THE CROWN EMPLOYEES (TEACHERS IN TAFE AND RELATED EMPLOYEES, BRADFIELD COLLEGE AND TAFE CHILDREN’S CENTRES) (VARIATION NO. 1) AWARD 2009

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Notification under s.130 by Director General, NSW Department of Education and Training of a dispute with NSW Teachers Federation.

(No. IRC 513 of 2009)

Before The Honourable Justice Boland, President

Mr Deputy President Sams

Mr Deputy President Grayson

15 October and 13 November 2009

AWARD

The Crown Employees (Teachers in TAFE and Related Employees, Bradfield College and TAFE Children’s Centres) Award 2009, published 27 November 2009 (369 I.G. 750) is varied as follows:

1. Delete Clause 1, Arrangement, of the award published 27 November 2009 (369 I.G. 750), and insert in lieu thereof the following:

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<th>Subject Matter</th>
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<td>Dictionary</td>
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TAFE SECTION

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<td>Deleted</td>
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<td>Excess Teaching Hours</td>
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2. Delete subclause 2.3 from clause 2, Dictionary and insert in lieu thereof the following:

2.3 "Approved Program" means a teaching program comprising direct teaching and other duties as approved by the employee’s line manager to be performed across the Standard Educational and/or TAFE year to meet the Institute’s needs.

3. Delete subclause 2.30 from the said clause 2 and insert in lieu thereof the following:

2.30 "Excess Teaching Hours" in the TAFE section of the Award means the actual teaching hours in excess of a teacher’s annual teaching component as specified in sub-clause 16.2, that a teacher is required to teach.

4. Delete clause 13, Attendance - Teachers and Counsellors, and insert in lieu thereof the following:

13. Attendance - Teachers and Counsellors

13.1 The standard attendance hours of teachers, head teachers, special program coordinators, adult literacy officers, counsellors, advanced skills counsellors and senior counsellors shall be 35 hours per week.
13.2 The daily span of working hours in colleges/campuses for officers and employees under this Award is between 6.00am and 10.00pm on Monday to Saturday, inclusive. Teaching and related duties hours worked by teachers should, unless otherwise unavoidable or by agreement between a teacher and their immediate manager, be continuous.

13.3 All full time officers shall be required to attend work five days per week on Monday to Friday, inclusive. However, where the course program requires, teachers, head teachers, special program coordinators, adult literacy officers, counsellors, senior counsellors and advanced skills counsellors:

13.3.1 may be required to work on any five days from Monday to Saturday inclusive as part of their normal program, although they may meet weekly attendance requirements in four days per week;

13.3.2 who are required as part of their normal program to work on a Saturday shall, if they so request, be entitled to have two consecutive days off in the following week.

5. Delete clause 15, Allocation of Duties, and insert in lieu thereof the following:

15. Allocation of Duties

15.1 The direct teaching or counselling component of:

15.1.1 full time teachers shall be 720 hours per annum.

15.1.2 head teachers shall be 360 or 504 hours per annum as determined by the employer;

15.1.3 adult literacy officers shall be 324 hours per annum;

15.1.4 special program coordinators and assistant outreach coordinators shall be 216 hours per annum;

15.1.5 counsellors and advanced skills counsellors shall be 20 hours per week;

15.1.6 senior counsellors shall be 14 hours per week;

provided that new teachers within the meaning of subclauses 20.3.1 and 20.3.2, pursuant to Clause 20, Professional Development - Teachers, are entitled to a reduction in their direct teaching time by half the requisite amount of professional development time specified in those subclauses.

15.2 Teachers shall be required to undertake direct teaching including face to face teaching in any environment or setting including, but not limited to, classrooms, workshops, industry, in the field, by distance mode and online, and including workplace training and assessment.

15.3 Only at the discretion of the institute director (or nominee) shall any reduction in the teaching load be permitted. If any such reduction is permitted, the teacher shall not be paid for excess teaching hours, except as otherwise approved by the institute director.

15.4 Those teachers whose classes finish prior to the end of the TAFE Year, semester or term due to final examination shall continue to perform other duties. Such duties are to be determined between the teacher and their immediate manager in accordance with sub-clause 16.3.

6. Delete clause 16, Duties Related to Teaching, and insert in lieu thereof the following:

16. Approved Program

16.1 This clause shall apply to teachers, head teachers, adult literacy officers and special program coordinators.
16.2 All teachers, head teachers, adult literacy officers and special program coordinators will have an approved program to meet the Institute’s needs. The approved program will comprise the total annual hours as detailed in the following table:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Direct teaching</th>
<th>Duties related to teaching, professional development, and coordination duties</th>
<th>Administrative duties</th>
<th>Duties related to teaching, during the five non-teaching weeks</th>
<th>Total annual hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers</td>
<td>720</td>
<td>540</td>
<td>175</td>
<td>1435</td>
<td></td>
</tr>
<tr>
<td>Adult Literacy Officers</td>
<td>324</td>
<td>936</td>
<td>-</td>
<td>175</td>
<td>1435</td>
</tr>
<tr>
<td>Special Program Coordinators, other than consultants for students with a disability</td>
<td>216</td>
<td>1079</td>
<td>-</td>
<td>175</td>
<td>1470</td>
</tr>
<tr>
<td>Outreach Coordinators</td>
<td>216</td>
<td>1044</td>
<td>-</td>
<td>175</td>
<td>1435</td>
</tr>
<tr>
<td>Head Teacher Band 1</td>
<td>504</td>
<td>432</td>
<td>324</td>
<td>175</td>
<td>1435</td>
</tr>
<tr>
<td>Head Teacher Band 2 (*)</td>
<td>360</td>
<td>360</td>
<td>540</td>
<td>175</td>
<td>1435</td>
</tr>
</tbody>
</table>

(*) Includes a head teacher Band 1 supervising > 150 weighted hours per week

16.3 Within the approved program, teachers, head teachers, adult literacy officers and special program coordinators may flexibly undertake their direct teaching and the non-teaching components provided under sub-clause 16.2 over a period of up to twelve months. Managers will, in consultation with teachers, determine the duties related to teaching that shall be conducted as part of an approved program. An approved program developed under this sub-clause shall be reviewed on a semester basis.

16.4 In developing an approved program, employees are not restricted as to the number of hours they may undertake direct teaching in any week, provided that the total number of hours meets the annual totals provided in sub-clause 16.2 and that the requirements of 16.5 are met.

16.5 An approved program will not require an employee to work unreasonable hours. In determining what is unreasonable the following factors will be considered:

16.5.1 The staff member’s prior commitments outside the workplace, particularly the staff member’s family and carer responsibilities, community obligations or study arrangements,

16.5.2 Any risk to staff member health and safety

16.5.3 The urgency of the work required to be performed, the impact on the operational commitments of the organisation and the effect of client services

16.5.4 Any other relevant matter.

16.6 Where a teacher is required to teach hours in excess of the annual direct teaching component specified in sub-clause 16.2, the provisions of Clause 25, Excess Teaching Hours will apply.

7. Delete Clause 18, Averaging.
8. Delete Clause 19, Accumulating Program.

9. Delete Clause 20, Professional Development - Teachers, and insert in lieu thereof the following:

   20. Professional Development - Teachers

   20.1 For the purposes of this clause, teacher includes head teachers, special program coordinators and adult literacy officers.

   20.2 Discussions are to occur between the teacher and their appropriate head teacher/supervisor for an agreed professional development plan that meets the development needs of the teacher and the section/faculty/unit. The plan will be developed as part of the Annual Teacher Review process and will guide the professional development plan over the year.

   20.3 An approved program for all teachers shall include professional development on the following basis:

       20.3.1 teachers undertaking teacher training shall have 72 hours per annum professional development in their first two years of service;

       20.3.2 teachers who are teacher trained on recruitment shall have 72 hours professional development per annum in their first year of service; and

       20.3.3 all other teachers shall have 20 hours of professional development per annum to undertake activities related to their current and medium term individual development needs as identified in consultation with their line manager. This does not preclude access to other professional development opportunities provided by the employer.

10. Delete clause 24, Time Credit and insert in lieu thereof the following:

   24. Time Credit

   24.1 For the purpose of this clause, teacher includes head teacher and adult literacy officer.

   24.2 Teachers who are required to perform direct teaching activities between 6.30pm and 10.00pm Monday to Friday and 6.00am and 10.00pm on Saturday as part of their approved program and not part of excess teaching hours, shall have their direct teaching activities reduced by one hour for every four hours of such teaching or pro rata, provided that

       24.2.1 where, as a consequence of the operation of this sub-clause, a teachers’ teaching load is reduced by their attendance, the said teaching load shall be reduced by an equivalent time but the teacher’s total related duties shall remain unaltered.

   24.3 Teachers who are required to work during the hours prescribed at subclause 24.2, other than direct teaching, including the following circumstances:

       24.3.1 Related duties (excluding meal breaks) which in one continuous period of time, extend beyond 6.30pm and 10.00pm Monday to Friday and or between 6.00am and 10.00pm Saturday, where a teacher is required to teach two teaching sessions that are part of their approved program;

       24.3.2 where head teachers are directed to perform supervisory duties;

       24.3.3 enrolment duties;

   as part of their approved program and not as part of excess teaching hours, shall be paid at a rate of 1.25 times the hourly rate for the teacher so engaged. The formula for calculating the hourly rate of the teacher shall be:

   \[
   \text{Annual Salary} \times \frac{5}{1} \times 1
   \]
11. Delete clause 25, Excess Teaching Hours, and insert in lieu thereof the following:

25. **Excess Teaching Hours**

25.1 For the purpose of this clause, teacher includes head teacher and adult literacy officer.

25.2 Subject to the provisions in clause 16, Approved Program, excess teaching hours worked above the direct teaching hours set out in clause 16.2 shall be paid at a rate known as the excess teaching rate.

25.3 The formula for calculating the excess teaching hourly rate for hours described in subclause 25.2 shall be:

\[
\text{Maximum TAFE Teacher Salary} \times \frac{5}{260.8929} \times \frac{1}{30} \times 1.3475
\]

25.4 Where as a consequence of the operation of clause 24, Time Credit a teacher’s standard teaching load is reduced, the excess teaching hourly rate will only be payable to:

25.4.1 a teacher, if, subject to the provisions of clause 16, Approved Program, they have performed direct teaching duties of 720 hours.

25.4.2 a head teacher, if, subject to the provisions of clause 16, Approved Program, they have performed direct teaching duties of 360 or 504 hours as determined by the employer.

25.4.3 an adult literacy officer, if, subject to the provisions of clause 16, Approved Program, they have performed direct teaching duties of 324 hours.

25.5 Emergency Hours -

25.5.1 Emergency excess teaching hours occur when an unplanned absence of a teacher leads to another teacher being given less than 24 hours notice to take a class.

25.5.2 Payment for emergency excess teaching hours shall be made fortnightly at the appropriate rate for the hours worked.

25.5.3 Emergency excess teaching hours cannot be included in determining the direct teaching hours of an approved program.

25.6 The parties agree that the use of excess teaching hours shall be discouraged.

12. Delete clause 29, Professional Development - Education Officers, Related Employees and Counsellors, and insert in lieu thereof the following:

29. **Professional Development - Related Employees**

29.1 For the purpose of this clause related employees includes permanent and temporary education officers, counsellors, cluster managers, managers education and training resource centre, principal education officers, program managers, curriculum managers, quality assurance coordinators, chief education officers, and senior education officers.

29.2 Related employees shall have 20 hours of professional development per annum to undertake activities related to their current and medium term individual development needs as identified in consultation with their line manager. This does not preclude access to other professional development opportunities provided by the employer.
29.3 Related employees employed as at the making of this award with an existing balance of professional development time may utilise that time in accordance with 29.2, with the approval of their line manager.

13. In Clause 30. Leave for Teachers and Related Employees, insert new subclause 30.6.3 as follows:

30.6.3 Where an officer takes a period of extended leave that spans a vacation, the vacation will be deemed to form part of the extended leave.

**Area, Incidence and Duration**

1. The Crown Employees (Teachers in TAFE and Related Employees, Bradfield College and TAFE Children’s Centres) (Variation No. 1) Award 2009 (“Variation No.1 Award”) covers all teachers and related employees of TAFE the classifications of which are set out in Schedules 1 and 4 of the Crown Employees (Teachers in TAFE and Related Employees, Bradfield College and TAFE Children’s Centres) Salaries and Conditions Award 2009. This award does not cover educational staff employed at the TAFE NSW – Riverina Institute National Aerospace Training Centre of Excellence (NATCOE) based at the RAAF base Wagga Wagga.

2. The Variation No.1 Award varies the Crown Employees (Teachers in TAFE and Related Employees, Bradfield College and TAFE Children’s Centres) Salaries and Conditions Award 2009 and shall commence on and from 25 January 2010 and remain in force until 31 December 2011.

R. P. BOLAND J, President.

P. J. SAMS D.P.

J. P. GRAYSON D.P.

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