

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.59 application for variation of agreement

Australian Education Union, Tasmanian Branch
Minister administering the State Service Act 2000
(T13319 of 2008)

**TEACHING SERVICE (TASMANIAN PUBLIC SECTOR) SALARIES
AND CONDITIONS OF EMPLOYMENT AGREEMENT 2005**

COMMISSIONER JP McALPINE

Variation of registered industrial agreement T13128 of 2008 – application to vary approved - operative on and from 1 October 2008 – to remain in force until 28 February 2011

ORDER BY CONSENT -

The **TEACHING SERVICE (TASMANIAN PUBLIC SECTOR) SALARIES AND CONDITIONS OF EMPLOYMENT AGREEMENT 2008** (T13128 of 2008) is varied in the following manner:

1. By deleting CLAUSE 18 – ATTENDANCE DAYS, and inserting in lieu thereof the following:

"18. ATTENDANCE DAYS

18.1 Attendance days for teachers in 2008, 2009 and 2010 shall be the national average of 200 days per year.

PROVIDED THAT in 2008, teachers in the north and north-west will attend for 199 days.

PROVIDED FURTHER THAT:

- (a) the first attendance day each year for teachers in schools (not secondary colleges) will be the second Monday in February in the North and North West and a day later in the South.
- (b) the first attendance day each year for students in schools (not secondary colleges) will be the Tuesday following the second Monday in February in the North and North West and a day later in the South.

18.2 Details of teacher attendance are as follows:

2008					
Region	Students	PA Days	Moderation Days	Prep Days	Total
South	192	5	1	2#	200
NW	191	5	1	2#	199
North	190	6*	1	2#	199
(*1 extra PA day on Cup Day or own time in North)					

2009					
Region	Students	PA Days	Moderation Days	Prep Days	Total
South	193	4*	1	2#	200
NW	193	4*	1	2#	200
North	193	4*	1	2#	200
(Cup Day in North is a teacher and student attendance day)					
(* one less PA day in 2009 as a result of ANZAC Day.					

2010					
Region	Students	PA Days	Moderation Days	Prep Days	Total
South	192	5	1	2#	200
NW	192	5	1	2#	200
North	192	5	1	2#	200
(Cup Day in North is a teacher and student attendance day)					

PROVIDED THAT the above student attendance days may vary if individual schools receive Ministerial approval for Student Free Days.

PROVIDED FURTHER THAT at the start of the school year, the Principal, in consultation with parents/guardians shall determine the day upon which each high or additional needs student will commence.

PROVIDED FURTHER THAT the 2 Prep Days (#) are firstly, the teacher attendance day immediately prior to the first student attendance day at the start of the year and secondly, the teacher attendance day following the last student attendance day at the end of the year."

2. Vary Schedule 2 – Teacher Transfer Policy by deleting the existing Schedule and replacing with the following:

"SCHEDULE 2

TEACHER TRANSFER POLICY

This Schedule is arranged as follows:

Clause	<u>TITLE</u>
1	Authority
2	Primary Goals
3	Definitions
4	Key Principles
5	Requested Transfers
6	Required Transfers
7	Teachers in Promoted Positions
8	Decade Service Transfers
9	Transfer Priorities
10	Annual Process
11	Transfer Appeals
Appendix 1	List and Levels of Each School/College

1. AUTHORITY

- 1.1 This Agreement does not diminish the statutory power of the *Head of Agency* as provided for in Section 34(1) (e) of the *State Service Act 2000* - "*To assign duties to each employee within that Agency and to vary those duties*".
- 1.2 The *Head of Agency* will delegate the powers to assign duties to *teachers* and to vary those duties to *Nominated Senior Officers*.

2. PRIMARY GOALS

- 2.1 The primary goals of this Agreement are to:
- 2.1.1 Provide a fair, transparent and equitable process for managing the transfer of *teachers* between *school/colleges*; and
- 2.1.2 Ensure that no matter where they attend Government schools in Tasmania, all students are educated by *teachers* of comparable skills and experience and that all *teachers* are given the opportunity to teach in a broad range of *schools/colleges* during their careers.

3. DEFINITIONS

For the purpose of this Agreement:

- 3.1 **"An appointment"** commences upon the assignment of duties to a *teacher* or a *teacher in a promoted position* at a new *school/college* and concludes upon a transfer from that *school/college*. In determining the length of an *appointment*, periods of secondment and unpaid leave are excluded.
- 3.2 **"Act"** means the *State Service Act 2000*.
- 3.3 **"The award"** means the Teaching Service (Tasmanian Public Sector) Award 2005.
- 3.4 **"Department"** means the *Department* of Education, Tasmania
- 3.5 **"Eligible service"** is the length of time a *teacher* or a *teacher in a promoted position* other than a principal is employed in a *school/college* before being guaranteed a transfer as provided in Clause 5.2.1.
- 3.6 **"Eligible service priority list"** is a list of *teachers* or *teachers in promoted positions* other than a principal, with *eligible service* in a Level B, C or D school who are requesting a transfer and their relative priority based on the *school/college employment history*.
- 3.7 **"Exceptional personal circumstances"** are conditions of a critical nature affecting the placement of a *teacher* and would include a serious medical condition of the *teacher* or immediate family member and disabilities of the *teacher* or immediate family member.
- 3.8 **"Geographical location"** means a nominated centre and its environs and includes all locations within a 65 kilometre radius of this centre. A *teacher* who has completed a period of *eligible service* in a Level B, C or D school, who is seeking a new appointment is guaranteed a placement within his/her nominated *geographical location*, NOT a specific school of choice within that geographical location.
- 3.9 **"Nominated Senior Officer"** means a person who has been given delegated responsibility by the *Head of Agency* to administer who will administer this Agreement at Learning Service level.
- 3.10 **"Required Transfer Category"** means those *teachers* or *teachers in a promoted position* other than a principal who have completed their appointment in a Level A school.
- 3.11 **"School or college"** means schools and colleges categorised as Levels "A", "B", "C" or "D" and listed in Appendix 1 and Learning Services where *teachers* employed under *the award* are located.
- 3.12 **"School/college employment history"** means the years of employment of a *teacher* in Levels A, B C or D schools or colleges.
- 3.13 **"Secretary"** means the Head of the Department of Education.

3.14 **"Skill Area"** means the broad subject areas (eg art or science) or grade levels a teacher is: qualified to: or experienced in teaching

3.16 **"Teacher"** is a person employed under the *State Service Act 2000* to undertake the duties of a teacher (base grade) within the Department of Education and have a substantive classification at Band 1 as contained in *the award*.

Note: **"Teachers in promoted positions"** are those *teachers* who have a substantive classification at Band 2 or Band 3 as contained in *the award*.

3.17 **"Union"** means the Australian Education Union, Tasmanian Branch.

4. KEY PRINCIPLES

4.1 These key principles should be read in conjunction with Clause 2 - Primary Goals:

4.1.1 It is expected that all *teachers* will undertake *eligible service* during their career in a Level B, C or D school.

4.1.2 Changes in system or *school/college* needs and the requested transfers of *teachers* who have completed *eligible service* in a Level B, C or D school are the prime initiators of required transfers.

4.1.3 All *teachers* to be transferred under this Agreement will be given the opportunity to provide information that is material to the decisions regarding the location of their next appointment.

4.1.4 Staffing of *schools/colleges* is a management function administered through Learning Services. The Director (Human Resources Management) is responsible for system-wide co-ordination to ensure this Agreement is consistently implemented across the State.

4.1.5 Poor performance or low skill proficiency should not be used as reasons to transfer *teachers*. Such situations will be addressed through appropriate performance management measures such as counselling, professional development, and/or inability procedures.

4.1.6 This Agreement will not be used to transfer *teachers* under a formal inability process or when disciplinary action is in progress.

4.1.7 In effecting transfers the *Department* will balance the need to provide staffing stability in *schools/colleges* with the personal and professional needs of *teachers*.

4.1.8 *Teachers* who have completed *an appointment* in a Level C or D school will not be required to undertake a further appointment in a Level C or D school during their career.

4.1.9 Wherever possible, *teachers* who complete *an appointment* in a Level B school will not be required to undertake a further appointment in a Level B school.

4.1.10 Wherever possible, positions that are vacant will be filled by requested transfers.

4.1.11 The principle of 'natural 'justice' will underlie all aspects of the implementation of this Agreement.

5. REQUESTED TRANSFERS

5.1 General

5.1.1 *Teachers* must complete a minimum of three years in a *school/college* before a requested transfer may be made, except for a request for a compassionate transfer under 5.3. However, there can be no guarantee of a transfer as, in all instances, transfers are dependent on the availability of positions and this will vary from year to year.

5.1.2 The *school/college employment history* of *teachers* will be used as the basis for assessment relative to the skill requirement of existing or created vacancies and the relative priority of requests for transfer. Priority will be dependent on the *school/college employment history* of those *teachers* seeking requested transfers relative to each other.

5.2 Guaranteed Transfers

5.2.1 *Eligible service* is the completion of:

5.2.1.1 Three years in a Level D school;

5.2.1.2 Four years in a Level B or C school.

5.2.2 A *teacher* who has completed *eligible service* in a Level B, C or D school is guaranteed a requested transfer to the *geographical location* of his/her choice, subject to there being:

5.2.2.1 A vacancy; or a

5.2.2.2 Vacancy in their skill area that can be created by the required transfer of a *teacher* who has completed a six-year appointment in a Level A *school/college*.

5.2.3 *Teachers* who have completed *eligible service* in a Level B, C or D school will improve the likelihood of receiving an *appointment* in a *school/college* of their choice by undertaking more than the minimum length of service in a Level B, C or D school. The greater the length of *eligible service*, the higher will be the *teacher's* priority to a transfer to a *school/college* of choice. **However there is no guarantee of a transfer to a *school/college* of the *teacher's* preference.**

5.2 Compassionate Transfers

- 5.3.1 A *teacher* is able to request a compassionate transfer at any time for *exceptional personal circumstances*.
- 5.3.2 Such applications will be considered immediately on receipt and will remain active during the school year of the request. Should a transfer not be possible and such circumstances remain in the next school year, it is necessary for the *teacher* to reapply for a compassionate transfer.
- 5.3.3 A *teacher* must provide documented evidence of the medical condition or disability.
- 5.3.4 A *teacher* is able to apply for a compassionate transfer because of the need to move residence to a new *geographical location* due to the work-related relocation of his or her partner, where there is a demonstrated long-term relationship. While every effort will be made to facilitate such a transfer, it cannot be guaranteed.
- 5.3.5 The granting of a compassionate transfer does not preclude a future transfer in accordance with the provisions of this Agreement. A required transfer may be effected when the compassionate circumstances no longer exist or the *exceptional personal circumstances* can be addressed despite the required transfer.
- 5.3.6 Postponement of a required transfer to a particular location does not preclude a required transfer to another location.

6. **REQUIRED TRANSFERS**

- 6.1 Any *teacher*, irrespective of assignment length at his/her current school, may be required to transfer to meet the staffing needs of their *school/college* or other *schools/colleges* throughout the State, e.g. reduced school enrolment, changed skill requirements.
- 6.2 Any *teacher* who has completed at least a six-year appointment in a Level A *school/college* may be required to transfer to either:
 - 6.2.1 Create a vacancy for a *teacher* with *eligible service* in a Level B, C or D school who has requested a transfer; or
 - 6.2.2 To meet the staffing needs of their current *school/college* or other *schools/colleges* throughout the State.
- 6.3 Where several *teachers* in a certain skill area and *geographical location* are eligible for a required transfer, their history of service in Levels B, C and D schools and the length of service in their current appointment will be compared to determine their relative order of transfer.
- 6.4 *Teachers* who are subject to a required transfer will not be transferred without their consent to a location that is more than 65 kilometres from their place of residence.

6.5 A *teacher* may seek a temporary postponement of a required transfer when *exceptional personal circumstances* can be proved. A *teacher* seeking such a postponement must provide:

6.5.1 Documented reasons for the *exceptional personal circumstances* and, in negotiation with *the Nominated Senior Officer*;

6.5.2 A date in the future when the postponed required assignment will be reviewed.

7. TEACHERS IN PROMOTED POSITIONS

7.1 Requested Transfers

7.1.1 Any *teacher* in a promoted position, including a principal, may seek a requested transfer. However, if the *teacher* concerned has not completed *eligible service* in accordance with 7.1.2, a transfer cannot be guaranteed.

7.1.2 *Eligible service* by a *teacher* in a promoted position (other than a principal) is the completion of six years in a Level B, C or D school.

7.1.3 A *teacher* in a promoted position (other than a principal) who has completed *eligible service* in a Level B, C or D school is entitled to request a transfer to another *school/college* into a suitable vacant position in the *geographical location* of his/her choice.

7.1.4 If a suitable position is not immediately available, the *teacher* will be given priority for transfer into the first such available position.

7.1.5 In accordance with the provisions of 5.3, a *teacher* in a promoted position is able to request a compassionate transfer at any time for *exceptional personal circumstances*.

7.2 Required Transfers

7.2.1 Subject to clause 7, a *teacher* in a promoted position (excluding a principal) who has completed six years employment in a Level A *school/college* will only have to accept a required transfer to another *school/college* if any of the following occur:

7.2.1.1 The number and/or level of promoted positions within a *school/college* is over approved establishment;

7.2.1.2 There are significant changes in *school/college* needs;

7.2.1.3 There are changes to Government policy; or

7.2.1.4 Closure or amalgamation of a *school/college*.

8. DECADE SERVICE TRANSFERS

Subject to:

Clause 4.1.5, 4.1.6 and 4.1.7;

Clause 7.1.4 (*teachers* in promoted positions); and

The respective employment history and geographic location of *teachers* (excluding principals) who have completed ten years continuous service in a Level A school/college may:

Request a preferred transfer but with no guarantee that it will be within 65 kilometres of their place of residence; or

Be required to transfer to a location that is within 65 kilometres of their place of residence.

9. TRANSFER PRIORITIES

9.1 Substantive vacancies in *schools/colleges* are to be filled according to the following priorities by the transfer of *teachers* who have:

9.1.1 Completed *eligible service* in a Level B, C or D school

9.1.2 Acknowledged compassionate grounds

9.1.3 Decade service transfers (refer Clause 8)

9.1.4 Requested transfers

10. ANNUAL PROCESS

10.1 Subject to Clause 5 and Clause 9, each year all *teachers* will be invited to seek a requested transfer to another *school/college* through their Learning Service.

10.2 *Teachers* completing *eligible service* who have requested a transfer will be required to nominate their preference of *geographical location*.

10.3 Each Learning Service will collate the *eligible service priority list* for that Learning Service, showing all *teachers* with *eligible service* who are requesting a transfer into or within that Learning Service.

10.4 *Teachers* will automatically be included in the *Required Transfer Category* after the completion of six years in a *school/college* designated at Level A.

10.5 The *Department* will send a Circular Memorandum to all schools/colleges at the beginning of Term 3 reminding teaching staff of the transfer policy and its provisions and highlighting Clause 10 Annual Process.

10.6 Teachers who:

10.5.1 Have completed at least six years service in a Level A *school/college*; and

10.5.2 Whose skills and *geographic location* match the skills of teachers completing *eligible service* in a Level B, C or D school who are requesting a transfer

will be consulted to verify their employment history and length of appointment before being considered for a required transfer.

10.7 This consultation will be conducted with the *teacher* by the principal and/or the *Nominated Senior Officer* and will include verification of the *teacher's* priority for a required transfer; and documentation of the *teacher's* preferred outcome if such a transfer is required.

Notes will be made outlining the consultations and shall be signed by all parties present

10.8 *Teachers* who have completed ten years service in a Level A school who may be required to transfer under the provisions of Clause 8 will have their employment history verified and be consulted regarding their preferred *geographical location*.

10.9 The *Department* will effect requested transfers for *teachers* in line with Policy provisions.

10.10 At the end of this process, the *teacher* will be informed of the timing and the location of their new appointment.

10.11 The *Nominated Senior Officer* will facilitate *school/college* visits for *teachers* from the *Eligible Service Priority List* and the *Required Transfer Category* who are transferring to a new *school/college*.

10.12 Although every effort will be made to transfer *teachers* seeking a requested assignment who are not completing *eligible service*, a transfer cannot be guaranteed.

11. TRANSFER APPEALS

11.1 If a *teacher* believes a required transfer is not in accordance with the provisions of this Agreement, a request for reassessment documenting reasons can be made to the *Secretary* within fourteen days of the *teacher* receiving written notification of the transfer.

11.2 The *Secretary* will require a reassessment of the transfer from the Director (Human Resources Management). This reassessment must be made and a recommendation forwarded to the *Secretary* within seven days of receiving the *teacher's* request for reassessment.

- 11.3 In order to facilitate this reassessment, the Director (Human Resources Management) will contact the appropriate Learning Service to establish a Learning Service contact officer for the transfer.
- 11.4 The Learning Service contact officer is responsible for providing information to the Secretary and the Transfer Appeals Panel as required throughout the reassessment/appeals processes.
- 11.5 The *Secretary* will inform the *teacher* in writing of the outcome of the reassessment within seven days of receipt of the recommendation.
- 11.6 If the *teacher* disagrees with the Secretary's decision, she/he may appeal to the Transfer Appeal Panel.
- 11.7 The following procedures will be observed if a dispute arises out of the operation of this agreement:
 - 11.7.1 A *teacher* must lodge an appeal against a proposed transfer or against the application of processes established under this agreement with the Transfer Appeal Panel within seven days of receiving the Secretary's written decision to transfer the *teacher*.
 - 11.7.2 This must be a written statement clearly documenting appeal grounds.
 - 11.7.3 HRMB will notify the appropriate Learning Service contact officer of the Appeal and the requirement for them to be available for the Transfer Appeal Panel.
 - 11.7.4 The Transfer Appeal Panel must provide at least 48 hours notice to HRMB and the Learning Service Contact Officer should they be required to attend or provide extra information to the Panel.
- 11.8 The Transfer Appeal Panel will consist of a member nominated by the *Department*, a member nominated by the *Union* and an independent chairperson appointed by the Minister for Education on the joint recommendation of the *Department* and the *Union*.
- 11.9 Each appeal will be acknowledged in writing within seven days of receipt informing the *teacher* of the procedure to be followed.
- 11.10 The Transfer Appeal Panel will inform the *teacher* in writing within a further seven days of the outcomes of the appeal, and will include the reason for the decision.
- 11.11 This decision is final and will be acted on by the *Department* with no further disputation by any of the parties to this Agreement.

The parties will negotiate a revised Transfer Policy for implementation in 2010.

LEVEL A

Abbotsfield Primary School
Albuera Street Primary School
Arthur Early Special Education Centre
Bagdad Primary School
Beaconsfield Primary School
Bellerive Primary School
Blackmans Bay Primary School
Boat Harbour Primary School
Bracknell Primary School
Brent Street Primary School
Bridport Primary School
Brighton Primary School
Brooklyn Primary School
Burnie High School
Burnie Primary School
Cambridge Primary School
Campania District High School
Campbell Street Primary School
Central Office-seconded teachers
Claremont College
Claremont Primary School
Claremont High School
Clarence High School
Collinsvale Primary School
Cooee Primary School
Cressy District High School
Cygnet Primary School
Deloraine High School
Deloraine Primary School
Devonport High School
Devonport Primary School
District Offices
District Support Services
Dodges Ferry Primary School
Early Special Education Centre
East Launceston Primary School
East Ulverstone Primary School
Elizabeth College
Evandale Primary School
Exeter High School
Exeter Primary School
Fairview Primary School
Forth Primary School
Franklin Primary School
Frederick Street Kindergarten
Geilston Bay High School
Glen Dhu Primary School
Glen Huon Primary School
Glenorchy Primary School

APPENDIX 1

Goulburn Street Primary School
Hagley Primary School
Havenview Primary School
Hazelwood
Hellyer College
Hillcrest Primary School
Hobart College
Howrah Primary School
Huonville High School
Huonville Primary School
Illawarra Primary School
Kempston Primary School
Kings Meadows High School
Kingston High School
Kingston Primary School
Lansdowne Crescent Primary School
Latrobe High School
Latrobe Primary School
Lauderdale Primary School
Launceston College
Lenah Valley Primary School
Letitia House - seconded teachers
Lilydale District High School
Lindisfarne North Primary School
Lindisfarne Primary School
Longford Primary School
Margate Primary School
Meander Primary School
Mersey Heights School
Miandetta Primary School
Mole Creek Primary School
Molesworth Primary School
Montagu Bay Primary School
Montello Primary School
Moriarty Primary School
Mount Nelson Primary School
Mount Stuart Primary School
Mowbray Heights Primary
Munford Street Early Special Education
Centre
Natone Primary School
New Norfolk High School
New Norfolk Primary School
Newstead College
Newstead Heights School
New Town High School
New Town Primary School
Nixon Street Primary School
Norwood Primary School
Ogilvie High School

Orford Primary School
 Parkland's High School
 Penguin High School
 Penguin Primary School
 Perth Primary School
 Port Dalrymple School
 Princes Street Primary School
 Prospect High School
 Punch Bowl Primary School
 Queechee High School
 Railton Primary School
 Reece High School
 Riana Primary School
 Richmond Primary School
 Ridgley Primary School
 Riverside High School
 Riverside Primary School
 Rose Bay High School
 Roseneath Primary School
 Rosetta High School
 Rosetta Primary School
 Rosny College
 Sandy Bay Infant School
 Sassafras Primary School
 Scottsdale High School
 Scottsdale Primary School
 Sheffield District High School
 Snug Primary School
 Somerset Primary School
 Sorell School

South Arm Primary School
 South George Town Primary School
 South Hobart Primary School
 Sprent Primary School
 Spreyton Primary School
 Springfield Gardens Primary School
 St George's School
 St Leonards Primary School
 St Michael's Support School
 Steele Street Early Special Ed Centre
 Summerdale Primary School
 Table Cape Primary School
 Tarooma High School
 Tarooma Primary School
 The Don College
 Timsbury Road School
 TOLS
 Trevallyn Primary School
 Ulverstone High School
 Ulverstone Primary School
 Upper Burnie Primary School
 Waimea Heights Primary School
 Wesley Vale Primary School
 Westbury Primary School
 West Launceston Primary School
 West Somerset Primary School
 Woodbridge District High School
 Wynyard High School
 Yolla District High School
 Young Town Primary School

LEVEL B

Acton Primary School
 Bowen Road Primary School
 Bridgewater Primary School
 Bridgewater High School
 Brooks High School
 Clarendon Vale Primary School
 Cosgrove High School
 East Devonport Primary School
 Gagebrook Primary School
 Green Point Primary School
 Goodwood Primary School
 Herdsmans Cove Primary School
 Invermay Primary School
 Mayfield Primary School
 Moonah Primary School
 Mount Faulkner Primary School
 Ravenswood Heights Primary School

Risdon Vale Primary School
 Rocherlea Primary School
 Rokeby Primary School
 Rokeby High School
 Warrane Primary School
 Waverley Primary School
 West Ulverstone Primary School

LEVEL C

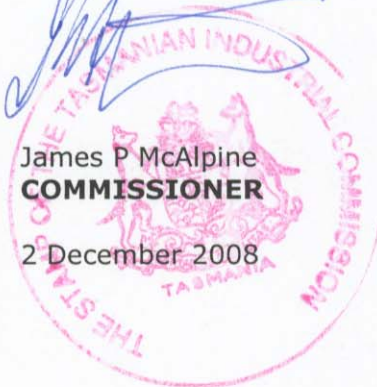

Ashley Unit
Avoca Primary School
Bicheno Primary School
Bothwell District High School
Branxholm Primary School
Bruny Island District School
Campbell Town District High School
Dover District High School
Dunalley Primary School
Edith Creek Primary School
Fingal Primary School
Forest Primary School
Geeveston District High School
Glenora District High School
Levendale Primary School
Maydena Primary School
Oatlands District High School
Ouse District High School
Ringarooma Primary School
St Helens District High School
St Marys District High School
Smithton Primary School
Smithton High School
Stanley Primary School
Swansea Primary School
Tasman District High School
Triabunna District High School
Westerway Primary School
Wilmot Primary School
Winnaleah District High School

LEVEL D

Cape Barren Island School
Flinders Island District High School
King Island District High School
Mountain Heights School
Redpa Primary School
Rosebery District High School
Strahan Primary School
Waratah Primary School
Zeehan Primary School

OPERATIVE DATE

These variations shall come into operation on and from 1 October 2008.



James P McAlpine
COMMISSIONER
2 December 2008