will continue to work on compliance solutions.*

### **5.1 Statutory Holidays**

- 5.1.1 The following days shall be observed as statutory holidays in accordance with the Holidays Act 2003: 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.
- 5.1.2 Designated Holiday - the day after Boxing Day or the first weekday in lieu shall be observed as a designated holiday.
- 5.1.3 Entitlement to a statutory holiday exists where it falls on a day which would otherwise be a working day for the Employee.

### **5.2 Payment and Time Off for Working on a Statutory or Designated Holiday**

- 5.2.1 An Employee who works on a statutory holiday is entitled to an alternative holiday on another agreed working day, which shall be one on which the school is closed for instruction, unless otherwise agreed. This shall also apply to an Employee on call where the nature of the restriction of the on-call condition on the Employee's freedom of action is such that for all practical purposes, the Employee has not had a holiday. The additional day shall not apply to any Employee only employed to work on statutory holidays.
- 5.2.2 Work on statutory holidays, except Waitangi Day and Anzac Day, shall be paid at the portion of the Employee's relevant daily pay (less any penal rates) that related to the ordinary hours actually worked on the day, plus that amount again. Any additional hours will be paid at the appropriate overtime rate only.
- 5.2.3 Work on Anzac Day and Waitangi Day shall be paid in accordance with section 50 of the Holidays Act 2003 i.e., the greater of:
  - (a) the portion of the Employee's relevant daily pay (less any penal rates) that relates to the time actually worked on the day plus half that amount again; or
  - (b) the portion of the Employee's relevant daily pay that relates to the time actually worked on the day.
- 5.2.4 An Employee required to work on a designated holiday (see clause 5.1.2) will be granted equivalent time off in lieu. They will receive no payment in addition to 8 hours ordinary pay until after 8 hours have been worked, when the appropriate overtime rate will be paid.



### 5.3 Holidays Falling During Leave or Time Off

5.3.1 Where a statutory or designated holiday falls during a period of annual, sick, or special **leave on pay**, an Employee is entitled to that holiday which is not to be debited against such leave. This shall also apply on termination of employment whereby the final date of work is extended by any annual holiday entitlement not taken, and any statutory holiday falling during that period is debited and the annual leave is extended accordingly.

### 5.4 Recreation Leave Standard Employees

5.4.1 One day's recreation leave will be granted each year to Standard scale Employees and must be taken during the following year. Recreation leave not taken at the time of ceasing service with the School will be forfeited.

### 5.5 Annual Leave Standard Employees

5.5.1 Annual leave is to be taken in term holidays wherever practicable.

5.5.2 Annual leave of 5 weeks per annum shall be allowed in accordance with the Holidays Act 2003 (refer table 1 below);

5.5.3 Employees shall, on completion of six years' service, become entitled to annual leave of 6 weeks per annum as at 1 December immediately following (refer to table 1 below).

Table 1:	
Service	Annual leave entitlement
0-6 years' service	5 weeks annual leave + 1 recreational day *
7 years' service	6 weeks annual leave + 1 recreational day *

\* refer clause 5.4

5.5.4 Except in relation to a closedown period or when agreement is unable to be reached, when annual holidays are to be taken is to be agreed between the Employer and Employee.

5.5.5 Except as specifically provided by the Employer, an Employee who has been absent on special leave with or without pay in excess of 35 consecutive days in 1 or more periods in any leave year is to have his/her leave reduced in the proportion that the number of days leave bears to 365.

**Note:** *The operation of the provision shall not disadvantage any Employee in relation to any minimum entitlement under the Holidays Act 2003.*

5.5.6 For example, an Employee with 5 weeks' leave entitlement who has had 55 days special leave will have his/her annual leave entitlement reduced by  $55/365 \times 25 = 4$  days.

5.5.7 Employees with over 20 years' continuous service may anticipate 1 years' annual leave entitlement for the purpose of taking an overseas trip.

5.5.8 Employees may be permitted to anticipate up to half the annual leave entitlement due, subject to refund on termination or resignation of employment if necessary. Employees in their first year of service may be granted anticipated annual leave proportionate to their length of service.

5.5.9 Holiday pay shall be calculated in accordance with the provisions of the Holidays Act 2003 except as provided under clause 4.13 above.

## **5.6 Annual Leave Rostered Employees**

5.6.1 These provisions will only apply to Employees who have been placed on the Rostered scale hours of work (clause 3.1.2 (b) refers).

5.6.2 Rostered employees are entitled to five weeks paid annual leave per annum, to be taken on days when the school is closed. After the five week entitlement is exhausted, rostered employees will continue to be on paid time off for the remainder of the days that the school is closed (unless they are on approved leave without pay, or planning, preparation or professional development).

5.6.3 Annual leave no longer applies, as Employees in the above occupations will be on paid time off when their school is closed (unless they are on approved leave without pay, or planning, preparation or professional development).

5.6.4 The Employer will endeavour to arrange matters at the school in such a way that any requirement under this section is not unreasonable. By prior arrangement the Employee's own initiatives in undertaking work for the above purposes may be counted when applying this clause.

5.6.5 It is agreed that days when the school is not open for instruction shall constitute 'working days' for the purposes of clause 5.2.1 above.

5.6.6 Days when the school is not open for instruction (Closed School periods) cannot attract overtime or penal time, as such payments are only ever due for actual penal or overtime worked by Rostered Employees during Open School periods. The salary payable during such Closed School periods will be at the average weekly earnings rate as calculated according to clause 4.13.2.

## **5.7 Parental Leave**

5.7.1 Parental Leave will be granted in accordance with the provisions of the Parental Leave and Employment Protection Act 1987. The following is a guide to the four types of leave available to Employees who qualify:

- (a) Maternity leave for the mother of the child in one continuous period, not exceeding 14 weeks (without pay);
- (b) Special leave totaling up to 10 days (without pay) for reasons connected with the pregnancy;
- (c) Paternity leave up to 14 consecutive days (without pay) for the spouse or partner of the pregnant woman;
- (d) Extended parental leave of up to 52 weeks (without pay) for either the mother or father of the child.

5.7.2 Employees intending to take extended parental leave are required to give at least 3 months' notice in writing, supported by a doctor's certificate, confirming the pregnancy and expected date of delivery; or in the event of an adoption, provide the Employer with notice within 14 days of the Employee receiving notice confirming the adoption.

- 5.7.3 The Employer agrees to uphold the presumption in Part Five of the Parental Leave and Employment Protection Act 1987 that an Employee's position can be kept open during extended parental leave, except in exceptional circumstances.

**Note:** *Clauses 5.7.1 to 5.7.3 summarise, but do not take the place of the Parental Leave and Employment Protection Act 1987. A copy of the Act and other associated material is also available on [www.dol.govt.nz](http://www.dol.govt.nz).*

5.7.4 Ex-gratia Payment

- (a) Where an Employee, who is entitled to parental leave of up to 12 months, returns to duty before or at the expiration of the leave and completes a further 6 months' service, they qualify for a payment equivalent to 30 working days leave on pay, i.e. at the rate applying for the 30 working days immediately following their ceasing duty.
- (b) Provided that, if both male and female partners are employed in the School, or the Employee's partner is employed in the State Sector, and are both eligible for payment, then they are entitled to 1 and only 1 payment, and they may choose (after they have qualified) who will receive it.
- (c) Any adjustments to the salary scale that are backdated into the period covered will apply.
- (d) An Employee who is absent on parental leave for less than 6 weeks (30 working days) will receive that proportion of the payment that their absence represents in working days.
- (e) Any payment is to be based on the percentage rate of employment prior to absence on parental leave. However, a woman who works less than full normal hours for a short period only, prior to her commencing parental leave, may have her case for full payment considered by the Employer.

## 5.8 Special Leave With or Without Pay

- 5.8.1 An Employee may be granted special leave with or without pay. Placement on return from special leave without pay of more than 1 month is conditional on a suitable vacancy being available at the School, and grading cannot be guaranteed. An Employee who cannot be placed in employment on return will be given 3 months' notice in writing that employment is to be terminated.

- 5.8.2 Examples of the type of leave that could be taken as special leave with or without pay at the Employer's discretion:

- Leave without pay to work for the PSA.
- Leave without pay to accompany a partner on an overseas posting.
- Study Leave - where the course of study is of value to the Employer.
- Outward Bound - paid leave and/or payment of fees.
- Conferences and Conventions - paid leave may be granted to attend conferences and conventions of value to the Employer.

**Note (i):** The Employer will take into account the needs of the School and the Employee in dealing with applications for **study leave**. In addition to leave for study, the Employer may grant leave for examinations, reimburse course fees wholly or in part and assist with travel costs.

**Note: (ii):** Leave without pay interrupts but does not break service.

## **5.9 Sick Leave**

- 5.9.1 The Employer shall grant 10 working days sick leave per annum, with the first entitlement falling due on the date of appointment. Unused entitlement accumulates. No deduction from sick leave will be made for absences of less than 2 hours.
- 5.9.2 The Employee intending to take sick leave must notify the Employer as early as possible before the Employee is due to start work or, if this is not practicable, as early as possible after that time.
- 5.9.3 The Employer may decide that sick leave on pay of any special nature shall not be included in the aggregate of sick leave taken; but such leave is to be noted on the Employee's leave record.
- 5.9.4 Where absence on sick leave, whether with or without pay, extends beyond three consecutive days, Employees may be required to produce a medical certificate signed by a registered medical or dental practitioner stating the probable period of absence.
- 5.9.5 Where the Employee absent on sick leave is suspected of being absent from duty without sufficient cause, the Employee may be directed to submit to medical examination by a registered medical practitioner. The Employer shall meet the Employee's reasonable expenses in obtaining the medical certificate.
- 5.9.6 When sickness occurs during annual leave, the Employer may permit the period of sickness to be debited against sick leave entitlement except where the sickness occurs during leave following termination of employment.
- 5.9.7 Rostered Employees under clause 5.6 shall not have sick leave debited when the school is closed for instruction except where it occurs on a day specified for planning, preparation and professional development as per clause 3.1.2 (b) (iii).
- 5.9.8 The Employer may permit Employees to anticipate their next sick leave entitlement. Provided that the Employee agrees the necessary adjustments will be made to final pay should an Employee resign before the next entitlement falls due.
- 5.9.9 Accumulated sick leave as at the date of coming into force of this Agreement will be retained by Employees.

## **5.10 Sickness at Home**

- 5.10.1 Employees may be granted leave on pay as a charge against their sick leave entitlement when the Employee must be absent from work because their spouse, partner or a person who depends upon the Employee for care, is sick or injured.

## **5.11 Retirement**

- 5.11.1 Principle  
The Employer acknowledges the benefit of Employees planning for their retirement. Prior to retirement, or as a transition to retirement, various options may be explored, taking into account the operational needs of the Employer. Such options include working reduced hours, job sharing and/or gradual retirement.

### 5.11.2 Definition

Retirement is:

- (a) when an Employee intends to make a permanent and voluntary change to their lifestyle by ceasing or significantly curtailing permanent paid employment; or
- (b) when an Employee intends to retire on the grounds of a medical condition and therefore intends to cease or significantly curtail permanent paid employment on this basis.

### 5.11.3 An Employee may retire:

- (a) voluntarily; or
- (b) on medical grounds; or
- (c) by agreement between the Employer and Employee.

## 5.12 **Bereavement/Tangihanga Leave**

5.12.1 An Employee shall be granted special bereavement leave on full pay to discharge their obligations and/or pay their respects to a deceased person with whom they have had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at all or part of a Tangihanga (or its equivalent).

5.12.2 In granting time off the Employer must administer these provisions in a culturally sensitive manner taking into account:

- (a) The closeness of the association between the Employee and the deceased (**Note: This association need not be a blood relationship**);
- (b) Whether the Employee has to take significant responsibility for any or all of the arrangements to do with the ceremonies resulting from the death;
- (c) The amount of time needed to discharge properly any responsibilities or obligations;
- (d) Reasonable travelling time should be allowed, but for cases involving overseas travel that may not be the full period of travel;
- (e) A decision must be made as quickly as possible so that the Employee is given the 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;
- (f) If paid special leave is not appropriate then annual leave or leave without pay should be granted.
- (g) The minimum requirements as per section 70 of the Holidays Act 2003 (in summary 3 days for a family member; 1 day for a close associate).

## 5.13 **Accident Leave**

5.13.1 Accident leave is granted pursuant to the Accident Rehabilitation and Compensation Insurance Act 1992.

5.13.2 The Employer will continue to pay Employees who are absent from work due to a work related accident for up to 6 months from the date of the accident. Working days during the first week after the accident will be on special paid accident leave. Thereafter, one day of sick leave shall be deducted for each week of absence (to make up the difference between earnings related compensation and basic salary). Where there is no sick leave entitlement, the Employer will grant special paid accident leave.

## **5.14 Jury Service and Witness Leave**

5.14.1 Jury Service: An Employee will be granted paid leave for jury service. Expenses may be retained by the Employee but all juror's fees are to be paid to the Employer unless an Employee elects to take annual leave or leave without pay in which case the fees may be retained.

5.14.2 Witness Leave:

(a) Where an Employee is called as a witness in a private capacity for a criminal or traffic case up to 3 days paid leave may be granted. The Employee is to recover fees and expenses from the party calling the witness, and repay the fees to the Employer.

(b) Where an Employee is called as a witness in a private capacity for other than a criminal or traffic case, annual leave or leave without pay may be granted. The Employee is to pay any expenses incurred and is to retain such fees and expenses as may be awarded by the court.

## **5.15 First Aid Training**

5.15.1 Employees required by the Employer to attend a first aid training course shall be granted paid leave during work hours, or time in lieu at the Employer's convenience if attending the course outside work hours. Course fees will be paid by the Employer.

## **SECTION 6: ALLOWANCES AND REIMBURSEMENT OF EXPENSES**

### **6.1 Higher Duties and Special Duties Allowance**

- 6.1.1 Where an Employee is required to undertake the full duties and responsibilities of a higher graded position for at least 5 consecutive working days and competently discharges these higher duties, she/he will be paid an allowance based on the difference between the salary of the Employee acting in the position and the salary the Employee would receive if appointed to the higher position.
- 6.1.2 Where only some of the duties and responsibilities of a higher graded position are undertaken, the allowance may be paid at a lesser rate.
- 6.1.3 Employees required to undertake a project or other duties in addition to their own job may be granted a special duties allowance.

### **6.2 Meal Allowance**

- 6.2.1 Where an Employee has been directed to work not less than 2 hours overtime after a meal break of at least half an hour, or where the return of an Employee to the School is unduly delayed because of official duties, and the Employee has had to buy a meal which would not otherwise have been bought, the Employer will reimburse the cost of the meal on a fair and reasonable basis where receipts are provided.

### **6.3 Travelling Allowance**

- 6.3.1 An Employee required to travel within New Zealand on official business will be reimbursed the actual and reasonable cost of accommodation, meals and travel. Receipts will be required for amounts exceeding \$10, or such higher limits determined by the Employer.
- 6.3.2 In addition, an incidentals allowance of \$7.65 per 24 hours or part thereof, will be paid for incidental expenses not otherwise recoverable. The period for payment is calculated from the time of departure from the School (or residence) to the time of return to headquarters (or residence).
- 6.3.3 When an Employee leaves and returns to the School on the same day the Employer may approve reimbursement of actual and reasonable expenses which would not otherwise have been incurred.

### **6.4 Motor Vehicle Allowance**

- 6.4.1 Where the use of a private vehicle for official business has been agreed, the Employee shall be paid an allowance of 59 cents per kilometre.

### **6.5 Reimbursement of Expenses Incurred in Caring for Dependents**

- 6.5.1 When an Employee is required to work unusual hours in an emergency situation or is required to work away from home to an extent not previously envisaged, the Employer may approve the actual and reasonable cost of expenses incurred by Employees in caring for dependents where the situation is such that an Employee cannot make alternative arrangements for the care of his/her dependents without incurring extra expenses.

## 6.6 Service Allowance

6.6.1 Subject to conditions laid down by the Employer service allowances shall be payable to Employees as follows:

Period of Continuous Service	\$ per annum	\$ per hour
6 months but less than 12 months	340	0.162
12 months but less than 2 years	561	0.269
2 years but less than 3 years	714	0.342
3 years but less than 4 years	839	0.402
4 years but less than 5 years	962	0.461
5 years but less than 6 years	1,086	0.520
6 years and over	1,181	0.565

### Notes:

- (i) *Periods of approved leave, with or without pay of less than 3 months' duration, will be counted as periods of continuous service for the purposes of this provision. Any period of approved leave without pay in excess of 3 months' will interrupt but not break the continuity of service.*
- (ii) *Service allowance is paid during periods of annual leave, sick leave on pay, special leave on pay, retiring and long service leave etc; and increases the hourly rate for the purpose of calculating time related payments.*

## 6.7 Camp Allowance

6.7.1 Employees attending camps or similar off-school activities will be paid an allowance of \$20.00 per day.



## **SECTION 7: EMPLOYMENT RELATIONSHIP PROBLEM RESOLUTION PROCESS**

### **7.1 Statement of the Parties**

- 7.1.1 It is the intent and purpose of the parties to this Agreement to promote harmony and co-operation between the Employer and its Employees, and to provide effective procedures for the prompt and equitable resolution of disputes which may arise from time to time between the Employer and any Employee covered by this Agreement.
- 7.1.2 In accordance with the provisions of the Employment Relations Act 2000 the following procedures and services are available to the Employer and Employee for the resolution of all employment relationship problems.

### **7.2 Definitions**

- 7.2.1 "Employment Relationship Problem" includes a personal grievance, a dispute and any other problem relating to, or arising out of, an employment relationship, but does not include any problem associated with the fixing of new terms and conditions of employment. An employment relationship problem may arise, (but is not limited to), when;
- (i) a concern arises for an Employee about any aspect of their employment or any action of their Employer;
  - (ii) a concern about an Employee's health and wellbeing arises for an Employer;
  - (iii) a complaint involving an Employee is received by an Employer;
  - (iv) a concern involving Employee conduct arises for an Employer; or
  - (v) a concern involving Employee competence arises for an Employer.
- 7.2.2 "Personal Grievance" - An Employee may have a personal grievance where:
- (a) They have been dismissed without good reason, or the dismissal was not carried out properly;
  - (b) They have been treated unfairly;
  - (c) Their employment or a condition of their employment has been affected to their disadvantage by an unjustified action of their Employer;
  - (d) 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; or
  - (e) They have been discriminated against.
- 7.2.3 "Dispute" means a dispute about the interpretation, application or operation of an employment agreement (refer section 129 Employment Relations Act 2000).

### **7.3 Resolving Employment Relationship Problems**

- 7.3.1 Many employment relationship problems will be able to be resolved by discussion between the Employer and the Employee(s) concerned, without the need to take the matter any further. Wherever appropriate, Employers and Employees should seek to resolve employment relationship problems in this manner in the first instance.
- 7.3.2 If an Employee believes they have an employment relationship problem then they should talk to their supervisor about it. They should tell him/her:
- (a) there is a problem; and
  - (b) the nature of the problem; and
  - (c) what they want done about the problem.
- If for any reason the Employee feels unable to raise the matter with their supervisor the matter should be raised with the Principal.

- 7.3.3 The Employee has the right to seek the support and assistance of the PSA at any stage of the process. The Employer is entitled to seek advice and assistance from NZSTA or their adviser/representative of choice at any stage of the process.
- 7.3.4 Where the processes outlined above fail to resolve an employment relationship problem then;
- i) An Employer may decide to initiate procedures in accordance with clause 8.1 or any other appropriate procedure considering the circumstance (i.e. competency procedures).
  - ii) An Employee may consider the procedures outlined in clause 7.4. in order to resolve the employment relationship problem.

#### **7.4 Personal Grievances**

- 7.4.1 A personal grievance must be raised with the Employer within 90 days of the grievance occurring or coming to the Employee's notice, whichever is the later. As with any employment relationship problem, the parties should always try to resolve a personal grievance through discussion in the first instance. A written submission is preferable but not necessary. Employees are entitled to have the PSA raise the grievance on their behalf.
- 7.4.2 If an Employee believes they have a personal grievance based on discrimination, sexual or racial harassment, they may be able to make a complaint under the Human Rights Act 1993 to the Human Rights Commission. This is an alternative process as an Employee cannot refer a personal grievance to both the Human Rights Commission and the Employment Relations Authority. If in doubt advice should be sought before deciding.
- 7.4.3 If the problem cannot be resolved through discussion, then either party can request assistance from the Ministry of Business, Innovation and Employment, (MBIE) which may provide mediation services.

#### **7.5 Other Services Available For Resolving Employment Relationship Problems**

- 7.5.1 MBIE Mediation Service is available at any time to help parties solve problems in a balanced and fair way. They may help by giving information about the parties' rights and obligations or they may suggest a meeting between the parties or anything else that they think might help.
- 7.5.2 To help resolve employment relationship problems, MBIE provides:
- (a) An information service
    - (i) This is free. It is available by contacting MBIE by phoning toll free 0800 20 90 20. The Ministry's Employment Relations Service internet address is [www.ers.dol.govt.nz](http://www.ers.dol.govt.nz) and can be contacted by e-mail at [info@ers.dol.govt.nz](mailto:info@ers.dol.govt.nz).
  - (b) Mediation Service
    - (i) The Mediation Service is a free and independent service available through MBIE.
    - (ii) This service helps to resolve employment relationship problems and generally to promote the smooth conduct of employment relationships.
    - (iii) Mediation is a mutual problem solving process, with the aim of reaching an agreement, assisted by an independent third party.
    - (iv) If the parties can't reach a settlement they can ask the mediator, in writing, to make a final and binding decision.

- (v) 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.
- (vi) 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
  - (i) 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.
  - (ii) Either an Employer or an Employee can refer an unresolved employment relationship problem to the Authority by filing the appropriate forms.
  - (iii) 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: In relation to a dispute about the interpretation, application, or operation of this Agreement the Employer shall act, if the Secretary for Education acting under delegation from the State Services Commissioner so requires, together with or in consultation with the Secretary for Education.

## **SECTION 8: GENERAL PROVISIONS**

### **8.1 Discipline and Dismissal**

- 8.1.1 The following principles are to be followed when dealing with disciplinary matters:
- (a) The Employee must be advised of their right to request union assistance and/or representation at any stage.
  - (b) The Employee must be advised of the specific matter(s) causing concern and a reasonable opportunity provided for the Employee to state any reasons or explanations.
  - (c) The Employee must be advised of the corrective action required to amend their conduct and given a reasonable opportunity to do so.
  - (d) Before any substantive disciplinary action is taken, an appropriate investigation is to be undertaken by management.
  - (e) Depending upon the seriousness of the misconduct an oral warning should usually precede a written warning.
  - (f) The process and results of any disciplinary action is to be recorded in writing, sighted and signed by the Employee and placed on their personal file.
  - (g) If the offence is sufficiently serious an Employee is to be placed on suspension pending an investigation under (d).
  - (h) An Employee aggrieved by any action taken by an Employer must be advised on their right to pursue a grievance in terms of the procedure set out in Section 7.

### **8.2 Notice of Termination**

- 8.2.1 One month's notice of termination of employment should be given by either party but this may be varied by mutual agreement. An Employee who has committed serious misconduct may be dismissed without notice.

### **8.3 Abandonment of Employment**

- 8.3.1 Where an Employee is absent from work for of three consecutive working days, without appropriate authorisation from the Employer, the Employee will be considered by the Employer as having abandoned their employment, unless the Employee is able to show that they were unable to fulfil their obligation to notify their Employer through no fault of their own. The Employer will make all reasonable efforts to contact the Employee during the three day period of un-notified absence.

### **8.4 Restructuring and Surplus Staffing Provisions**

- 8.4.1 The parties recognise the serious consequences that the loss of permanent employment can have on Employees and propose to minimise this as far as possible by using the provisions of this Agreement to keep as many Employees as possible in suitable employment.
- 8.4.2 Prior to the formal commencement of any review which may affect PSA members in a School, the School will advise the PSA of the review and will provide the PSA with the opportunity to be involved in the review. The aim of this process is to explore all options before any final decisions are made by the School.

- 8.4.3 When, as a result of the review, the School requires a reduction in the number of Employees, or Employees can no longer be employed in their current position, the process for managing the change(s) follows:
- 8.4.4 In consultation with the PSA and affected members, **reconfirmation** may be offered, subject to the following criteria:
- (a) the new job description is the same, or very nearly the same as the Employee's current job description;
  - (b) the salary for the new position is the same;
  - (c) the new position has terms and conditions of employment, including career prospects, which are no less favourable;
  - (d) the new position is in the same location, or within reasonable commuting distance.

Where the above criteria are met and there is only one clear candidate for reconfirmation, that Employee is to be reconfirmed. Where there is more than one clear candidate, the School will consult with the PSA to reach agreement regarding options for filling the available positions.

Where there are Employees who meet the criteria for reconfirmation, those Employees shall not have access to other options in this section (except for leave without pay) until all positions available for reconfirmation are filled.

- 8.4.5 Following reconfirmation, the School may, in consultation with the PSA and individual Employees, offer **reassignment** to Employees who have not been reconfirmed. Reassignment means placement in a position similar to that previously occupied, which the Employee is prepared to accept. Where a reassignment is to a job with a lower salary, the Employee's salary can be preserved by paying a lump sum based on the loss of basic salary over the next two years.
- 8.4.6 Any affected staff who have not been reconfirmed or reassigned into a position will be declared surplus. The School will advise the PSA of the names of surplus Employees and the date by which the surplus needs to be discharged.

The School will consult with the PSA and individual Employees to see if options other than severance are appropriate; these might include leave without pay, retraining or redeployment elsewhere in the state sector.

## **8.5 Severance Compensation**

- 8.5.1 **For those Employees appointed on or after 1 May 1996** severance compensation as follows will be paid:

7 weeks' ordinary pay for the first year (or less) of continuous service; and

2 weeks' ordinary pay for the second and subsequent years of continuous service with a maximum pay out of 32 weeks' ordinary pay.

## 8.5.2 Definitions applying to clauses 8.5.1 above.

“Ordinary pay” is defined as basic taxable salary, plus regular taxable allowances paid on a continuous basis - i.e. during paid leave. In the case of Employees on parental leave ordinary pay shall be the ordinary pay at the time of taking leave.

## 8.6 Technical Redundancy

8.6.1 Where an Employee’s employment is being terminated by the Employer by reason of the sale or transfer by the Employer of the whole or part of its business, nothing will require the Employer to pay compensation for redundancy to the Employee **if**:

- (a) the person or organisation acquiring the business or part being sold or transferred (“the new Employer”):
  - has offered the Employee employment; and
  - has agreed to treat the service as if it were continuous service with that service or organisation; and
- (b) the conditions of employment being offered to the Employee by the new Employer are substantially the same as, or more favourable than, the Employee’s conditions of employment including:
  - any service related and redundancy conditions; and
  - any conditions relating to superannuation under the employment being terminated; and
- (c) the offer of employment by the new Employer is an offer to employ the Employee in the business either:
  - in substantially the same, or in a similar capacity as that in which the Employee was employed; or
  - in a capacity that the Employee is willing to accept; and
  - that the employment remains in the local area, or is within reasonable commuting distance.

## 8.7 Employment Protection Provision

8.7.1 “Attention is drawn to Part 6A of the Employment Relations Act 2000 which provides certain protections to certain Employee categories where the Employer proposes to restructure its business so their work is to be performed by a new Employer. Those relevant Employees who may be covered by this Agreement are those who provide cleaning services, food catering services, caretaking, or laundry services.”

8.7.2 Where work undertaken by an Employee (other than a relevant Employee as described under clause 8.7.1 above) bound by this Agreement will be, or is likely to be, undertaken by a new Employer, the Employer will:

- (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 the terms and conditions upon which those Employees would be offered employment by the new Employer; and
- (c) arrange to meet with the new Employer for the purpose of negotiating on the proposal.

- 8.7.3 The following shall be matters for negotiation with the new Employer in relation to Employees affected by the restructuring:
- (a) The number and type of positions that will 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;

8.7.4 Employees affected by the restructuring will have any entitlement determined by clause(s) 8.4 and/or 8.5 of this Agreement.

## **8.8 Sexual Harassment**

8.8.1 Sexual Harassment, as defined in s108 of the Employment Relations Act 2000 and section 62 of the Human Rights Act 1993, will not be tolerated at the School.

8.8.2 Employees who believe they have been subject to sexual harassment at the School have the choice of using the grievance process in this contract, or using the service of the Human Rights Commission.

**Note:** *Copies of the Employment Relations Act 2000 and Human Rights Act 1993 are available via the Ministry of Business, Innovation and Employment via [www.dol.govt.nz](http://www.dol.govt.nz).*

## **8.9 Eye Conservation**

8.9.1 Where necessary, Employees in the trades, technical and institutional areas shall be provided with safety spectacles. In cases of prolonged exposure to risk and where the Employee normally wears prescription spectacles, the Employer will reimburse the cost of prescription safety lenses in standard safety frames.

## **8.10 Keyboard and VDU Provisions**

8.10.1 The School will abide by the provisions of the Ministry of Business, Innovation and Employment Approved Code of Practice for the use of Visual Display Units, published in October 1995.

8.10.2 Employees who are engaged on VDU duties for at least 50 percent of their normal working time shall be entitled to an eye test at School expense. If the test discloses that prescription spectacles are required for the normal viewing distance of a VDU, or that eyesight problem has been created or worsened by VDU then costs will be met by the School within the following limits: a \$250 cap for replacement lenses and a \$250 cap for first provision of spectacle frames by prior agreement with the Employer, who may take into account any applicable private insurance held by the Employee (Education Benevolent Society or similar).

8.10.3 Employees may access replacement lens entitlement every three years.

## **8.11 Protective Clothing**

- 8.11.1 Protective clothing, which shall remain the property of the School, shall be provided as necessary and the Employee instructed in its use. Laundering or dry-cleaning of all protective clothing shall be the responsibility of the Employer and shall be carried out on a regular basis.

## **8.12 Hearing Conservation**

- 8.12.1 Employees exposed to noise from machinery including lawn mowers will be provided with the appropriate grade of hearing protectors.

## **8.13 Access to Personal Files**

- 8.13.1 Employees have access to their personal files in accordance with the provisions of the Privacy Act 1993.

## **8.14 Certificate of Service**

- 8.14.1 Employees who leave the School may at their request be issued with a Certificate of Service and/or testimonial.

## **8.15 Annual Practising Fees**

- 8.15.1 The Employer shall approve reimbursement of admission fees, registration and annual practising fees where the qualification or holding of a practising certificate is necessary to enable the Employee to carry out his/her duties fully.

## **8.16 Refund of Driving Licence Fee**

- 8.16.1 The Employer may refund the cost of a driver's licence fee where a passenger service, or similar special licence is specifically required in the normal course of an Employee's duties.

## **8.17 Employee Assistance**

- 8.17.1 The School will offer Employee assistance where it is felt that an Employee's performance may have been impaired by health or personal problems. Employee participation will be voluntary and such participation will not be noted in the Employee's personal file, nor will it adversely affect the Employee's employment or prospects.

## **8.18 Health and Safety**

- 8.18.1 The Employer, the union and all staff covered by this agreement are committed to the safety, health and welfare of staff in the workplace. The Employer will comply with the requirements of the Health and Safety at Work Act 2015, and any associated regulations, and related codes of practice.
- 8.18.2 From 1 June 2019, the employer shall also ensure that policies and procedures covering the following matters are readily accessible on the school intranet and on staff noticeboards.
- (a) How staff are to manage challenging behavior of students; and
  - (b) How the impact of such challenging behavior on staff, will be dealt with by the employer and employee.



## **8.19 Site and Use of Photocopiers**

- 8.19.1 Wherever possible, photocopiers will be located in a well ventilated area isolated from Employees' work space. Where a photocopier is unable to be isolated, it shall not be located closer than 4 metres to any Employee's work area and positive steps will be taken to ensure adequate ventilation and noise control.

## **8.20 Superannuation**

- 8.20.1 Employees who currently contribute to Government Superannuation, pursuant to the Government Superannuation Act 1956, may continue to do so.

## **SECTION 9: CONSULTATION**

Employees and the PSA recognise the right of the Employer to plan, manage, organise and finally to decide on the operations and policies of the School.

The Employer agrees to consult with Employees who have authorised the PSA to represent them, collectively through the PSA, on matters which have a bearing on employment at the School. Such matters could include, but are not limited to: health and safety, job evaluation, performance appraisal, career development and restructuring. The parties intend that any consultation will be undertaken in good faith.

## **SECTION 10: GENERAL INFORMATION**

### **10.1 Access to Agreement**

10.1.1 This Agreement together with any relevant legislation and codes of practice shall be made readily available to all Employees.

### **10.2 Equal Employment Opportunities**

10.2.1 The parties are committed to the principle of implementation of equality of employment opportunity. All terms and conditions of employment are to be implemented on that basis and in particular noting the requirements of sections 77A and 77D of the State Sector Act.

### **10.3 Union Membership**

10.3.1 The Employer recognises the right of Employees to belong to a union and organise collectively. Consistent with this:

10.3.2 The Employer will allow Employees to attend on ordinary pay union meetings for up to 4 hours per year, subject to:

- (a) The union shall give the Employer at least 14 days notice of the date and time of any meeting to be held during working hours;
- (b) The union shall make such arrangements with the Employer as may be necessary to ensure that the Employer's business is maintained during any union meeting, including, where appropriate, an arrangement for sufficient union members to remain available during the meeting to enable the Employer's operation to continue;
- (c) Work shall resume as soon as practicable after the meeting, but the Employer shall not be obliged to pay any union member for a period greater than 2 hours in respect of any meeting;
- (d) Only union members who actually attend a union meeting shall be entitled to pay in respect of that meeting and to that end the union shall supply the Employer with a list of members who attended and shall advise the time the meeting finished.

10.3.3 Subject to the Employment Relations Act 2000, any authorised officer of the PSA shall, with the consent of the Employer (which consent shall not be unreasonably withheld), be entitled to enter at all reasonable times upon the premises for the purpose of interviewing any workers represented by the union, or enforcing this agreement, including access to wages, holiday and time records, providing this does not interfere with class programmes/session times.

10.3.4 The Employer undertakes to provide for the continued collection of union subscriptions by automatic deduction from wages/salaries, when authorised in writing by members, retaining an administration fee of 2.5 per cent.

10.3.5 Recognition of Delegate:

- (a) The Employer recognises the role of union delegate and where reasonable/practicable, will make facilities and time available to enable the

delegate to fulfil his/her role, including attendance at occasional training sessions provided by the PSA.

- (b) As part of the initial induction process for new staff, provide for an introduction to the union delegate and offer the PSA a session in any training course for new Employees.

#### **10.4 Term of Agreement**

- 10.4.1 From 28 February 2019 until 27 February 2021 except as provided under the Employment Relations Act 2000.

## **Terms of Settlement: Special Residential Schools' Collective Agreement – 28 February 2019**

This document sets out agreed components of a settlement for the Special Residential Schools' Collective Agreement (SRSCA) 2019-21, between the Secretary for Education and the New Zealand Public Service Association (PSA).

### **1. Remuneration and Term**

- a. a 24 month term for the SRSCA, from date of settlement on 28 February 2019 to 27 February 2021;
- b. changes to the remuneration scales detailed in the attached Appendix B: Date 1 is with effect from 28 January 2019, and Date 2 is with effect from 1 April 2020; provided that ratification is achieved by 28 February 2019;
- c. with effect from the date of settlement, all employees on Grade C and Grade D will receive a single one-off lump sum payment of \$300 gross, provided that ratification is achieved by 28 February 2019.

### **2. MoE/PSA/NZSTA Joint Initiative Group (hereafter “Joint Initiative Group”)**

The parties agree to convene a Joint Initiative Group (MoE/PSA/NZSTA)

- a. **regarding board policies on the new domestic violence legislative provisions**  
in the first five months of 2019, to review and provide feedback on the draft guidance being issued by NZSTA to all 2,400 School Boards of Trustees, on the detailed policy which Boards should adopt to give effect to this legislation by 30 May 2019. SRS Boards will then notify staff about the policy via intranet and noticeboards in each school. In the interim, further information is available on the MBIE website.
- b. **regarding the wording of joint guidance by NZSTA and PSA on the model policies and procedures for managing challenging behaviour by students and its impact on employees**  
in the first five months of 2019, the Joint Initiative Group will be able to review, suggest revisions to, and endorse joint NZSTA/PSA guidance on the model policies and procedures required to meet the requirements of the new clause 8.18.2 for consideration/adoption by SRS Boards.
- c. **regarding the future shape of the SRSCA remuneration scale**  
during 2020, to meet three times prior to initiation of bargaining in October 2020, to discuss options for the structure of the pay scale in next collective agreement, in light of anticipated April 2021 Minimum wage and other initiatives focused on low paid workers; and any other issues by mutual agreement.
- d. **regarding other matters of mutual concern**  
at other times, subject to mutual agreement between the parties.

### **3. Medical certificates requirement for sick leave**

The parties agree that the PSA's claim in this regard, will be satisfied through NZSTA's undertaking to write to all 2,400 school boards of trustees, including those of Special Residential Schools, during Term 1, 2019 giving guidance about good practice for requesting medical certificates, and the proper use of discretion by principals in relation to these matters.

### **4. Agreed changes to wording of SRSCA clauses**

#### **a. Coverage**

Clause 1.4.1 (current wording deleted and replaced by)

'The parties agree that all new employees who are employed to perform work falling within the Coverage Clause shall be advised of this collective agreement, be given a copy of it and be offered the opportunity to be covered by this collective agreement

by joining the PSA.'

a. **Annual leave standard employees**

Clause 5.5.7

Deleted

b. **Annual Leave Rostered Employees**

New clause 5.6.2

'Rostered employees are entitled to five week paid annual leave per annum, to be taken on days when the school is closed. After the five week entitlement is exhausted, Rostered employees will continue to be on paid time off for the remainder of the days that the school is closed, (unless they are on approved leave without pay, or planning, preparation or professional development).'

c. **Health and safety**

Amending clause 8.18.1 by adding highlighted text and adding a new clause 8.18.2, as follows:

8.18.1 The employer, the union and all staff covered by this agreement are committed to the safety, health and welfare of staff in the workplace. The Employer will comply with the requirements of the Health and Safety at Work Act 2015, and any associated regulations, and related codes of practice.

8.18.2 From 1 June 2019, the employer shall also ensure that policies and procedures covering the following matters are readily accessible on the school intranet and on staff noticeboards:

- a. how staff are to manage challenging behaviour of students; and
- b. how the impact of such challenging behaviour on staff, will be dealt with by the employer and employee.

## APPENDIX A

### TERMS OF REFERENCE – SPECIALIST RESIDENTIAL SCHOOLS’ JOINT INITIATIVE GROUP

Ministry of Education, New Zealand School Trustees Association, New Zealand Public Service Association

#### ***Background***

During negotiations to settle the 2018-2020 Special Residential Schools’ Collective Agreement (SRSCA) a number of matters were not able to be addressed. These are:

- regarding board policies on the new domestic violence legislative provisions coming into force on 1 April 2019;
- regarding the wording of joint guidance by NZSTA and PSA on the model policies and procedures for managing challenging behaviour by students and its impact on employees;
- regarding the future shape of the SRSCA remuneration scale.

The parties have agreed that these matters will be addressed during the term of the agreement by a commitment to meet and hold discussions from time to time through a Joint Initiative Group.

The parties to these Terms of Reference are the Ministry of Education (MOE), New Zealand School Trustees Association (NZSTA) and the New Zealand Public Services Association (PSA).

#### ***Purpose of the Joint Initiative Group***

The primary purpose of the group is to:

- complete work on certain policies and procedures which could not be completed prior to settlement of the SRSCA 2018-20 detailed in Clause 2 of the Terms of Settlement dated 12 December 2012
- consider and recommend on the shape of the remuneration scale for the next collective agreement. The information and evaluation gained from this aspect of the work of the Joint Initiative Group would then inform future bargaining.

#### ***Membership***

The Joint Initiative will comprise representatives from PSA, MOE and the Boards of the SRS, and NZSTA. Initial membership is Tim Day (MoE), Dolly Larkins (PSA), Dave Turnbull (SRS Boards) and Catherine Bates (NZSTA). PSA will nominate one or more delegates.

Meetings may be conducted by video conference or in person.

Costs for travel of representatives and extension of membership to delegate representation (including any release time), will be the responsibility of the individual organisations.

#### ***Accountabilities***

All members are accountable for contributing to meeting the aims and agreed process of the Joint Initiative and successful conduct of its work.

## **Process**

Joint Initiative Group discussions will:

- a. Allow the parties to identify issues, and work towards desired outcomes by consensus;
- b. Commence with monthly meetings of up to two hours each during February-May 2019, on Domestic Violence and Challenging Behaviour policies and processes; and resume with three full day meetings during 2020, prior to the October 2020 initiation, on the shape of a future remuneration scale.
- c. Not continue beyond the first possible date of initiation in 2020 bargaining for the new SRSCA, or earlier by consensus.

The Joint Initiative Group may reconvene to discuss other matters of mutual interest prior to 2020, but only by mutual agreement between the three parties.

The agreed outcomes of the 2020 Joint Initiative Group discussions on the shape of the remuneration scale will inform the bargaining in 2020.

## **Communications**

Any communications from the Joint Initiative will be agreed by the representatives to the Joint Initiative.

## **Resourcing**

All parties will ensure that they will dedicate sufficient resource to these discussions and will complete any agreed work within agreed timeframes.

The Ministry of Education, Employment Relations team will act as convener of the Joint Initiative discussions.

## **Signed in Wellington on the 28th of February 2019**

Tim Day  
Senior Employment Relations Adviser  
On behalf of the Secretary for Education

Dolly Larkins  
PSA Organiser  
On behalf of the NZ Public Service Association

Catherine Bates  
Industrial Relations Adviser  
On behalf of the NZ School Trustees Association



APPENDIX B – PAY SCALE

<b>GRADE</b>	<b>Step</b>	<b>Current</b>	<b>Date 1</b>	<b>Date 2</b>
A	1	\$32,959	\$37,000	\$39,600
A	2	\$34,014	\$37,400	\$40,000
A	3	\$35,102	\$37,800	\$40,400
B	4	\$36,225	\$38,200	\$40,800
B	5	\$37,385	\$38,949	\$41,200
B	6	\$38,581	\$40,145	\$41,600
B	7	\$39,815	\$41,379	\$42,200
B	8	\$41,090	\$42,654	\$43,500
C	9	\$42,404	\$43,551	\$44,420
C	10	\$43,761	\$44,908	\$45,800
C	11	\$45,162	\$46,309	\$47,230
C	12	\$46,607	\$47,754	\$48,700
C	13	\$48,098	\$49,245	\$50,230
D	14	\$49,637	\$50,784	\$51,800
D	15	\$51,226	\$52,373	\$53,420
D	16	\$52,865	\$54,012	\$55,090
D	17	\$54,557	\$55,704	\$56,810
D	18	\$56,303	\$57,450	\$58,590
Specialist	Specialist	\$70,000	\$70,000	\$70,000

**SIGNATORIES TO AGREEMENT**

\_\_\_\_\_  
Tim Day  
for and on behalf of the SECRETARY FOR EDUCATION  
acting under delegated authority from the STATE SERVICES COMMISSIONER  
\_\_\_\_\_ Date

\_\_\_\_\_  
Dolly Larkins  
for and on behalf of THE NEW ZEALAND PUBLIC SERVICE ASSOCIATION  
\_\_\_\_\_ Date

\_\_\_\_\_  
Catherine Bates  
Witnessed by the NEW ZEALAND SCHOOL TRUSTEES ASSOCIATION  
\_\_\_\_\_ Date