

**MINISTRY OF EDUCATION**

**SERVICE MANAGERS' COLLECTIVE AGREEMENT**

**11 October 2021 – 30 June 2023**

**Ministry of Education**  
**Service Managers' Collective Agreement**

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## **PART 1          COVERAGE AND SCOPE**

### **1.1      Parties to this Agreement**

The parties to this Collective Agreement are the Secretary for the Ministry of Education and NZEI Te Riu Roa.

### **1.2      Coverage**

This Agreement covers all Service Managers employed by the Ministry of Education in the Special Education Service.

### **1.3      Term of Agreement**

This Agreement shall be effective from 11 October 2021, and, subject to section 53 of the Employment Relations Act, shall remain in force until 30 June 2023.

### **1.4      Variation**

The parties may vary this Agreement at any time by written agreement between NZEI Te Riu Roa and the Secretary for the Ministry of Education.

### **1.5      Definitions**

For the purposes of this Agreement:

- (a) NZEI Te Riu Roa or the Union shall mean the New Zealand Educational Institute Te Riu Roa (Inc).
- (b) Employer shall mean the Secretary for the Ministry of Education.
- (c) SE shall mean the Ministry of Education - Special Education.
- (d) The Ministry shall mean the Ministry of Education.

### **1.6      EEO**

In accordance with the provisions of the Public Service Act 2020 and other Government policy directives, the Ministry is committed to promoting, developing and monitoring equal employment opportunities and programmes.

### **1.7      NZEI Te Riu Roa/Ministry Relationship**

The parties to this Agreement recognise the value of a relationship in which the Ministry and the union participate constructively in working to achieve outcomes in a way that best meets the objectives of the parties. This approach has been facilitated by the Relationship Agreement and the Delegates/ Worksite Representatives Protocol.

## **PART 2 GENERAL PROVISIONS**

### **2.1 Responsibilities of the Employer and Employees**

2.1.1 During an employee's employment, the Ministry agrees to:

- (a) Be a good employer (as defined by the Public Service Act 2020) in all dealings with the employee; and
- (b) Provide adequate training, resources, information and, where necessary, the delegated authority to enable the employee to undertake the functions and responsibilities of the position.

2.1.2 During an employee's employment the employee agrees to:

- (a) Carry out the duties of the position using all reasonable skill and diligence and in accordance with the professional standards for the performance of such work.
- (b) Comply with all reasonable instructions given by the Ministry and satisfy any performance standards agreed by the employee and the Ministry.
- (c) Comply with all the rules, regulations, policies, procedures and compliance standards, including the Ministry's Code of Conduct (incorporating the provisions of the Public Service Code of Conduct), as notified to the employee by the Ministry. The Ministry may amend these rules, regulations, policies, procedures and compliance standards from time to time and shall notify the Union and employees of any such changes.
- (d) Take all reasonable steps to become familiar with any relevant legislation relating to the duties of the position.

#### **2.1.3 Health and Safety**

The Ministry is responsible for providing a safe working environment and is committed to the health, safety and wellbeing of all employees in accordance with the Health and Safety at Work Act 2015

- (a) Employees can expect that workloads will be fair, reasonable and safe. Employees and their manager have an obligation to review workloads. Where the employee has concerns regarding workloads, this should be raised with their manager in the first instance for discussion and resolution. Should the matter not be resolved, escalation through the NZEI Te Riu Roa representative with People Capability support may be appropriate.
- (b) Employees will only be required to work in situations where there is no unreasonable personal risk and the facilities and equipment are appropriate to the task.

## **2.2 Categories of Employment**

### **2.2.1 Permanent Employees**

Unless otherwise specified, employment will be ongoing (for an indefinite period) unless terminated in accordance with the provisions of this Agreement.

### **2.2.2 Fixed Term Employees**

Where the employer has genuine reasons for a fixed term agreement the employee and employer may agree that the employment of the employee will end:

- (a) On a specified date;
- (b) On the occurrence of a specified event; or
- (c) At the conclusion of a specified project.

### **2.2.3 Part-time Employees**

Where an employee is employed on a part-time basis, their conditions of employment will be the same as for a full-time employee except that:

- (a) Salary and non-reimbursing allowances will be paid on a pro-rata basis.
- (b) Leave will be paid in accordance with the Holidays Act.

## **2.3 Service**

2.3.1 Except where otherwise specified service shall mean continuous uninterrupted service with the Ministry (including the Specialist Education Service) except that the Secretary may recognise prior service with other departments of the Public Service and education sector as continuous service, provided that the employee joined the Ministry of Education within one month of leaving the service of the other organisation, and no severance payment was made.

2.3.2 Where an employee who has resigned from a permanent position to care for their pre-school child(ren) is re-employed under coverage of this Agreement, and providing the employee has not undertaken other substantive employment (including self-employment) during this period, the absence will interrupt but not break service.

## **2.4 Termination of Employment**

2.4.1 Employment may be terminated by either party on giving one month's notice in writing but this period may be varied by mutual agreement. The Ministry may make payment of one month's pay in lieu of notice.

2.4.2 Where an employee terminates employment without the requisite notice under clause 2.4.1, the Ministry may deduct from any outstanding leave owing, if any, or any other sum owing to the employee by the Ministry an amount of pay equivalent to the shortfall in the required period of notice.

- 2.4.3 If an employee is employed under this Agreement for a fixed term to fill the position of another employee on parental leave or on temporary re-assignment to another position and that person returns to work in that position prior to the expiry of the fixed term agreement then the Ministry may terminate the fixed term employee's employment by giving the employee one month's written notice or payment in lieu of notice. The employee will not be entitled to be paid compensation for redundancy in such circumstances.
- 2.4.4 The Ministry may terminate an employee's employment without notice in the case of serious misconduct.
- 2.4.5 If an employee is absent from work for more than five continuous working days, and has not made reasonable efforts to notify the Ministry, then the employee shall be deemed to have terminated the employee's employment, without notice, by reason of abandonment. The Ministry shall not be required to notify the employee if the employee's employment is deemed to have been terminated. The Ministry shall make reasonable efforts to contact the employee prior to the expiry of the five working days referred to above.
- 2.4.6 **Medical Retirement**
- (a) The Ministry may elect to medically retire an employee if in the opinion of the Ministry the employee is medically unfit for work and it is reasonably unlikely that the employee will be able to return to work within a reasonable period, having regard to the operational requirements of the Ministry and the need to fill the position.
  - (b) Before such an outcome is considered the Ministry may require the employee to undergo and obtain, at the Ministry's expense, an assessment and subsequent opinion from a registered medical practitioner.
  - (c) On receipt of such an opinion the employee shall authorise that medical practitioner to release the results of that assessment to the Ministry, and the Ministry shall take into account any reports and recommendations made available to the Ministry as a result of that medical opinion, and any other relevant medical reports or recommendations that the Ministry may receive, or, which may be tendered to the Ministry by or on behalf of the employee.
  - (d) The Ministry acknowledges that the employee may refuse to share the results of any assessment with the Ministry. Where the employee does not agree to undergo an assessment or share the results with the Ministry, the Ministry shall be entitled to make a decision on the employee's fitness for work on the basis of the information available.
  - (e) If the Ministry does consider that the employee is medically unfit for work and it is reasonably unlikely that the employee will be able to return to work within a reasonable period, having regard to the operational requirements of the Ministry and the need to fill the position, then the

Ministry may terminate the employee's employment with one month's notice in writing.

- (f) In addition to one month's notice under clause 2.4.1, the employee shall be paid 65 days salary or such higher amount as the Ministry considers appropriate in the circumstances.

## **2.5 Savings**

Except as otherwise provided in this Agreement (including the Terms of Settlement), those staff who had individual conditions of employment that are additional and not inconsistent with the conditions set out in this Agreement shall continue to have these conditions.

## **2.6 Continuity of Service**

Except as specified elsewhere in this agreement, the Secretary or delegated nominee may recognise service with other departments of the Public Service, DHB (where the work undertaken falls within the coverage clause of this Agreement) and teaching service as continuous service, provided that the employee joined the Ministry within one month of leaving the service of the other organisation.



## **PART 3 REMUNERATION & HOURS OF WORK**

### **3.1 Hours of Work**

3.1.1 An employee shall work such hours as may be reasonably necessary to fulfil the duties and responsibilities of the position, however, the employee and their manager will work to ensure the employee's hours of work do not usually exceed 40 per week. Hours of work for part-time employees shall be as agreed and specified.

#### 3.1.2 Time off in lieu (TOIL)

Equivalent time off in lieu will apply on the basis of one hour off for one hour worked. All employees are eligible to receive time off in lieu where they work in excess of 40 hours per week. The additional time worked and the taking of the time off in lieu must be mutually agreed by the manager and employee. Time spent at conferences and courses outside of working hours would not ordinarily qualify for TOIL unless the employee is required to attend.

### **3.2 Remuneration**

3.2.1 The following remuneration scale will apply to Service Managers

Salary Step	1 April 2021	Salary Step	1 April 2022	Salary Step	30 June 2023
1	\$103,820	1	\$108,256	1	\$108,256
2	\$108,256	2	\$112,692	2	\$112,692
3	\$112,692	3	\$117,128	3	\$117,128
4	\$117,128	4	\$121,564	4	\$121,564
5	\$121,564	5	\$126,000	5	\$126,000
6	\$126,000	6	\$128,520	6	\$128,520
				7	\$131,040

### **3.3 Placement on scale on Initial Appointment and Movement within scale**

3.3.1 The employer will, on appointment, determine the salary level to be paid to new employees, taking into account the following factors:

(a) Previous work or other relevant experience; and

(b) Relevant educational or other qualifications; and

(c) The ease or difficulty in recruiting the specific skills and/or experience required for this position.

3.3.2 Newly appointed Service Managers can be placed on the salary scale up to Step 6 taking into account the above factors.

3.3.3. All new appointees will have a six month performance review, and may be eligible to move to a higher step on the remuneration scale on the basis of the

outcome of this review. Following the six month review the employee will line up with the Ministry's annual performance review effective 1 March each year.

- 3.3.4 Progression to the next available step in the salary scale will be as at 1 April each year, except step 7 which will be 30 June 2023, subject to their having met their agreed performance expectations including the activities agreed in the Individual Development Plan, as set through the Ministry's performance management and development system.
- 3.3.5 The salary for an individual employee will not be reduced by reason of the operation of the remuneration scale or annual performance review process.
- 3.3.6 Following the outcome of the performance review, an employee may request a review of the manager's decision. Any request for a review should be raised and dealt with in a timely manner by the employee and their immediate manager. Where agreement cannot be reached at this level, the request should be escalated to the Deputy Secretary for a decision.

#### **3.4 Higher Duties Allowance**

An employee who is acting in a higher graded position than their own job will be paid a higher duties allowance, pro-rated to the period worked. The full rate will be paid when the employee undertakes the full duties and responsibilities for the position (including any management and planning responsibilities), during the temporary absence of the incumbent of the higher position. A lesser rate will be paid if an employee undertakes some of the duties.

- 3.4.1 The full rate of the allowance is the difference between the salary of the employee and the salary the employee would receive if they were appointed to the position, or 6.5% of the employee's salary, whichever is the greater amount. The lesser rate of the allowance is determined by the proportion of the higher duties undertaken by the employee.
- 3.4.2 The higher duties must be undertaken for a minimum of 5 consecutive working days, each time, in order to qualify for the allowance.
- 3.4.3 If an employee is subsequently appointed to the higher position, the appointment may be backdated to the date the employee commenced acting in the higher position.

#### **3.5 Reimbursement of Expenses**

- 3.5.1 An employee will be reimbursed on the production of receipts for any actual and reasonable expenses incurred in carrying out work, including where these expenses are a legal requirement of the work being undertaken, provided that an employee's manager has given prior approval for these expenses to be incurred.

3.5.2 Where their manager has approved an employee using their private vehicle for Ministry business, the employee may be reimbursed in accordance with the IRD mileage rates.

3.5.3 In accordance with Ministry policy, at the discretion of the responsible manager, the Ministry may provide full or partial cover for non-recoverable excess to a maximum of \$1,000 and reduction of “no claim” rebate to a maximum of \$500 where an employee has an motor vehicle accident using their private motor vehicle on official business and this use has been approved by their manager.

### **3.6 Te reo Māori me ōna tikanga**

3.6.1 The Ministry values both Māori language and Tikanga skills and abilities. To support the strengths and benefits this brings the Ministry has, in consultation with the PSA, NZEI Te Riu Roa and staff developed a policy which provides the appropriate tools to measure and reward employees who bring these skills to their job.

### **3.7 Eyewear Provision**

3.7.1 Employees who are engaged in using a computer screen shall be entitled to be reimbursed for:

- An eye test
- Frames and lenses required for work purposes up to a maximum of \$500 (GST inclusive) or
- Contact lenses up to a total of \$300 (GST inclusive).

Any reimbursement shall be subject to PAYE.

## **PART 4 LEAVE**

### **4.1 Service Recognition**

4.1.1 The Ministry will recognise prior service from 13 May 2003 with other departments of the Public Service as detailed below for the purpose of calculating continuous service for leave entitlements provided the employee claims such prior service within one month of this agreement coming into force (for existing employees) or one month of joining the Ministry (for new employees).

- Parliamentary Service
- Service in the Education Service as defined in the Public Service Act 2020 and any subsequent amendments to it
- Early Childhood Development
- Specialist Education Services
- Education Review Office
- New Zealand Qualifications Authority
- Skill New Zealand (formerly Education Training and Support Agency)
- Careers NZ – Mana Rapuara Aotearoa
- Teaching Council of New Zealand (and its predecessor bodies)
- Learning Media
- Education Board Service

Where an employee worked for a DHB or in the wider Public Service in a role that falls within coverage of this Collective Agreement that service will also be recognised provided the employee applied for this within one year of starting. Existing staff who this change applies to will have three months from the date of ratification to apply for such service to be recognised.

Leave for which continuous service is recognised is long service, sick and care for dependents and parental leave.

4.1.1 For the purposes of recognising service the employee will be required to provide evidence of prior service. The employer will maintain a record of this prior service for the purposes of calculating leave entitlements.

### **4.2 Annual Leave**

4.2.1 Where employment is ongoing or for a continuous period of more than one year, an employee shall be entitled to 5 (five) weeks' annual leave per year.

4.2.2 Annual leave for all employees will be paid in accordance with the Holidays Act.

4.2.3 The time at which annual leave can be taken will be determined by agreement or, failing agreement, by the Ministry in consultation with the employee, taking into account the operational requirements of the Ministry and the employee's own preferences.

### **4.3 Public Holidays**

4.3.1 In accordance with the Holidays Act 2003, the following days shall be observed as public holidays:

- (a) Christmas Day
- (b) Boxing Day
- (c) New Year's Day
- (d) 2 January
- (e) Waitangi Day
- (f) Good Friday
- (g) Easter Monday
- (h) ANZAC Day
- (i) The birthday of the reigning Sovereign (observed on the first Monday in June)
- (j) Labour Day (being the fourth Monday in October)
- (k) The day of the anniversary of a province or the day locally observed as that day
- (l) Matariki (2022)

4.3.2 An employee who works on or any part of a public holiday in accordance with an employer's request shall be paid at least the portion of the employee's relevant daily pay plus half that rate again. The employee shall also be entitled to an alternative holiday as provided for in s56 of the Holidays Act for any part of a public holiday worked.

### **4.4 Sick Leave**

4.4.1 Sick leave is paid leave which may be taken when an employee, an employee's partner or any dependent child or other dependent is sick, subject to the provisions of this clause. Employees whose sick leave was based on the old public service model in Schedule 1 will transition to this clause as set out in Schedule 1, clause 4

4.4.2 An employee shall be entitled to 10 days sick leave per year on commencement of employment. After two years of employment an employee shall be entitled to 15 days per year

4.4.3 Unused sick leave may be accumulated up to a maximum of 260 days.

### **4.5 Bereavement and Tangihana Leave**

4.5.1 You are entitled to paid bereavement leave if you suffer a bereavement on the death of:

- (a) Your Spouse; Parent; Child; Brother/Sister; Grandparent; Grandchild; Spouse's parent; or
- (b) Any other person if your manager accepts that you have suffered a bereavement as a result of the death, having regard to the closeness of your association with that person, whether you have a significant responsibility for

any of the ceremonies relating to the death and any cultural responsibilities such as attendance at part or all of a Tangihanga (or other cultural equivalent).

- 4.5.2 Bereavement leave under clause 4.5.1(a) is available for a period of 3 days for each bereavement or such longer period as agreed between you and your manager. Reasonable travel time should be allowed but for cases involving international travel, the full period of travel may not be covered.
- 4.5.3 One day's paid leave may be granted on the death of a person other than a person specified in clause 4.5.1(b), if your manager considers that, in the circumstances, you have suffered a bereavement.
- 4.5.4 In the event that you suffer a bereavement while you are on annual leave then the period of bereavement will be recorded as bereavement leave rather than annual leave.
- 4.5.5. An employee is also entitled to 3 days' paid bereavement leave for a pregnancy which ended by way of a miscarriage or still birth where:
- It was their own pregnancy
  - It was their spouse or partner's pregnancy
  - It was the pregnancy of their former spouse or partner if they would have been the biological parent of a child born as a result of the pregnancy
  - They had undertaken to be the Primary Carer of a child born as a result of the pregnancy, or
  - They are the spouse or partner of a person who had undertaken to be the Primary Carer of a child born as a result of the pregnancy.

'Primary Carer' in this context means a person, other than the biological mother or her spouse or partner, who takes permanent primary responsibility for the care of a child who is under the age of 6 years.

#### **4.6 Parental Leave**

- 4.6.1 If an employee has been employed continuously by the Ministry for a period of at least one year at the prospective date of commencing parental leave then the employee is entitled to parental leave without pay for up to 12 months.
- 4.6.2 If an employee has been employed continuously by the Ministry for a period of at least six months at the prospective date of commencing parental leave then the employee is entitled to parental leave without pay for up to 6 months.
- 4.6.3 If an employee intends taking parental leave the employee is required to give at least one month's notice in writing.

(a) An employee is entitled to parental leave of up to 12 months, and

(b) The employee takes the leave and then returns to work before or at the expiration of the leave, and

(c) The employee then completes a further one month's service,

Then the employee will qualify for a payment of 30 working days (or the actual number of days of leave taken where this is less than 30), leave on pay. The calculation of this payment is specified in the Ministry's policy on Parental Leave.

#### 4.6.4 Accrual of annual leave while on Parental Leave

Employees on extended parental leave will accrue annual leave in accordance with the provisions of the Holidays Act 2003. Annual leave accrued while on a period of extended parental leave and taken in the first 12 months following the employee's return to work will be paid at a rate equivalent to the higher of the employee's average weekly earnings or their ordinary daily pay. If an employee was on shortened hours before the commencement of parental leave, the calculation for the accrual of annual leave will be based on their normal salary prior to the shortened hours. If they wish to do so, employees returning from parental leave will be encouraged to take their annual leave accrued while on parental leave during the first 12 months after they return. This provides options to use paid leave to work reduced hours while receiving the equivalent of a full-time salary. Employees returning from parental leave will be provided the opportunity to apply to return to their position on a part time basis, job share basis, and work from home or flexible working hours. Approval for such requests will not be unreasonably withheld and while all requests will be considered in good faith there may be occasions where genuine business requirements, consistent with legislation, mean a request is declined.

#### 4.7 **Long Service Leave**

Employees who have completed 10 years continuous service (excluding any recognised teaching service) will be granted two weeks long service leave. Thereafter, employees shall be entitled to one whole week after every five years continuous service. Each period of service leave must be taken in one period and must be taken before the next entitlement falls due or be forfeited. Reduced hours or part-time employees are to receive a pro rata reduction of pay but not of time during long service leave. The Ministry may agree to cashing up this leave upon application from an employee.

#### 4.8 **Special Leave With or Without Pay**

An employee may be granted special leave either on full pay, on part-payment of salary or without pay. Each application will be considered on a case-by-case basis taking into account the operational requirements of the Ministry, the reason for the leave and the employee's length of service.

Leave without pay interrupts but does not break service.

#### **4.9 Voluntary Military Service**

Leave of absence will be granted to employees to undertake military training in accordance with the Volunteers Employment Protection Act 1973 (including any amendments or replacement).

- (a) An employee shall be entitled to paid time of up to twelve weeks for initial training and up to four weeks each year thereafter will be provided.
- (b) An employee will refund to the employer the lesser amount of either salary or military pay.
- (c) Additional leave without pay of up to twelve months will be made available to employees undertaking peacekeeping duties.

#### **4.10 Study Leave**

4.10.1 An employee may be granted leave to undertake a programme of study as agreed with the employer. Support for study leave may include paid or unpaid leave for attendance at lectures, tutorials, workshops and attendance and preparation for examinations or assessments; contribution to course fees, or use of work facilities.

4.10.2 In determining the support for study, the employer in consultation with the employee, will take into account:

- (a) The time commitment required and the workload of the employee.
- (b) Programme requirements such as attendance at lectures or workshops, residential modules, on the job or practical experience, examinations and assessments.
- (c) Additional support available such as use of work facilities and technology.
- (d) The impact of the leave on the work of the organisation and on the workload of the employee and others.
- (e) Affordability of providing the support to the employee.

#### **4.11 Employment Relations Education Leave**

4.11.1 Sections 73 and 74 of the Employment Relations Act 2000 set out the minimum union entitlement to the allocation of employment relations education leave (EREL).



4.11.2 The Act provides for an amount of EREL based on union membership. To this end the NZEI Te Riu Roa agrees to provide the Ministry with an updated list of members employed by the Ministry so that the annual allocation of EREL may be calculated and advised. The notification will be made directly to the Ministry by 31 March each year.

4.11.3 The parties may agree any additional days over and above the minimum.

#### **4.12 Family/Domestic Violence Leave**

4.12.1 Paid family violence leave of up to 10 working days within a year may be used for medical appointments, legal proceedings and other activities related to family violence. This leave is in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day. Should an employee affected by family violence require additional leave to support them, they are encouraged to speak with their Manager about this.

4.12.2 The Ministry has obligation under the Victims' Protection Act 2018 to ensure any employee who is affected by family violence is able to request paid Family Violence Leave (currently up to 10 days annually), or a short term variation to their working arrangements. For further information on Family Violence Leave or Flexible Working Arrangements, please refer to the Ministry's Leave Guidelines.

## **PART 5 ORGANISATIONAL CHANGE**

### **5.1 Principles**

- 5.1.1 The parties to this Agreement recognise the serious consequences that the loss of employment can have on individual 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 employment.
- 5.1.2 The NZEI Te Riu Roa recognises the right of management to plan, manage, organise and finally decide on the operations and policies of the Ministry.
- 5.1.3 The aim of these surplus staffing provisions will be to reach agreement on any proposal for change and make recommendations to management, who will endeavour to take the views into account as far as possible before making final decisions.
- 5.1.4 These provisions relate to employees who are or may be affected by a restructuring situation. They will apply to all employees who have an ongoing expectation of employment. They will not apply to employees engaged as fixed-term employees (as defined in Part 2, clause 2.2.2 of this Agreement) who have reached the expiry of their agreement.
- 5.1.5 Counselling for an affected employee(s) and their families will be made available if necessary.

### **5.2 Advice and Consultation**

The NZEI Te Riu Roa will be advised by the Ministry of any review which is likely to result in significant changes to the organisational structure, staffing or work practices affecting employees. The Ministry will provide the NZEI Te Riu Roa with an opportunity to be involved in the review. Where the decision to make a change or to undertake a review is beyond the control of the Ministry this notification will be made as soon as possible after the decision is announced.

### **5.3 Identification of Affected Staff**

When, as a result of the review referred to above and at the conclusion of the consultative process, the Ministry requires a reduction in the number of employees; or employees can no longer be employed in their current position, at their current grade (pay band) or work location (i.e. the terms of appointment to their present position are altered) affected staff will be identified to the NZEI Te Riu Roa and every attempt will be made to accommodate those staff and the following provisions will apply.

### **5.4 Managed Attrition**

- 5.4.1 Attrition means that as people leave their jobs because they retire, resign, transfer, die or are promoted then they may not be replaced. In addition or alternatively, there may be a partial or complete freeze on recruiting new employees or on promotions.

- 5.4.2 Within the context of a process of organisational change the Ministry may operate a policy of managed attrition either within a particular affected work situation or across the wider organisation.
- 5.4.3 Where the Ministry determines that a freeze on appointments or promotions is necessary the NZEI will be consulted as to how the freeze would apply.
- 5.4.4 The parties recognise that attrition can have an effect on employees and their ability to meet Ministry objectives. The policy will be regularly reviewed by the Ministry to address organisational, operational or training issues.

## **5.5 Reconfirmation and Reassignment**

- 5.5.1 The Ministry may, following consultation and agreement with the NZEI Te Riu Roa (which will not be unreasonably withheld), either reconfirm in the same or similar position, or reassign to an alternative position for which they are suitable, those employees affected by a review.
- 5.5.2 This will include placement to a suitable position in an existing agency or in a new structure or agency established as part of the restructuring, or the offer of employment by the person or organisation acquiring the business, or the part being sold or transferred.
- 5.5.3 Where reconfirmation or reassignment within the Ministry takes place the provisions in 5.6 and 5.7 below will apply.

## **5.6 Reconfirmed in Position**

The parties agree that use of the reconfirmation provisions will be maximised in terms of placements to a suitable position within the Ministry. The following principles will apply:

- (a) Where there is one employee who is a clear candidate for that position and the criteria below are met, then that employee is to be confirmed in it.
- (b) The criteria for reconfirmation shall be as follows:
  - (i) The new job description is the same (or very nearly the same) as what the employee currently does;
  - (ii) The salary for the new position is the same;
  - (iii) The new position has terms and conditions of employment (including career prospects) agreed with the NZEI which are no less favourable;
  - (iv) The location of the new position is the same (note: this need not necessarily mean the same building and/or the same street).

In those situations where there is more than one clear candidate the position will be advertised, with appointment made as per normal Ministry appointment procedures;

- (c) Proposed reconfirmations will be advised to all affected employees to enable them to assess whether they meet the criteria, for those employees who meet the criteria and do not wish to be reconfirmed the only option available will be leave without pay.
- (d) Job descriptions (current and proposed) shall be available to those employees who are to be reconfirmed at the time that the reconfirmation list is published.
- (e) The NZEI Te Riu Roa may propose that an employee be reconfirmed where that employee believes their current job is sufficiently similar to a new job.

## **5.7 Reassignment**

Following reconfirmation, and where under clause 5.5 above, agreement has been reached between the Ministry and the NZEI Te Riu Roa on reassignment, if there are positions still vacant, then the Ministry and the NZEI Te Riu Roa will meet to assess the skills of all those employees still left without a position, and to reach agreement on the process for appointment to new positions.

- (a) In determining the parameters for reassignment the Ministry and the NZEI Te Riu Roa will deal with cases on an individual basis, with a view to placing as many employees as possible by matching individual skills with positions which require similar skills. Interviews may be held to determine the level of skill. This exercise may involve individuals undertaking some on-the-job training or attending training courses. Such training needs will be identified prior to the individual being reassigned.
- (b) Employees to be reassigned under this process shall be consulted prior to any appointment being made.
- (c) Where a suitable reassignment is offered and this offer is not accepted the employee will not be surplus and the provisions relating to surplus staff will not be available. A suitable position shall mean a position, at a similar responsibility level, in which an employee can adequately perform the duties with their current skills and knowledge and:
  - (i) The offered employment is within a reasonable commuting distance from their home; and
  - (ii) The salary and conditions are no less favourable; and
  - (iii) The duties and responsibilities are comparable.

- (d) Where a suitable reassignment is offered at a lower salary, an equalisation allowance will be paid to preserve the salary of the employee at the rate paid in the old job at the time of reassignment. In these circumstances, the employee may decline the reassignment offer and retain access to the surplus staffing provisions of this Agreement.

The salary can be preserved in the following ways:

- (i) A lump sum to make up for the loss of basic pay for the next two years (this is not abated by any subsequent salary increases); or
  - (ii) An ongoing allowance equivalent to the difference between the present salary and the new salary. (This is abated by any subsequent salary increases).
- (e) Where the new job is at a location outside the local district, assistance with transfer expenses shall be provided on the basis that the employee should not suffer financial loss in respect of expenses incurred as a result of transfer. In these circumstances, the employee may decline the reassignment offer and retain access to the surplus staffing provisions of this Agreement.

A decision will be made by the Ministry on the provisions to be applied in each particular case. A package from the range of items listed below may be selected. (The range of items is not exclusive and the level of compensation for an item may be varied).

Items:

- (i) Reimbursement of fares and accommodation expenses for the journey to the new location.
- (ii) Assistance with living expenses for up to three months, but on a decreasing basis for employees who move to the new location but whose dependants are still at the former location.
- (iii) Reimbursement of accommodation expenses, initially for up to seven days at the new location, with further assistance on a subsidy basis for up to a maximum of three months before permanent housing is available at the new location.
- (iv) Reimbursement of land agent's commission and legal fees where the employee sells their house and/or buys another house at the new location.
- (v) A variable grant for employees on moving to the new location up to a maximum of the equivalent of one month's salary.

(vi) A variable grant for employees after a predetermined number of years at a location, with a maximum grant up to the equivalent of three months' salary, provided the grant does not exceed the equivalent of one month's salary for each year of the qualifying period.

(vii) Reimbursement of additional actual and reasonable child care expenses, including travel costs, for one year.

Where the new job is within the same local area and extra travelling costs are involved, actual additional travelling expenses equivalent to travelling by public transport shall be reimbursed for up to 12 months.

Where the new job is within the same local area and the extra travelling time one-way to the new place of work by public transport is more than 30 minutes, transfer expenses as in clause 5.7(e) apply if there is a reduction in travelling time by public transport of 30 minutes from the new domicile to the new place of work.

Where employees are to be relocated at least 3 months' notice shall be given to employees, provided that in any situation a lesser period of notice may be mutually agreed between the NZEI Te Riu Roa and the Ministry where the circumstances warrant it (and agreement shall not be unreasonably withheld).

## **5.8 Surplus Staff**

All affected staff who:

- are not placed by reconfirmation; and
- who have not been offered a suitable reassignment; or
- who have declined an offer of reassignment at a different location or at lesser terms and conditions;

Are surplus and the following applies:

### **(a) Notification of Surplus**

The Ministry will notify the NZEI Te Riu Roa and the surplus staff a minimum of one month prior to the date that the surplus is required to be discharged. When circumstances warrant this date may be varied by agreement between the parties.

At that time the following information shall be made available to the National Office of the NZEI Te Riu Roa with a copy to the appropriate Regional Office:

- (i) The location(s) of surplus
- (ii) The total number of surplus employees
- (iii) The positions and names of the surplus employees

The NZEI Te Riu Roa will be supplied with additional information on request.

(b) Redeployment

The Ministry may, following consultation and agreement with the NZEI Te Riu Roa, ask employees to complete a curriculum vitae seeking redeployment within the Ministry or within other Public Service departments or other state sector agencies or organisations. The same provisions will apply as for reassignment. Time off may be made available for job seeking. Assistance will be given to prepare curricula vitae.

(d) Details of Conditions and Options

During this period the NZEI Te Riu Roa and the Ministry will meet to reach agreement on the options which are appropriate to the circumstances and will be available to surplus employees.

The following options may be available:

(i) Leave Without Pay

(ii) Retraining

(iii) Redeployment/Job Search

(iv) Redundancy Compensation (case by case basis).

How the options may be used, other options which the parties may agree to, and the types and levels of financial assistance, will be negotiated on a case by case basis between the Ministry and the NZEI Te Riu Roa.

### **5.9 Leave without Pay**

There is provision for special leave without pay within a defined period without automatic right of re-engagement (this excludes parental or sick leave). This may include an opportunity for training.

### **5.10 Alternative to Severance for Contributors to Superannuation**

As an alternative to the redundancy compensation option, surplus staff who belong to GSF or NPF who are within 10 years of eligibility for National Superannuation and have 10 years total service may have their redundancy compensation paid and may use the payment to make up the actual GSF or NPF annuity payable. Service does not have to be continuous. The use of the payment will be arranged by the employee with the Superannuation Scheme provider, in accordance with the provisions of the superannuation scheme.

This alternative to severance, for contributors to superannuation, may be made available at any time to eligible employees not declared surplus if a surplus employee seeking redeployment replaces them.

### **5.11 Retraining**

Retraining is an efficient and worthwhile option for dealing with staffing surpluses. To this end the Ministry will, as far as they are able:

- (a) Identify particular skill shortages in the Education Service or elsewhere in the state services.
- (b) Assess where there are generally job opportunities in the Public Service and/or in the private sector.

When a staffing surplus is identified the Ministry (and the State Services Commission where appropriate) will consider the skills, training, etc of the employees who are surplus and will determine whether there are retraining opportunities for them for work either in the Public Service or the private sector.

If retraining opportunities are identified specific retraining programmes will be designed.

### **5.12 Redundancy formula for Service Managers previously designated as Service Managers (L)**

5.12.1 Where an employee is not placed in suitable alternative employment prior to the expiry of the notice period, then the employee shall be entitled to compensation as follows:

- (a) One month's notice of termination of employment or pay in lieu; and
- (b) For those employees appointed prior to or on 22 December 1992, one month's salary for each year of service, up to a maximum payment of six month's salary; or
- (c) For those employees appointed after 22 December 1992, 8% of ordinary pay for the preceding twelve months, plus 2% of ordinary pay for the preceding twelve months for each year of service minus one, up to a maximum of the equivalent of three month's salary at that time.

5.12.2 Redundancy compensation (excluding notice provisions) shall be payable to redundant employees with at least 12 month's current continuous service.

### **5.13 Redundancy formula for new Service Managers and Service Managers previously designated as Service Managers (M)**

5.13.1 Where an employee is not placed in suitable alternative employment prior to the expiry of the notice period in clause 5.8 the employee shall be entitled to one month's notice of termination or pay in lieu as per clause 2.4.1 and compensation for redundancy as follows:



- (a) 8 weeks' salary for the first complete year of continuous service with the Ministry plus
- (b) Two weeks' salary for each subsequent completed year of continuous service with the Ministry.
- (c) The maximum gross amount payable for the above redundancy compensation is \$42,000 or six months' salary whichever is the higher. For the purpose of redundancy compensation calculations, salary includes any assigned value for employer contributions to the GSF if applicable.

**5.14 Continuity of Employment in Restructuring**

5.14.1 For the purposes of this provision restructuring, in relation to the Ministry's business:

- (a) Means:
  - (i) Entering into a contract or arrangement under which the Ministry's business (or part of it) is undertaken for the Ministry by another person; or
  - (ii) selling or transferring the Ministry's business (or part of it) to another person: but
- (b) To avoid doubt, does not include:
  - (i) The termination of a contract or arrangement under which the Ministry carries out work on behalf of another person or organisation.

5.14.2 Where it is proposed that the Ministry be restructured and, as a result of that restructuring, the work being performed by any affected employees of the Ministry, would be performed by a new employer, then:

- (a) In accordance with the principles outlined in clause 5.1 the Ministry will inform the NZEI at the earliest opportunity, and as soon as is practicable will provide the NZEI with copies of the information outlined in c(ii) below.
- (b) Within a reasonable period prior to the restructuring taking effect the Ministry will notify the new employer of the number of affected employees and, in relation to each affected employee, provide details of:
  - (i) The work currently being performed by those employees; and
  - (ii) Details of their terms and conditions of employment (including their total remuneration, length of service and any accrued benefits or entitlements).
- (c) The Ministry will arrange to meet with the new employer to negotiate:

- (i) The number and type of positions in respect of which the affected employees may be offered employment by the new employer;
  - (ii) The terms and conditions of employment on which the affected employees may be offered employment in those conditions (including whether the affected employees will transfer to the new employer on the same terms and conditions of employment and if those terms and conditions will be included in a Collective Agreement);
  - (iii) The arrangements, if required, for the transfer of any existing superannuation scheme benefits or entitlements and any other accrued benefits and entitlements in relation to those affected employees who may be offered employment by the new employer;
  - (iv) The arrangements, if required, for when and how offers of employment are to be made to the affected employees and the mode of acceptance.
- (d) The Ministry will also endeavour to arrange a meeting between the new employer and the NZEI Te Riu Roa as soon as practicable prior to the restructuring taking place
- (e) The Ministry will keep the NZEI Te Riu Roa informed regarding negotiations with the new employer in respect of the matters contained in b (iii) above.

5.14.3 The surplus employee provisions (clauses 5.8 to 5.13) of this Agreement will apply to an affected employee who either:

- (a) Is not offered employment by the new employer; or
- (b) Chooses not to accept an offer of employment from the new employer;

***(provided that*** any affected employee who declines an offer of employment in an equivalent position with the new employer **shall not be** entitled to redundancy compensation (clauses 5.12, or 5.13)

An employee who intends to decline an offer of equivalent employment should discuss with the Ministry the alternate options that might be available under the surplus staffing provisions prior to formally making that decision.

For the purposes of this clause **employment in an equivalent position** means employment in a position that:

- (a) Is substantially the same as the employee's previous position; and
- (b) Is in the same general locality; and

- (c) Is on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy and superannuation conditions); and
- (d) Is on terms that treat the period of service with the Ministry (and any other period of service recognised by the Ministry as continuous service) as if it were continuous service with the new employer.

## **PART 6 DISCIPLINARY, COMPETENCY AND COMPLAINTS PROCESSES**

**Note:** For all clauses below, the response of the employee must be considered before a decision is made.

Nothing in this section prevents dismissal with or without notice, in the case of serious misconduct.

### **6.1 Disciplinary Processes**

In any disciplinary procedures initiated by the employer against an employee the following principles shall be observed:

- (a) The employee must be advised of their right to request union assistance and/or union representation at any stage.
- (b) The employee must be advised in writing of the specific nature of the alleged conduct and a reasonable opportunity provided for the employee to respond.
- (c) Before any substantive disciplinary action is taken, an appropriate investigation is to be undertaken by the employer.
- (d) An employee aggrieved by an action taken by the employer must be advised of their right to pursue a grievance in terms of the personal grievance procedures contained in Part 8 of this Agreement.
- (e) If a matter under investigation is considered sufficiently serious an employee may be placed on suspension on full pay pending an investigation under clause 6.1(d).

### **6.2 Competency Processes**

Where there are matters of competency which are causing concern, the employer shall put in place appropriate collegial professional and personal guidance to assist the employee in the task to be accomplished. If this guidance has not remedied the matters of competency causing concern the following provisions should govern the action to be taken.

- (a) The employee must be advised of their right to request union assistance and/or union representation at any stage.
- (b) The employer must advise the employee in writing of specific matter(s) causing concern and of the corrective action required and the timeframe allowed.
- (c) The employee must be, if appropriate in the circumstances, advised of any improvement required, given reasonable opportunity and assistance to change, and advised of the consequences if the problem continues.
- (d) A copy of any report made by the employer shall be given to the employee.

- (e) No action shall be taken on the report by the employer until the employee has had reasonable time to comment (in writing or orally or both) to the employer.
- (f) The process to be followed will be consistent with and managed in accordance with the Ministry's policy.
- (g) If the above steps fail to resolve the matter of concern, the employer may, where justified, dismiss the employee without the need to follow the Disciplinary provisions above.

### **6.3 Complaints**

- (a) Where there appear to be concerns, discussion between the complainant, the employer and employee (where appropriate) may resolve matters of concern. Where the concerns are not resolved, further action can only be taken if those matters become complaints (i.e. are set down in writing by the complainant) to the employer.
- (b) The employee must be advised of their right to request union assistance and/or union representation at any stage.
- (c) The employer shall consider the employee's reply before making a decision. Anyone who has a 'personal interest' in a complaint shall take no part in the decision making about the complaint.

## **PART 7 UNION MATTERS**

### **7.1 Union Access**

Representatives of NZEI Te Riu Roa shall be entitled to enter the premises of the Ministry at all reasonable times for purposes related to the employment of members or for purposes related to the union's business or both. Such access shall be exercised at reasonable times and in a reasonable way. Representatives shall comply with existing health and safety and security procedures.

### **7.2 Union Deductions**

7.2.1 The employer, when requested in writing by the Secretary of the union, shall, within one month after the receipt of such request supply to the union a list of the names of all employees coming within the scope of this Agreement when in their employ (but such request shall not be made to the employer at intervals shorter than six months).

7.2.2 In accordance with authorities signed by individual employees the employer shall arrange for the deduction of union subscriptions for all union members covered by this Agreement except in cases agreed to between the employer and the union.

7.2.3 The manner of deduction and remittance shall be determined by agreement with the National Secretary of the union.

7.2.4 The employer shall on request undertake to provide each employee at the time of appointment with an application form for membership of the union.

7.2.5 Except as may be otherwise agreed, the commission payable by the Institute for this service shall not exceed 2.5 percent of the aggregate sum of the amount deducted.

### **7.3 Union Meetings**

7.3.1 The employer shall allow each member of the NZEI Te Riu Roa a paid absence of up to two hours for any one meeting the Union may call in any calendar year, or an aggregate paid absence of up to four hours for any two or more meetings the NZEI Te Riu Roa may call in that same year provided that the paid absence in respect of any such meeting shall not exceed two hours.

7.3.2 In respect of every such meeting called the NZEI Te Riu Roa will consult with the employer about the date(s), time(s) and place(s) of such meeting(s) before giving notice at least 14 days prior to the date of such meeting(s).

7.3.3 NZEI Te Riu Roa members shall resume duty as soon as practicable after the meeting but the employer shall not be obliged to pay any NZEI Te Riu Roa member for a period greater than two hours in respect of any such meeting.

7.3.4 Only members of the NZEI Te Riu Roa who actually attend a meeting called in accordance with this clause shall be entitled to pay in respect of that meeting and to that end the NZEI Te Riu Roa shall supply the employer with a list of members who attended and shall also advise the time of finishing the meeting.

## **PART 8 EMPLOYMENT RELATIONSHIP PROBLEMS**

### **What is an Employment Relationship Problem?**

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.

### **Resolving an Employment Relationship Problem**

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).

An employee (or employer) has the right to be represented at any stage.

When a problem arises, union members should contact their local NZEI Te Riu Roa field officer.

### **Personal Grievances**

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.

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.

As with other employment relationship problems, the parties should always try to resolve a personal grievance through discussion.

Either party can refer a personal grievance to the Employment Relations Service of the Ministry of Business, Innovation and Employment for mediation assistance, or to the Employment Relations Authority.

If the problem relates to a type of discrimination that can be the subject of a complaint that the Human Rights Commission under the Human Rights Act 1993, the person can



either take a personal grievance, or complain to the Human Rights Commission, but not both. If in doubt, advice should be sought before deciding.

### **Services Available**

To help resolve employment relationship problems, the Ministry of Business, Innovation and Employment provides:

#### *An Information Service*

- This is free. It is available by contacting the Ministry of Business, Innovation and Employment or 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 [workplaceinfo@dol.govt.nz](mailto:workplaceinfo@dol.govt.nz).

#### *Mediation Service*

- The Mediation Service is a free and independent service available through the Ministry of Business, Innovation and Employment.
- The 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 Employment Relations Authority.

#### *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.

## **PART 9 SIGNATORIES**

Dated at Wellington this \_\_\_\_ day of December 2021.

Kate Tibbitts  
for the Ministry of Education

Bella Pardoe  
for NZEI Te Riu Roa

## Schedule 1 - Grand-parented terms for Service Managers (L)

In addition to the terms of this collective, the following provisions are grand-parented for employees designated as Service Managers (L) employed at 26 June 2006.

### 1. Compassionate grant

1.1 A compassionate grant may be paid by employers to a partner, or if there is no partner, to the next of kin or the estate of an employee who dies while employed by the Ministry. Compassionate grants are calculated as a proportion of the annual rate of salary payable to the employee at the time of death as follows:

Length of Service	Proportion of Annual Salary Rate
20 years or more	one-eighth
10 years but less than 20 years	one-twelfth
Under 10 years	no grant payable

1.2 The following conditions apply to the payment of the grants:

(a) No grant is payable if, as a result of death, payments under the accident compensation legislation to an equivalent or greater extent have been made.

(b) Service must be continuous except that intervals of up to one year may be bridged and service aggregated, but the intervals do not count as service. If an interval exceeds one year, the qualifying service commences afresh after the interval.

(c) Allowable service comprises service in:

Specialist Education Services  
State schools (including kindergartens) in New Zealand  
New Zealand Government service  
Teacher training which commenced in 1980 or earlier  
Active military service  
Service on the staff of New Zealand universities  
Service as a teacher on an official government exchange or government sponsored scheme.

(d) Service not recognised includes:

Private school teacher  
Full-time university study (unless on leave)  
Overseas teaching service (other than service as a teacher on an official government exchange or sponsored scheme)  
Teacher training which commenced in 1981 or later.

(e) For the purpose of calculating the grant, salary means specified annual salary. Temporary allowances are excluded.

(f) The grant is calculated to the nearest \$1.00.

**2. Health & income protection insurance**

The Ministry will ensure group health and income protection insurance schemes are available to employees on such conditions as determined by the insurers. In addition, employees who work 50% or more of full-time hours will have their premiums subsidised by the Ministry at a rate determined by the Secretary.

**3 Flexible departure arrangements**

As an alternative to the notice requirements of clause 2.4.1, flexible arrangements may be agreed to, that will lead to the departure of a Ministry employee. This may be requested by the employee or the employer.

There will be a voluntary written agreement between the manager and employee (or representative) which will include:

- measures for the transition;
- review date(s) for the agreement;
- final departure date.

Where a manager supports an FDA, they will make a recommendation to Director of Education (or their delegate) and the Chief People Officer (or their delegate) for their consideration

In exercising the discretion whether to negotiate a FDA agreement, managers will apply the following criteria:

1. FDA can be considered in the circumstances where the following criteria apply:
  - The FDA is the most appropriate means of facilitating an orderly transfer of responsibilities.
  - The FDA is not inconsistent with the Ministry's operational requirements.
  - The employee has in general performed the duties of the position to the required standard but, for genuine reasons of a personal or professional nature, the same level of performance is unlikely to be maintained in future.
  - The personal circumstances of the employee are such that FDA is the most appropriate option for them.
  - The FDA is otherwise mutually beneficial to the Ministry and the employee.
  
2. A FDA cannot normally be considered in circumstances where:
  - The employee is currently the subject of a complaint (including external complaints, harassment complaints, etc).

- The employee is currently facing disciplinary processes competence or misconduct.
- The employee's position is currently affected by a restructuring proposal.

If agreement is reached for the employee to commence FDA then the employee will not be able to be re-engaged by the Ministry until the period covered by the exit provision payment has expired.

## Payments

Once the provisions of the agreement have been met, the following payments shall be made as part of the final pay to the employee:

<i>less than 10 years service</i>	<i>No payment</i>
on completion of 10 years and up to 20 years' service	2 months' salary
on completion of 20 years and up to 30 years' service	4 months' salary
on completion of 30 or more years' service	6 months' salary

All service is calculated on the basis of a calendar year and must be continuous service with a satisfactory work record. Continuous service for this provision means current continuous service in the Ministry and/or the state service or parliamentary service. Other service may be considered at the discretion of the employer. Teaching service and service with teaching leave does not count. Any part-time service will be calculated on a pro-rata basis according to the record of service.

On the death of an employee and where an FDA exists the Secretary or delegated nominee may approve a cash grant in lieu of the exit provision payment to:

- (i) the surviving partner; or
- (ii) dependent children; or
- (iii) the estate of the deceased employee.

The grant is payable where the amount of exit payment that would have been due would result in a more favourable payment than the compassionate grant.

## FDA Agreement

Where a FDA is agreeable in principle, the Manager will negotiate a FDA agreement that provides for the following:

- A transition period that is at least 3 months but no more than 6 months before the date of departure.
- Specifies the reduction in hours where the proposed transition period involves a reduction in hours worked.

- Provides for the employee to resign with effect from the agreed date of departure.
- Provides for periodic reviews (at not less than monthly intervals) to ensure that the FDA continues to satisfy the criteria set out in above;
- Provides for cancellation of the FDA without compensation in the event that any of the criteria set out in paragraph 1 and 2 are no longer satisfied.
- Provides measure, if appropriate, for the transfer of responsibilities to a new incumbent.
- Provides for the completion of any outstanding reporting, administration or other work-related matters.
- Provides for agreement on the amount of the flexible departure payment determined in accordance with this clause.

#### **“Satisfactory work record”**

Satisfactory work record will be determined by reference to the employee’s overall previous conduct and performance. The Ministry’s assessment of the employee’s work record must be reasonable and undertaken in good faith. In particular:

- The Ministry will advise the employee of any matters that may constitute an unsatisfactory work record and consider any reasons advanced by the employee why the employee’s work record should not be considered unsatisfactory in relation to those matters.
- In reaching a conclusion on the employee’s work record, the Ministry must take a balanced approach; any proven non-performance or misconduct will be weighed against any positive factors or mitigating circumstances.
- If the employee’s work record is regarded as unsatisfactory by reason of proven misconduct or non-performance then the Manager may decide to withhold the flexible departure payment either in whole or in part, having regard to the extent to which the work record has been affected by the misconduct or non-performance.

#### **4 Sick Leave Provisions**

Employees on bulk sick leave entitlement under clause 4 of Schedule 1 of the Collective Agreement (as set out below), who receive their next bulk allocation of sick leave during the term of the Collective Agreement will at that time transition to the current sick leave provisions of 15 days for each 12 months period of service. Employees who are not due a bulk allocation during the period of the Collective Agreement will receive their next allocation (if any), regardless of when entitlement is due, on the expiry date of this Agreement and then transition.

If a Service Manager has accrued sick leave in excess of 260 days at the date of the transition they will retain such accrued leave for their use. If this accrued leave reduces to below 260 days the limit of 260 days accrual will apply from that point.

The Ministry further agrees to removal of the non-consecutive days when they transition across.

*NB: In accordance with clause 4.4 the following provisions may also apply to employees designated as Service Managers (M) who had, at the date of settlement, retained this model of sick leave entitlement.*

4.1 The Ministry shall grant:

- (a) Sick leave on pay up to the employee's entitlement as set out below; or
- (b) Sick leave without pay on production of a medical certificate.

<b>Sick Leave entitlement</b>	
Up to 3 months	7 days on full pay
Over 3 months and up to 6 months	14 days on full pay
Over 6 months and up to 9 months	31 days on full pay
Over 9 months and up to 5 years	46 days on full pay
Over 5 years and up to 10 years	92 days on full pay
Over 10 years and up to 20 years	183 days on full pay
Over 20 years and up to 30 years	275 days on full pay
Over 30 years	365 days on full pay

- (i) Sick leave is to be computed in consecutive days, not working days, but no deduction will be made for absences of less than two hours.
- (ii) The Secretary may decide that paid sick leave of any special nature of up to two years shall not be included in the aggregate of sick leave taken, but such leave is to be noted on the employee's leave record. Such leave may cover entering or waiting to enter a recognised tuberculosis institution, war injury, currently epidemic diseases as determined by Health officials, work injury or sickness not compensated by ACC.
- (iii) Where absence on sick leave, whether with or without pay extends beyond 5 consecutive days, employees must produce to the employer a medical certificate stating the probable period of absence.
- (iv) Where an 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 Ministry may issue the direction for the examination, nominate the medical officer and, if warranted, approve a refund of expenses incurred by an employee in complying with this provision.



- (v) When sickness occurs during annual leave the Chief Executive may permit the period of sickness to be debited against sick leave entitlement except where the sickness occurs during leave following termination of employment.
- (vi) The Ministry may permit employees to anticipate their next sick leave entitlement in accordance with the following table; or on any other basis that they consider appropriate.

Up to 5 years service	At 4 years, 9 months' service
Over 5 years and up to 10	At 9 years, 6 months' service
Over 10 years and up to 20	At 19 years' service
Over 20 and up to 30	At 28 years' service

Provided that the necessary adjustments will be made to final pay should an employee resign before the next entitlement falls due.

- (vii) Attention is drawn to the minimum entitlement of the Holidays Act 2003.

#### 4.2 Sick Leave for Part-time Employees

For the purposes of crediting and debiting sick leave the following will apply:

- (a) Sick leave will be credited at the same rate as applies for permanent employees.
- (b) Irrespective of the hours worked on a particular day, each day of absence which would normally be worked, will be debited as one full day of sick leave.
- (c) Where an employee to whom this clause applies is absent on sick leave for two or more days and a non-work day(s) intervenes no deduction will be made for that non-work day(s).

## **Schedule 2 – Sick leave translations for new Service Managers appointed from Field Staff positions**

Where a current Ministry employee employed in a Field Staff position is appointed to a Service Manager role covered by this Agreement, they shall transition onto the Service Managers sick leave provisions outlined in clause 4 as follows.

If the Field Staff employee is currently entitled to a bulk allocation of sick leave under the Field Staff Agreement, they will receive their next entitlement under that scheme and move to 15 days per year from their next anniversary date. If they have accrued sick leave in excess of 260 days at the date of the transition they will retain such accrued leave for their use. If this accrued leave reduces to below 260 days the limit of 260 days accrual will apply from that point.

If the Field Staff employee is currently entitled to 10 days sick leave per year under the Field Staff Agreement, they shall transition to 15 days under this Agreement (provided they have in excess of 2 years service) on their next anniversary.



## Terms of Settlement

### Ministry of Education / NZEI Te Riu Roa Service Managers Collective Agreement

11 October 2021

New Zealand Education Institute Te Riu Roa (NZEI TRR), and the Ministry of Education met to bargain renewal of Ministry of Education Service Managers' Collective Agreement on 26-27 July, and including email correspondence during August, September, and early October.

This agreement sets out the full terms of settlement of the Ministry of Education Service Managers' Collective Agreement 2021-2023. This agreement has been settled between the Secretary for Education and NZEI Te Riu Roa and shall be subject to ratification by union members pursuant to section 51 of the Employment Relations Act 2000.

#### 1. Settlement date

The effective date of this settlement will be 2 October 2021.

These terms of settlement apply to all Ministry of Education employees who are NZEI Te Riu Roa members and who are employed as Service Managers.

#### 2. Term

Delete clause 1.3 and replace with:

This Agreement shall be effective from 11 October 2021 and subject to section 53 of the Employment Relations Act, shall remain in force until 30 June 2023.

#### 3. General Provisions

The following clause will be inserted 2.6 – “Continuity of Service”

Except as specified elsewhere in this agreement, the Secretary or delegated nominee may recognise service with other departments of the Public Service, DHB (where the work undertaken falls within the coverage clause of this Agreement) and teaching service as continuous service, provided that the employee joined the Ministry within one month of leaving the service of the other organisation.

#### 4. Remuneration

The following changes to remuneration will occur:

- a. Progression for those not on the current top step continues 1 April 2022.
- b. Removing the current bottom step (\$103,820) so that the new bottom step of \$108,256 will be effective from 1 April 2022.
- c. Adding a new top step (\$128,520) effective 1 April 2022 with progression to that step for those on the existing step 6 (\$126,000).
- d. Adding a new top step of (\$131,040) effective 30 June 2023 with progression to that those on the new top step 6 (\$128,520).

Amend clause 3.2.1 to read:

The following remuneration scale will apply to Service Managers.

Salary Step	1 April 2021	Salary Step	1 April 2022	Salary Step	30 June 2023
1	\$103,820	1	\$108,256		
2	\$108,256	2	\$112,692		
3	\$112,692	3	\$117,128		
4	\$117,128	4	\$121,564		
5	\$121,564	5	\$126,000		
6	\$126,000	6	\$128,520		
				7	\$131,040

Amend current clause 3.3.2 to read:

Newly appointed Service Managers can be placed on the salary scale up to Step 6 taking into account the above factors.

Amend current clause 3.3.4 to read:

Progression to the next available step in the salary scale will be as of 1 April each year, except step 7 which will be 30 June 2023, subject to their having met their agreed performance expectations including the activities agreed in the Individual Development Plan, as set through the Ministry's performance management and development system.

The following clause will be inserted 3.7 – Eyewear Provision

3.7.1 Employees who are engaged in using a computer screen shall be entitled to be reimbursed for:

- An eye test
- Frames and lenses required for work purposes up to a maximum of \$500 (GST inclusive) or
- Contact lenses up to a total of \$300 (GST inclusive).

Any reimbursement shall be subject to PAYE.

#### 5. Leave

Delete clause 4.1.1 and replace with:

The Ministry will recognise prior service from 13 May 2003 with other departments of the Public Service as detailed below for the purpose of calculating continuous service for leave entitlements provided the employee claims such prior service within one month of this agreement coming into force (for existing employees) or one month of joining the Ministry (for new employees).

- Parliamentary Service
- Service in the Education Service as defined in the Public Service Act 2020 and any subsequent amendments to it
- Early Childhood Development
- Specialist Education Services
- Education Review Office
- New Zealand Qualifications Authority
- Skill New Zealand (formerly Education Training and Support Agency)
- Careers NZ – Mana Rapuara Aotearoa
- Teaching Council of New Zealand (and its predecessor bodies)
- Learning Media
- Education Board Service

Where an employee worked for a DHB or in the wider Public Service in a role that falls within coverage of this Collective Agreement that service will also be recognised provided the employee applied for this within one year of starting. Existing staff who this change applies to will have three months from the date of ratification to apply for such service to be recognised.

#### Bereavement and Tangihana Leave add the following clause 4.5.5

An employee is also entitled to 3 days' paid bereavement leave for a pregnancy which ended by way of a miscarriage or still birth where:

- It was their own pregnancy
- It was their spouse or partner's pregnancy
- It was the pregnancy of their former spouse or partner if they would have been the biological parent of a child born as a result of the pregnancy
- They had undertaken to be the Primary Carer of a child born as a result of the pregnancy, or
- They are the spouse or partner of a person who had undertaken to be the Primary Carer of a child born as a result of the pregnancy.

'Primary Carer' in this context means a person, other than the biological mother or her spouse or partner, who takes permanent primary responsibility for the care of a child who is under the age of 6 years.

#### Parental Leave add the following for accrual of annual leave

##### 4.6.4 Accrual of annual leave while on Parental Leave:

Employees on extended parental leave will accrue annual leave in accordance with the provisions of the Holidays Act 2003. Annual leave accrued while on a period of extended parental leave and taken in the first 12 months following the employee's return to work will be paid at a rate equivalent to the higher of the employees average weekly earnings or their ordinary daily pay. If an employee was on shortened hours before the commencement of parental leave, the calculation for the accrual of annual leave will be based on their normal salary prior to the shortened hours. If they wish to do so, employees returning from parental

leave will be encouraged to take their annual leave accrued while on parental leave during the first 12 months after they return. This provides options to use paid leave to work reduced hours while receiving the equivalent of a full-time salary. Employees returning from parental leave will be provided the opportunity to apply to return to their position on a part time basis, job share basis, and work from home or flexible working hours. Approval for such requests will not be unreasonably withheld and while all requests will be considered in good faith there may be occasions where genuine business requirements, consistent with legislation, mean a request is declined.

**6. Member only benefit**

A NZEI Te Riu Roa member only benefit of \$400 (gross) to be paid as soon as possible following the ratification of the CA by NZEI TRR members. This is to enable the Ministry to pass-on any terms and conditions of this agreement at its discretion 12 weeks after signing of the terms of settlement.

**7. Technical changes:**

- a. Amend clause 4.3 Public Holidays, 4.3.1 to add the Matariki public holiday from 2022.
- b. Amend clause 4.5 Bereavement Leave, 4.5.1 to include stillbirth/miscarriage
- b. Throughout the collective agreement delete “State Sector Act 1988” and replace with “Public Service Act 2020”.

**8. Agreement outside of the collective**

Amend the new Service Manager job description provisions to remove reference to the head count number, and include reference to support workers, relating to team size will be by joint discussion and agreement.

**Terms of Settlement Agreed:**

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Kate Tibbitts  
Chief People Officer  
Ministry of Education

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Bella Pardoe  
Advocate  
NZEI Te Riu Roa