

MSMC & GBH School Assistants Agreement 2009

PART 1 APPLICATION AND OPERATION OF AGREEMENT

1 TITLE

This Agreement is to be known as the Mount Scopus Memorial College and Gandel Besen House School Assistants Staff Agreement 2009 Agreement (the 'Agreement') and is an Employee Collective Agreement made pursuant to section 327 of the *Workplace Relations Act* 1996 (Cth.).

2 ARRANGEMENT

This Agreement is arranged as follows.

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Schedule Title

Schedule Number

School Assistants

Classification Structure (School Assistants)	2A
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3 COMMENCEMENT DATE AND PERIOD OF OPERATION

3.1 Where the Agreement passes the no-disadvantage test, the Agreement will be operative from the seventh day after the date specified in the notice issued by the Workplace Authority.

3.2 The nominal expiry date of the Agreement is for three years from the operative date.

4 PARTIES BOUND

4.1 This Agreement binds:

- the Employer;
- School Assistants; and

4.2 Part 1 and Part 2 of this Agreement apply to all Employees covered by the Agreement. Parts 3, of this Agreement apply to Employees as specified.

5 RELATIONSHIP TO AWARDS

This Agreement operates to the complete exclusion of all Awards which would otherwise apply to any of the Employees covered by this Agreement.

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6 DEFINITIONS

Act	means the <i>Workplace Relations Act 1996</i> (Cth.)
Attendance Time	means all days of the School Year less the Non Attendance Time and the period of annual leave
Australian Fair Pay and Conditions Standard	means Part 7 (The Australian Fair Pay and Conditions Standard of the <i>Workplace Relations Act 1996</i> (Cth.))
Award	means the following: <ul style="list-style-type: none"> • <i>Victorian Independent Schools - School Assistants - Award 1998</i>; and any other award applicable to any Employee immediately prior to the commencement of this Agreement
Basic Periodic Rate of Pay	means the rate of pay from the relevant Australian Pay and Classification Scale for a period worked, as defined by Division 2 of Part 7 (Australian Fair Pay and Conditions Standard) of the <i>Workplace Relations Act 1996</i> (Cth.)
Casual Employee	means an Employee employed pursuant to clause 8 of this Agreement
Continuous Service	means for the purpose of redundancy, continuity of service includes all service for which paid leave is applicable. Paid leave may include personal leave (sick leave, infectious diseases leave, carer's leave and bereavement leave, school holidays, long service leave, examination leave, qualification conferral leave and leave during which accident make up pay payments are being received by the School Assistant. Periods of unpaid leave are not included, except at the discretion of the employer
Commission	means Australian Industrial Relations Commission or its successor
Employee	means a person covered by this Agreement
Employer	means the Mount Scopus Memorial College [ACN 007 240 146] and Gandel Besen House ABN 56 007 240 137 deemed a single employer.
Fixed Term Employee	means an Employee employed pursuant to clause 8 of this Agreement
Full Time Employee	means an Employee employed pursuant to clause 8 of this Agreement.
Immediate Family	means <ul style="list-style-type: none"> • spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the Employee. A de facto spouse means a person who lives with the Employee as his or her husband or wife on a bona fide domestic basis, although not legally married to the Employee; and • child or an adult child (including an adopted child, a step child or an ex-nuptial child), a parent, a grandparent, grandchild or sibling of the Employee or spouse of the

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	Employee
Non Attendance Time	means a period of time that will be announced in advance of the new School Year and will not be less than the school holidays mandated by the Victorian government for Victorian government teachers (less four (4) weeks' annual leave)
Part Time Employee	means an Employee employed pursuant to clause 8 of this Agreement
Principal	means the Principal of Mount Scopus Memorial College or his or her nominee
Registered Health Practitioner	means a person registered under the <i>Health Professions Registration Act 2005 (Vic.)</i>
School	Mount Scopus Memorial College [ACN 007 240 146] trading as Mount Scopus Memorial College
School Assistant	means a person who is ancillary to the process of teaching and includes the classification of persons as outlined in Schedule 2A.
School Holidays	means a period of holidays as determined by the Employer and announced prior to the commencement of a new School Year. School Holidays will not be less than those mandated by the Victorian government for Victorian government schools
School Year	means the twelve months from the day that Employees are required to attend the School for the new educational year [note that the Employer and the Employees may agree upon a more precise definition, if preferred – e.g., 1 February to 31 January as in the Pre-Reform Awards), first week day after the Australia Day public holiday, etc.]

7 DISPUTE RESOLUTION PROCEDURE

In relation to any matter arising out of this Agreement that may be in dispute ('the matter') between the Employer and the Employee ('the parties') as parties to this agreement, except matters relating to the actual or threatened termination of employment of the Employee, the parties will undertake the following steps:

Step 1

Every attempt will be made to resolve the matter by discussions between the Employer and the Employee(s) directly involved at the School. This does not preclude the right of either party to seek advice from outside the School, nor does it necessitate such an approach where this is impracticable.

Internal disputes:

If a dispute or grievance arises, it shall be dealt with as follows:

- a) the matter should firstly be discussed informally by the aggrieved Employee with his/her immediate supervisor. Should the employee's immediate be a party to the dispute or grievance, the matter should be referred to the Human Resources Manager;
- b) if not settled, the employee may request a representative to be present and the matter should then be discussed with the immediate supervisor and the head of

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- that campus or area of the school unless the school nominates another representative;
- c) if the matter is not resolved the parties may agree it can go to a mediator.
 - d) in the case that steps a),b) & c) above fail to resolve the matter, it must be referred to the Principal

Workplace disputes

- a) wherever possible informal means should be used to resolve any industrial disputes;
- b) in cases where informal means are not successful in resolving a dispute, the College, Staff Association and the employee representative should meet and seek to resolve the dispute;
- c) should the parties involved in step b) be unable to resolve the dispute, they may agree to refer it to a mutually acceptable mediator for resolution. Either party may seek the assistance of a representative;
- d) in the event the parties are unable to resolve the dispute in step c), the matter shall be referred to the Australian Industrial Relations Commission. In normal circumstances, the matter should not be referred by either party to the commission prior to the completion of Steps (a) (b) and where agreed step (c).

8 MODES OF EMPLOYMENT

The Employer may employ a Full Time, Part Time, Fixed Term or Casual Employee. The Employer may direct an Employee to perform such duties as are within the limits of the Employee's skill, competence and training.

8.1 Full Time Employees

- 8.1.1 The Employer may engage an Employee on a full time basis in accordance with this Agreement.

8.2 Part Time Employee

- 8.2.1 The Employer may employ an Employee on a part time basis in accordance with this Agreement.
- 8.2.2 The Employer will set out in writing the part time hours required upon the engagement of the Employee and at any other time when a permanent variation occurs. For a Part Time employee, the Employer will set out in writing the duties within a Job Description and number of hours required to be undertaken.
- 8.2.3 A Part Time Employee will be paid pro rata of the rate that the Employee would be entitled to receive as a Full Time Employee and is entitled to all entitlements on a pro rata basis on the specified hours of work.

8.3 Fixed Term Employee

- 8.3.1 The Employer may employ an Employee to work on a replacement basis or for a specified period of time as full time or part time:
 - to replace one or more Employees who are on leave;
 - to undertake a specified project for which funding has been made available;
 - to undertake a specified task which has a limited period of operation;or

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- to replace an Employee whose employment has terminated after the commencement of the School Year. The period of the appointment must not exceed the end of that School Year.
- 8.3.2 A Fixed Term Employee is entitled to the benefits of this Agreement on a pro rata basis where the Employee is employed part time or where the Employee has been employed for a period of less than 12 months.
- 8.3.3 Before employing a Fixed Term Employee on a replacement basis, the Employer will inform the Fixed Term Employee of:
- the reason for the fixed nature of the employment;
 - the date of commencement of the employment;
 - the benefits which are applicable under this Agreement; and
 - the rights of any Employee being replaced.
- 8.3.4 Subject to clause 9, the termination of employment of a Fixed Term Employee will be by the expiry of the period of employment or in accordance with the appropriate notice of termination provisions in clause 37.
- 8.3.5 A Fixed Term Employee is not entitled to any of the following benefits under this Agreement:
- notice of termination (where the date of cessation of employment is stated at the time of appointment)
 - jury service leave
 - redundancy.
- 8.4 Casual Employee
- 8.4.1 The Employer may employ an Employee as a Casual Employee in accordance with this Agreement.
- 8.4.2 A Casual Employee is entitled to the rate of pay specified in Schedule 2B. This rate of pay includes a loading in lieu of paid leave entitlements.
- 8.4.3 A Casual Employee is not entitled to any of the following benefits under this Agreement:
- notice of termination of employment
 - redundancy
 - remuneration packaging
 - annual leave
 - jury service leave
 - leave loading
 - public holidays
 - paid personal leave
 - paid compassionate leave
 - accident make-up pay
- 8.4.4 A Casual Employee is entitled to unpaid carer's leave, unpaid parental leave and long service leave, where eligible.

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- 8.4.5 An Employer must not employ a Casual School Assistant, for longer than two concurrent school terms on relieving work or to complete a fixed project, or for less than 35 hours per week or an average thereof per fortnight or month on work of an ongoing nature which involves the performance of a regular number of hours per week or over the averaging period.

PART 2 CONDITIONS OF EMPLOYMENT FOR ALL EMPLOYEES COVERED BY THE AGREEMENT

9 QUALIFYING PERIOD

- 9.1 An Employee's employment is contingent upon the satisfactory completion of a six month qualifying period.
- 9.2 If the Employer is to terminate the employment of an Employee during the first six months of the Employee's employment, the Employer does not need to provide the relevant notice of termination in clause 37 and does not need to comply with any due process or performance management policies or procedures in place from time to time.
- 9.3 If the Employer is to terminate the employment of an Employee within the first six months of the Employee's employment commencing, the Employee is entitled to one (1) weeks notice or payment in lieu of notice.
- 9.4 If the Employee is to resign within the first six months of the Employee's employment commencing, then the Employee is required to give the same notice required of the Employer in 9.3 above.

10 LETTER OF APPOINTMENT

An Employee employed under this agreement, upon engagement shall be issued with a letter of appointment.

11 REMUNERATION PACKAGING

- 11.1 The College facilitates the packaging of salary and benefits to an Employee whose employment is covered by this agreement via an external provider as agreed to from time to time by the College and the Staff Association.
- 11.2 Upon receiving a written election for a remuneration packaging arrangement from the Employee and provided there is no additional cost to the Employer, the Employer is prepared to offer the Employee the opportunity to receive part of the Employee's remuneration in the form of non-cash benefits in line with legislation and Australian Taxation Office rulings until otherwise advised.
- 11.3 Any arrangement between the Employer and the Employee in relation to remuneration packaging will be entered into by way of a subsidiary agreement varying the Employee's conditions of employment.

12 SUPERANNUATION

The Employer currently makes an employer superannuation contribution equivalent to 9 per cent of ordinary time earnings, in accordance with the Superannuation Guarantee legislation, to a complying superannuation fund nominated by the Employee, excluding a fund where the Employer is required to become a participating employer. Should the Employee not nominate a complying superannuation fund for this purpose, the contribution will be made to the Mount Scopus Memorial College Retirement Plan (Mount Scopus Plan) in the Mercer Super Trust. Where the College changes the employer fund specified above, the Employer will notify Employees in accordance with the legislations and regulations.

13 PAYMENT ARRANGEMENTS

Salary will be paid by credit transfer to the Employee's nominated financial institution account on a fortnightly basis.

14 PERSONAL LEAVE

14.1 Personal leave is in accordance with the Australian Fair Pay and Conditions Standard (Division 5 of Part 7 of the Act) except where more favourable terms are provided in this Agreement.

14.2 This clause does not reproduce Division 5 of Part 7 of the Act in full.

14.3 Entitlement

14.3.1 An Employee is entitled to a paid personal leave entitlement, which includes both sick and carer's leave.

14.3.2 For a Full Time Employee, the personal leave entitlement equates to 15 days per year of service. A Part Time Employee is entitled to paid personal leave on a pro rata basis based on specified hours in clause 35.

14.3.3 For a Full Time Employee, the sick leave entitlement is 1/26th of the nominal hours worked over each four-week period of employment. A Part Time employee is entitled to sick leave on a pro rata basis.

14.3.4 Paid sick leave is taken by the Employee because of a personal illness or injury.

14.3.5 Paid carer's leave is taken by the Employee to provide care or support to a member of the Employee's Immediate Family or a member of the Employee's household, who requires care or support because of a personal illness, injury, or an unexpected emergency affecting the member. A maximum of 10 days of paid carer's leave may be taken per year of service. A Part Time Employee is entitled to paid carer's leave on a pro rata basis based on specified hours in clause 35. Carer's leave, if not used in any year, does not accrue as a separate entitlement.

14.3.6 Where the Employee has exhausted the paid personal leave entitlement, the Employee may take up to two days' unpaid carer's leave per permissible occasion. Unpaid carer's leave may be taken as a single, unbroken period of up to two days, or any separate period as agreed by the Employer and the Employee.

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14.3.7 A Casual Employee may take up to two days' unpaid carer's leave per permissible occasion. Unpaid carer's leave may be taken as a single, unbroken period of up to two days, or any separate period as agreed by the Employer and the Employee.

14.3.8 The amount of personal leave a full time school assistant may take as sick leave depends upon how long the school assistant has worked for the employer and accrues as follows;

In the first year of service, six days during the first term worked and thereafter, three days at the commencement of each subsequent school term; and in the second and subsequent year of service, 15 days at the commencement of that school year.

14.3.9 An Employee must notify the Employer of the Employee's absence as soon as reasonably practicable. The notice must be to the effect that the Employee requires the leave because of a personal illness or injury or to provide care or support to a member of the Employee's Immediate Family or household as the member is suffering either a personal illness or injury or an unexpected emergency.

14.3.10 An Employee is entitled to sick leave provided that:

- the Employee produces a medical certificate from a Registered Health Practitioner or statutory declaration to the Employer for any absence of more than two consecutive days;
- the Employee provides a medical certificate from a Registered Health Practitioner or statutory declaration to the Employer for any absence continuous with a holiday to which the Employee is entitled and which would not otherwise require the production of a certificate; and
- the Employee produces a medical certificate from a Registered Health Practitioner or a statutory declaration to the Employer where the number days of paid sick leave already taken without the production of a medical certificate or a statutory declaration exceeds five days in the one year.

14.3.11 An Employee is entitled to carer's leave provided that:

- The Employee produces, if required by the School, a medical certificate from a registered health practitioner or statutory declaration to the Employer stating the illness of person concerned and that the illness is such as to require care by another.

15 COMPASSIONATE LEAVE

15.1 Compassionate leave is in accordance with the Australian Fair Pay and Conditions Standard (Subdivision E of Division 5 of Part 7 of the Act), except where more favourable terms are provided in this Agreement.

15.2 This clause does not reproduce Subdivision E of Division 5 of Part 7 of the Act in full.

15.3 Entitlement

15.3.1 An Employee may take 3 days' paid leave per occasion when a member of the Employee's Immediate Family or household dies or when the

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Employee's Immediate Family or household member contracts or develops a personal injury or illness that poses a serious threat to life.

15.3.2 In addition to the entitlement in 15.3.1, an Employee is entitled to use up to two (2) days of the Employee's accrued personal leave entitlement on each occasion when a member of the Employee's immediate family or household dies. The exclusion to this entitlement is in the case of the death of a Grandparent. In this case, the provisions in 15.3.1 shall apply.

15.3.3 This leave may be taken in a single unbroken period or in separate periods of one day each or as agreed by the Employer and the Employee.

15.3.4 The Employee is entitled to compassionate leave only if the Employee gives the Employer any evidence that the Employer reasonably requires of the illness, injury or death.

16 INFECTIOUS DISEASES LEAVE

16.1 An Employee who is suffering from one of the infectious diseases will be granted special leave without deduction of pay provided the Employer is satisfied on medical advice that the Employee has contracted the disease through a contact at the School and the disease is evident in the School:

- German measles
- Chickenpox
- Measles
- Mumps
- Scarlet fever
- Whooping cough
- Rheumatic fever, or
- Hepatitis.

16.2 The Employee must, at the request of the Employer, produce a medical certificate from a registered medical practitioner which specifically names the disease as soon as is reasonably practicable.

17 PUBLIC HOLIDAYS

17.1 An Employee is entitled to public holidays as specified in the *Public Holidays Act 1993 (Vic)* and as gazetted by the Victorian Government from time to time. These include the following:

- New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
- the following days, as prescribed in Victoria: Australia Day, Anzac Day, Queen's Birthday and Labour Day; and
- Melbourne Cup Day or any other day substituted by an Act of Parliament or Proclamation.

17.2 Public holidays that occur during a period of leave for Employees in accordance with 36 do not create an additional entitlement.

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- 17.3 In the event that an Employee is are required to work on Labour Day, Anzac Day, Queen's Birthday and Melbourne Cup Day, the College will substitute another day (usually a Jewish holyday) for each of these days worked;
- 17.4 The Employer and an Employee may agree to the Employee taking another day as the public holiday in lieu of the specified day.

18 PARENTAL LEAVE

18.1 Relationship with Act

- 18.1.1 Parental leave is in accordance with the Australian Fair Pay and Conditions Standard (Division 6 of Part 7 of the Act), except where this more favourable terms are provided in this Agreement.
- 18.1.2 This clause does not reproduce Division 6 of Part 7 of the Act in full.

18.2 Application

- 18.2.1 Parental leave applies to an Employee, other than a Casual Employee who is not an eligible casual Employee.
- 18.2.2 The Employer must not fail to re-engage a Casual Employee because:
- (a) the Employee or Employee's spouse is pregnant; or
 - (b) the Employee is or has been immediately absent on parental leave.
- 18.2.3 The rights of the Employer in relation to engagement and re-engagement of a Casual Employee is not affected, other than in accordance with this clause.

18.3 Definitions

- 18.3.1 For the purposes of this clause, **child** means a child of the Employee under the age of five years or under school age, whichever applies first. Except that for the purposes of adoption, a **child** is an **eligible child** and means a person under the age of five years or under school age, whichever applies first, who is placed with the Employee, other than a child or step-child of the Employee or of the spouse of the Employee or a child who has previously lived continuously with the Employee for a period of six months or more.
- 18.3.2 For the purposes of this clause, an **eligible casual employee** means a Casual Employee:
- (a) who has been engaged by the Employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
 - (b) who, but for an expected birth or an expected placement of a child, would have a reasonable expectation of continuing engagement by the Employer on a regular and systematic basis.
- 18.3.3 For the purposes of this clause, **continuous service** means service with the Employer as an Employee during the whole of the period, including any period of authorised leave. For an eligible Casual Employee, **continuous service** means a period during which the Casual Employee was engaged on a regular and systematic basis by the Employer and during the casual period, the Employee had a reasonable expectation of continuing employment by the Employer.

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18.3.4 A **spouse** includes a former spouse, a de facto spouse and a former de facto spouse.

18.4 Basic entitlement

18.4.1 An Employee is entitled to up to 12 months' unpaid parental leave (maternity, paternity or adoption leave) in relation to the birth or adoption of a child. This includes:

- up to 52 weeks of unpaid ordinary maternity leave to be the primary care-giver of the child;
- a single, unbroken period of unpaid short paternity leave of up to one week at the time of the birth of a child and a further unbroken period of up to 51 weeks of unpaid long paternity leave to be the primary care-giver of a child; and
- a single, unbroken period of up to three weeks' unpaid short adoption leave taken within the three weeks starting on the day of placement of an eligible child with the Employee and a further unbroken period of up to 49 weeks to be the primary care-giver of the eligible child.

18.4.2 A period of unpaid parental leave does not break the Employee's continuity of employment but it does not count as employment or service.

18.5 Paid Parental Leave

18.6 Where an Employee is granted unpaid parental leave in accordance with the Act and clause 18 – Parental Leave of this Agreement to be the primary caregiver of a child, the Employee is entitled to paid parental leave of the following:

18.6.1 Subject to 18.4.1 and 8.4.4 an Employee is entitled to 12 weeks paid maternity leave and 40 weeks unpaid maternity leave if the Employee member has completed 12 months continuous service with the College immediately preceding the date on which she commences maternity leave;

18.6.2 Subject to 18.4.1 and 8.4.4 an Employee will be entitled to 14 weeks paid maternity leave and 38 weeks unpaid maternity leave if the Employee has completed 12 months continuous service with the College immediately preceding the date on which she commences maternity leave. This is to apply for requests to commence maternity leave on or after 1 January 2010:

18.6.3 Subject to 18.4.1 and 8.4.4, a Employee is entitled to 12 weeks paid adoption leave and 40 weeks unpaid adoption leave if the Employee has completed 12 months continuous service with the College immediately preceding the date on which the employee commences adoption leave;

18.6.4 Subject to 18.4.1 and 8.4.4, an Employee will be entitled to 14 weeks paid adoption leave and 38 weeks unpaid adoption leave if the Employee has completed 12 months continuous service with the College immediately preceding the date on which the Employee commences adoption leave. This is to apply for requests to commence adoption leave on or after 1 January 2010:

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- 18.7 During the period of time that the Employee is in receipt of paid parental leave, the Employee is entitled to accrue annual leave, as defined by the Act, personal leave, in accordance with Clause 14 – Personal Leave of this Agreement and Long Service Leave in accordance with the *Long Service Leave Act 1992* (Vic.)
- 18.8 Where an Employee is granted unpaid short paternity leave or unpaid short adoption leave at the time of the birth of a child or placement of a child for adoption in accordance with the Act, the Employee is entitled to paid short paternity leave at the Employee's ordinary rate of pay based on the following:
- (a) for up to 3 days of the short paternity or adoption leave, provided the leave is taken within eight (8) weeks of the birth of the child. The leave may be taken in one or two periods.
 - (b) for up to 5 days of the short paternity or adoption leave, provided the leave is taken within eight (8) weeks of the birth of the child. The leave may be taken in one or two periods. This is to apply for requests to commence Paternity Leave on or after 1 January 2010
- 18.9 A Employee must have a minimum of 12 months' continuous service, if returning from parental leave, before being eligible for further period of paid leave pursuant to 18.6.1, 18.6.2, 18.6.3, 18.6.4, 18.8(a) and 18.8(b). Where an Employee has less than 12 months' continuous service with the Employer following a period of parental leave, the Employee may make application for payment of the parental allowance, citing reasons in support of the payment. Payment, if any, will be at the discretion of the Employer.
- 18.10 Where the Employer employs both parents of the child, only one parent will be entitled to receive payment pursuant to 18.6.1, 18.6.2, 18.6.3, and 18.6.4.
- 18.11 The parental allowance is not payable during a period of paid leave.
- 18.12 Where the Federal Government implements a statutory scheme of paid parental leave during the course of this agreement, an Employee will be entitled to the quantum of leave provided by the statutory scheme without any effect on paid parental leave entitlements offered by the school.
- 18.13 Right to request
- 18.13.1 Simultaneous Leave
 - (a) Subject to 18.13.1(b), an Employee entitled to parental leave pursuant to the provisions of the Act may request the Employer to allow the Employee to extend the period of simultaneous unpaid parental leave provided for in the Act up to a maximum of eight weeks, to assist the Employee in reconciling work and parental responsibilities.
 - (b) An application under 18.13.1(a) must be made not less than ten (10) weeks prior to the commencement date of the short period of parental leave.
 - 18.13.2 Additional Long Parental Leave
 - (a) Subject to 18.13.2(b), an Employee entitled to parental leave pursuant to the provisions of the Act may request the Employer to allow the Employee to extend the period of long unpaid

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parental leave provided for in the Act, which is up to 12 months, by a further continuous period of leave not exceeding 12 months, to assist the Employee in reconciling work and parental responsibilities

- (b) An application under 18.13.2(a) may be made at any time from the time of the application for the period of long unpaid parental leave provided by the Act but must be made not less than ten (10) weeks prior to the date upon which the Employee is due to return to work from parental leave.

18.13.3 Part Time Work

- (a) Subject to 18.13.3(b), an Employee entitled to parental leave pursuant to the provisions of the Act may request the Employer to allow the Employee to return from a period of parental leave on a part-time basis until the child reaches five years of age or school age, whichever applies first, to assist the Employee in reconciling work and parental responsibilities.
- (b) An application pursuant to 18.13.3(a) must be made as soon as possible but no less than ten (10) weeks prior to the date upon which the Employee is due to return to work from parental leave.

18.13.4 Request to be considered

- (a) The Employer shall consider any request made pursuant to 18.13.1, 18.13.2 or 18.13.3 having regard to the Employee's circumstances and, provided the request is genuinely based on the Employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (b) An Employee's request and the Employer's decision made pursuant to 18.13.1, 18.13.2 or 18.13.3 must be recorded in writing.

18.14 Ordinary maternity leave

18.14.1 An Employee must provide notice and documentary evidence to the Employer in advance of the expected date of commencement of ordinary maternity leave. The Employee:

- (a) must provide notice in writing to the Employer of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the Employee is pregnant). The Employee must give the medical certificate to the Employer no later than ten (10) weeks before the expected date of birth (as stated in the certificate); and
- (b) must provide notice in writing to the Employer of the date on which the Employee proposes to commence maternity leave and the period of leave to be taken. This notice must be provided no later than four (4) weeks before the first day of the intended continuous period of leave.

18.14.2 When the Employee gives notice under 18.14.1(b) the Employee must also provide a statutory declaration stating the following:

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- the particulars of any period of paternity leave sought or taken by her spouse;
 - that the Employee intends to be the child's primary care-giver at all times while on ordinary maternity leave; and
 - that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- 18.14.3 An Employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or any other compelling reason.
- 18.14.4 Subject to clause 18.4.1 hereof and unless agreed otherwise between the Employer and Employee, an Employee may commence ordinary maternity leave at any time within six weeks immediately prior to the expected date of birth.
- 18.14.5 Where an Employee continues to work within the six week period immediately prior to the expected date of birth of the child, the Employer may require the Employee to provide a medical certificate from a medical practitioner stating that she is fit to work on her normal duties.
- 18.14.6 The Employer may require the Employee to start a continuous period of leave as soon as reasonably practicable if the Employee does not give the Employer the medical certificate pursuant to 18.14.5 within seven days after the request or where the Employee gives the Employer a medical certificate stating that the Employee is unfit to work.
- 18.14.7 Where the Employee elects to return to work within six weeks after the birth of the child, the Employer may require the Employee to provide a medical certificate from a medical practitioner stating that she is fit to work on her normal duties.
- 18.15 Special maternity leave
- 18.15.1 Where the pregnancy of an Employee not then on maternity leave terminates within 28 weeks before the expected date of birth of the child otherwise than by the birth of a living child, the Employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
- 18.15.2 Where an Employee is suffering from an illness not related to the direct consequences of the confinement, an Employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.
- 18.15.3 Where an Employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave, ordinary maternity leave, and parental leave taken by a spouse, may not exceed 52 weeks.
- 18.15.4 Where leave is granted under clause 18.14.4, during the period of leave an Employee may return to work at any time, as agreed between the Employer and the Employee provided that time does not exceed four weeks from the recommencement date desired by the Employee.

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- 18.15.5 A period of special maternity leave must end before the Employee starts any continuous period of leave including (or constituted by) ordinary maternity leave.
- 18.15.6 An application for special maternity leave required because of a pregnancy-related illness must state the first and last days of the period of special maternity leave and must be accompanied by a medical certificate from a medical practitioner stating that the Employee is pregnant, the expected date of birth, and that the Employee is, was, or will be unfit to work for a stated period because of a pregnancy-related illness.
- 18.15.7 An application for special maternity leave required because of the end of the Employee's pregnancy otherwise than by the birth of a living child must be accompanied by:
- (a) a medical certificate from a medical practitioner containing the following statements:
 - that the Employee was pregnant, but that the pregnancy has ended otherwise than by the birth of a living child;
 - what the expected date of birth would have been if the pregnancy had gone to full term;
 - that the pregnancy ended on a stated day within 28 weeks before the expected date of birth; and
 - that the Employee is, was, or will be unfit for work during a stated period.
 - (b) a statutory declaration made by the Employee containing the following statements:
 - that the employee was pregnant, but that the pregnancy has ended otherwise than by the birth of a living child;
 - the first and last days of the period (or periods) of any other authorised leave taken by the Employee because of a pregnancy-related illness or the end of the pregnancy; and
 - that the employee will not engage in any conduct inconsistent with her contract of employment while on special maternity leave.
- 18.15.8 The application, medical certificate and statutory declaration (if required) must be given to the Employer before, or as soon as reasonably practicable after, starting a continuous period of leave including (or constituted by) the special maternity leave.
- 18.15.9 An Employee will not be in breach of this clause if the Employee could not comply with the documentation requirements because of circumstances beyond her control.
- 18.15.10 An Employee is not entitled to a period of special maternity leave longer than the period stated in a medical certificate given to the Employer.

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18.16 Paternity leave

18.16.1 An Employee must provide notice and documentary evidence to the Employer in advance of the expected date of commencement of short paternity leave. The Employee:

(a) must provide to the Employer, if the child has not yet been born, a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement. The medical certificate must be given to the Employer no later than 10 weeks before the date stated in the certificate; or

(b) must provide to the Employer, if the child has been born, a certificate from a registered medical practitioner which names his spouse and states the actual date of birth of the child. The medical certificate must be given to the Employer as soon as reasonably practicable (which may be at a time before or after the paternity leave has started) if it was not reasonably practicable for the Employee to comply with 18.16.1(a) because of the premature birth of the child or any other compelling reason; and

(c) must provide to the Employer a written application for short paternity leave stating the first and last days of the period of the period of short paternity leave, with the application given to the Employer as soon as reasonably practicable on or after the first day of the period of leave.

18.16.2 An Employee must provide notice and documentary evidence to the Employer in advance of the expected date of commencement of long paternity leave. The Employee must provide the Employer with a statutory declaration no later than 10 weeks prior to the first day of the intended period of leave stating:

- he will take that period of paternity leave to become the primary care-giver of a child;
- particulars of any period of maternity leave sought or taken by his spouse; and
- that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

18.16.3 The Employee will not be in breach of 18.16.2 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

18.17 Adoption leave

18.17.1 An Employee must give written notice to his or her Employer of the Employee's intention to apply for adoption leave as soon as reasonably practicable after receiving notice (a **placement approval notice**) of the approval of the placement of an eligible child with the Employee.

18.17.2 An Employee must give written notice to his or her Employer of the day when the placement of an eligible child with the Employee is expected to start as soon as reasonably practicable after receiving notice (a **placement notice**) of the expected day.

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- 18.17.3 An Employee must give written notice to his or her Employer of the first and last days of the periods of short and long adoption leave (or of either type of leave) the Employee intends to apply for because of the placement:
- (a) if the Employee receives a placement notice about the placement within the period of 8 weeks after receiving the placement approval notice – before the end of that 8-week period; or
 - (b) if the Employee receives a placement notice about the placement after the end of the period of 8 weeks after receiving the placement approval notice – as soon as reasonably practicable after receiving the placement notice.
- 18.17.4 A notice under 18.17.1, 18.17.2 or 18.17.3 must be given to the Employee's Employer as soon as reasonably practicable where the Employee cannot comply due to the day that the placement is expected to start or any other compelling reason.
- 18.17.5 An Employee must provide a written application to his or her Employer for short adoption leave, stating the first and last dates of the period no later than 14 days before the proposed day of placement of the child. If the Employee cannot comply because of the day when the placement is expected to start or any other compelling reason, then the Employee must provide the application as soon as reasonably practicable before the first day of short adoption leave.
- 18.17.6 An Employee must provide a written application to his or her Employer for long adoption leave, stating the first and last dates of the period no later than 10 weeks before the first day of the proposed continuous period of leave including (or constituted by) the long adoption leave applied for. If the Employee cannot comply because of the day when the placement is expected to start or any other compelling reason, then the Employee must provide the application as soon as reasonably practicable before the first day of long adoption leave.
- 18.17.7 The Employee must also give his or her Employer the following documents:
- (a) a statement from the adoption agency of the day when the placement is expected to start, and
 - (b) a statutory declaration made by the Employee stating
 - whether the Employee is taking short adoption leave, long adoption leave or both;
 - the first and last days of the period or periods of leave to be taken;
 - that the child is an eligible child;
 - that the Employee intends to be the primary care-giver at all times while on the long adoption leave; and
 - that the Employee will not engage in any conduct inconsistent with his or her contract of employment while on adoption leave.

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- 18.17.8 An Employee may take:
- (a) short adoption leave to which he or she is entitled at any time within the period of 3 weeks starting on the day of placement of the child, and/or
 - (b) long adoption leave to which he or she is entitled at any time within 12 months after the day of placement of the child.
- 18.17.9 Where the placement of a child for adoption with an Employee
- does not commence, the Employee is not entitled to leave; or
 - commences but is discontinued or cancelled, the Employee's entitlement to adoption leave is not affected. However, the Employer may give the Employee written notice that, from a stated day no earlier than 4 weeks after the day the notice is given, any untaken long adoption leave that the Employee remains entitled to at the stated day is cancelled with effect from that day.
- 18.17.10 An Employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The Employee and the Employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the Employee is entitled to take up to two days' unpaid leave. Where paid leave is available to the Employee, the Employer may require the Employee to take such leave instead.

18.18 Parental leave and other entitlements

An Employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which the Employee has accrued subject to the total amount of leave not exceeding 52 weeks or a longer period as agreed under clause 18.13.2.

18.19 Transfer to a safe job

- 18.19.1 Subject to 18.19.2 and 18.19.3, where an Employee is pregnant and, in the opinion of a medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Employee make it inadvisable for the Employee to continue at her present work, the Employee will, if the Employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
- 18.19.2 This subclause applies to an Employee if
- (a) the Employee is entitled to ordinary maternity leave; and
 - (b) the Employee has already complied with the documentation requirements under 18.14; and
 - (c) the Employee gives her Employer a medical certificate from a medical practitioner containing a statement to the effect that, in the medical practitioner's opinion, the Employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:
 - (i) illness, or risks, arising out of her pregnancy; or
 - (ii) hazards connected with that position.

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18.19.3 If the Employer does not think it to be reasonably practicable to transfer the Employee to a safe job:

- (a) the Employee may take leave, at the rate of pay and conditions attaching to the job held prior to taking leave, immediately for a period ending at the time mentioned in 18.19.4(b); or
- (b) the Employer may require the Employee to take leave, at the rate of pay and conditions attaching to the job held prior to taking leave, immediately for a period ending at the time mentioned in 18.19.4(b).

18.19.4 If the Employee takes paid leave under 18.19.3:

- (a) the entitlement to leave is in addition to any other leave entitlement she has; and
- (b) the period of leave ends at the earliest of whichever of the following times is applicable:
 - (i) the end of the period stated in the medical certificate; or
 - (ii) if the Employee's pregnancy results in the birth of a living child
 - the end of the day before the date of birth; or
 - (iii) if the Employee's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

18.20 Variation of period of ordinary maternity leave, long paternity leave or long adoption leave

18.20.1 Subject to the relevant provisions of the Act, where an Employee has commenced a period of long parental leave of up to 12 months, the Employee:

- (a) may extend the period of ordinary maternity leave, long paternity leave or long adoption leave once by giving the Employer 14 days' written notice before the end of the period stating the period by which the leave is extended; and
- (b) may further extend the period of ordinary maternity leave, long paternity leave or long adoption leave by agreement with the Employer.

18.20.2 Subject to the relevant provisions of the Act, the period of ordinary maternity leave, long paternity leave or long adoption leave may be shortened by written agreement between the Employer and the Employee.

18.20.3 To avoid doubt, this subclause does not apply to the right to request provision in 18.13.2.

18.21 Returning to work after a period of parental leave

18.21.1 An Employee will notify the Employer of the Employee's intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

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18.21.2 An Employee will be entitled to the position which the Employee held immediately before proceeding on parental leave. In the case of an Employee transferred to a safe job pursuant to clause 18.19, the Employee will be entitled to return to the position the Employee held immediately before such transfer. A Part Time Teacher will be entitled to the same time fraction.

18.21.3 Where such position no longer exists but there are other positions available which the Employee is qualified for and is capable of performing, the Employee will be entitled to a position as nearly comparable in status and pay to that of the Employee's former position.

18.21.4 For the purposes of this clause, **position** includes a position of responsibility for an Employee who is a Teacher but does not necessarily include the same classes and/or subjects.

18.22 Replacement employees

18.22.1 A replacement Employee is an Employee specifically engaged or temporarily promoted or transferred, as a result of an Employee proceeding on parental leave.

18.22.2 Before an Employer engages a replacement Employee, the Employer must inform that person of the temporary nature of the employment and of the rights of the Employee who is being replaced.

18.23 Communication during parental leave

18.23.1 Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer shall take reasonable steps to:

(a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and

(b) provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave.

18.23.2 The Employee shall take reasonable steps to inform the Employer about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to return to work and whether the Employee intends to request to return to work on a part-time basis.

18.23.3 The Employee shall also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with 18.23.1.

19 LONG SERVICE LEAVE

19.1.1 An Employee is entitled to long service leave. The *Long Service Leave Act 1992 (Vic.)*, as amended from time to time, specifies the entitlement. This Agreement will prevail over the Act in the event of any inconsistency.

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- 19.1.2 An Employee is entitled to long service leave of thirteen weeks upon the completion of ten years of continuous employment. An Employee is entitled to an additional six and a half weeks' long service leave for each additional five years of continuous employment with the Employer.
- 19.1.3 Long Service leave may first be taken on completion of seven years of continuous employment with the employer
- 19.1.4 Accrued long service leave will be paid in lieu where an Employee's employment is terminated after seven years of continuous employment for any reason other than for serious misconduct. This provision has the express effect of overriding Section 58 of the *Long Service Leave Act* 1992 (Vic.).
- 19.1.5 An Employee, whose service has been all full-time or all at the same part-time fraction, is paid during long service leave at the Employee's normal salary.
- 19.1.6 An Employee, whose time fraction has varied during service, is paid at a proportionate rate during long service leave. The rate is determined by calculating an average of the Employee's time fractions over the period of eligible service.
- 19.1.7 An Employee who resigns but returns to the College within a period of five years will be entitled to restoration of any unpaid long service leave entitlements or any period of service accrued for long service leave purposes at the time of resignation.
- 19.1.8 An Employee should discuss with the employer their intention to take long service leave as far in advance of taking the leave as is practicable.
- 19.1.9 An employee can apply to cancel or defer a previously approved request for long service leave. The College will judge each case on its merits, however in the event that the College has engaged a replacement person it may not be possible to grant such requests.

19.2 Illness on Long Service Leave

19.3 Subject to the requirements of 19.4, an Employee, who becomes ill or suffers an injury during long service leave and has an entitlement to sick leave, is entitled to have the period of illness or injury treated as sick leave, with long service leave reaccredited to the Employee. The Principal may require the Employee to be examined by a registered medical practitioner of the Employer's choice, provided the practitioner is reasonably accessible to the Employee.

19.4 The Employee's application under 19.3:

- i. must be received by the Employer during the period of illness or injury;
- ii. must be accompanied by a medical certificate from a Registered Health Practitioner or a statutory declaration attesting to the illness or injury and the duration of that illness or injury; and
- iii. must indicate whether the Employee wishes to extend the long service leave by the period of the illness or injury or whether the Employee will return from long service leave as planned with the period of illness or injury increasing the Employee's accrued long service leave entitlement.

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19.5 The College and the Employee may agree for the Employee to receive payment for part or all of the Employees accrued long service leave in lieu of taking this entitlement as paid leave. This provision will have the express effect of overriding Section 74 of the Long Service Leave Act 1992 (Vic).

19.6 Taking of Long Service Leave

19.6.1 Employees with less than 10 years of continuous employment with the College as at 1 January 2010 must take long service leave within three (3) years of reaching 10 years of continuous employment unless otherwise agreed with the Principal;

19.6.2 Upon each subsequent period of 10 years continuous employment, the Employee must take long service leave within three (3) years of completing each subsequent period of continuous employment unless otherwise agreed with the Principal;

19.6.3 Where the Employee does not take long service leave in accordance with 19.6.1 or 19.6.2, the College may direct the Employee to take long service leave;

19.6.4 Where the Employee requests to take long service leave in accordance with 19.6.1 or 19.6.2 or where the College directs the Employee to take long service leave in accordance with 19.6.3 a minimum of six month's notice is required.

19.6.5 Employees with 10 or more years of continuous employment with the College as at 1 January 2010, with an outstanding accrued long service leave entitlement of between 13 and 26 weeks, must take not less than one full school term long service leave by 1 October 2012 unless otherwise agreed with the Principal;

19.6.6 Employees with 10 or more years of continuous employment with the College as at 1 January 2010, with an outstanding accrued long service leave entitlement greater than 26 weeks, must take not less than one school term of long service leave by 1 October 2012 unless otherwise agreed with the Principal;

19.6.7 Upon each subsequent period of ten (10) years of continuous employment, the Employee must take long service leave within three (3) years of completing each subsequent 10 year period of continuous employment unless otherwise agreed with the Principal;

19.6.8 Where the Employee does not take long service leave in accordance with 19.6.5, 19.6.5 or 19.6.7 the College may direct the Employee to take long service leave;

19.6.9 Where the Employee requests to take long service leave in accordance with 19.6.5, 19.6.6 or 19.6.7 or where the College directs the Employee to take long service leave in accordance with 19.6.8, a minimum of six month's notice is required.

20 LEAVE WITHOUT PAY

An Employee may apply for leave without pay which may be granted at the discretion of the Principal. An Employee agrees that entitlements under this Agreement do not accrue during any period of leave without pay. This provision expressly overrides the *Long Service Leave Act 1992 (Vic)*.

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21 ACCIDENT COMPENSATION AND ACCIDENT MAKE-UP PAY

- 21.1 Where an Employee is incapacitated for work by reason of a work-related injury or illness and becomes entitled to receive weekly payments under the *Accident Compensation Act 1985 (Vic)*, the Employer must pay to the Employee the difference between such weekly payments and the normal remuneration of the Employee for a period or periods in the aggregate of up to 39 weeks in respect of each such injury or illness but only for so much of that period as the Employee remains employed by the Employer.
- 21.2 If an Employee is absent from work because of a personal illness or injury, for which the Employee is receiving compensation payments pursuant to the *Accident Compensation Act 1985 (Vic)*, then:
- (a) the Employee does not accrue any of the following entitlements under this Agreement or under the Act (where relevant) for the duration of any such absence:
 - i. annual leave; or
 - ii. paid personal/carer's leave; and
 - (b) the Employee is not entitled to any payment or benefit in respect of any Non Attendance Time for a Teacher or School Holidays for a School Assistant entitled to School Holidays which fall during the period that the Employee is in receipt of weekly payments under the *Accident Compensation Act 1985 (Vic.)*.
- 21.3 In the event that an Employee, who is in receipt of weekly compensation payments pursuant to the *Accident Compensation Act 1985 (Vic.)*, has an entitlement to annual leave during a shut down period, the workers' compensation payments will cease and the Employee will take the accrued annual leave entitlement.
- 21.4 For the purposes of 21.3, the period of annual leave will not reduce the Employee's entitlement to such compensation payments or to accident make-up pay, if applicable.
- 21.5 "Where an employee returns to work in a partial capacity and is entitled to partial weekly compensation payments in accordance with the *Accident Compensation Act 1985(Vic.)*, and where the employee is entitled to annual leave at the part time rate of pay, the employee will remain entitled to be paid the weekly compensation payments in accordance with the Act."

22 WITHHOLDING OF MONIES

- 22.1.1 Subject to 22.1.2, in the event that an Employee does not provide the full notice required by clause 37, the Employer is entitled to withhold from any monies owing to the Employee an amount equal to the remuneration that the Employee would have earned for the number of weeks or days of the notice period that the Employee did not work.
- 22.1.2 Clause 22.1.1 does not entitle the Employer to withhold any monies owing to an Employee to the extent to which it would result in the Employer failing to comply with the Australian Fair Pay and Conditions Standard under the Act.

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22.1.3 For the avoidance of doubt, the Employer is entitled to withhold monies owing to an Employee from sources including (but not limited to) the following:

- i. unpaid salary or wages to the extent to which such entitlements exceed the Employee's Basic Periodic Rate of Pay;
- ii. for School Assistants entitled to School Holidays pursuant to clause 38, a payment for School Holidays;
- iii. any entitlement to a pro rata payment for long service leave on termination of employment (notwithstanding any inconsistent provision of the *Long Service Leave Act 1992 (Vic)*); and
- iv. any amounts owing to the Employee for an unpaid bonus or allowance.

22.1.4 For the purpose of this clause, the Employer and Employee agree that the Basic Periodic Rate of Pay may be satisfied over a period of 12 months.

23 REDUNDANCY

23.1 Definition

Redundancy occurs where the Employer has made a definite decision that the Employer no longer wishes the job that the Employee has been doing done by anyone and that decision leads to the termination of employment of the Employee, except where this is due to the ordinary and customary turnover of labour.

23.2 Redundancy Disputes

23.2.1 Where a redundancy dispute arises, and if it has not already done so, an Employer must provide the affected Employee(s) and the Employee's representative (if requested by any affected Employee) in good time, with relevant information:

- the reasons for any proposed redundancy;
- the number and categories of Employees likely to be affected; and
- the period over which any proposed redundancies are intended to undertaken.

23.2.2 Where a redundancy dispute arises and discussions occur in accordance with this clause, the Employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse affects of any proposed redundancies on the Employees concerned.

23.3 Transfer to lower paid duties

Where an Employee is transferred to lower paid duties for reasons set out above the Employee will be entitled to the same period of notice of transfer as the Employee would have been entitled to if the Employee's employment had been terminated. The Employer may, at its discretion, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate for the number of weeks of notice still owing.

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23.4 Severance Pay

The severance payment for an Employee will be in accordance with the following:

<u>Period of Continuous Service</u>	<u>Severance Pay</u>
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years or greater	2 weeks pay per year of service pro rata to a <u>maximum total</u> of 20 weeks' pay

***Week's pay** means the ordinary time rate of pay for the Employee concerned

For the purposes of this clause **continuous service** will be calculated to include all service for which paid leave was applicable but will not include any period of unpaid leave except at the discretion of the Employer.

23.5 Leaving during notice

An Employee, whose employment is terminated for reasons of redundancy, may terminate the Employee's employment during the period of notice and, if so, will be entitled to the same benefits and payments under 23.4 had the Employee remained with the Employer until the expiry of such notice. In such circumstances the Employee will not be entitled to payment in lieu of notice.

23.6 Alternative employment

The Employer, in a particular redundancy case, is not obliged to pay severance pay if the Employer obtains alternative employment for an Employee acceptable to that Employee.

23.7 Time off during notice period

- i. During the period of notice of termination an Employee will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- ii. If the Employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Employee may be required to produce proof of attendance at an interview or the Employee may not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

24 ANNUAL LEAVE LOADING

24.1 An Employee who has given service for which salary has been received throughout the School Year is entitled to a leave loading of 17.5% on a maximum of four weeks' annual leave.

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24.2 An Employee who is employed for part only of a School Year is entitled to be paid leave loading as follows:

$\frac{17.5\% \text{ of working weeks (excluding paid school holidays and non term time)}}{\text{Number of School's term weeks}}$	$\times 4 \times$	$\frac{\text{Annual Rate of Pay}}{52.18}$
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24.3 An Employee who ceases employment with the Employer prior to the commencement of third term is not entitled to leave loading from the Employer.

24.4 The Employer will pay the employee their 17.5% leave loading entitlement within each salary payment throughout the School Year by increasing the annual rate of pay as at 1 February of that year, or as subsequently varied, by 1.346 per cent.

25 MEAL ALLOWANCE

The Employer will supply an Employee with a meal should the Employer require an Employee to remain at school continuously until after 7 p.m. on any day.

26 BREAKAGE AND LOSS

An Employee who takes reasonable care will not suffer loss of income for any accidental breakages or loss of property which occurs in the normal course of the Employee's duties.

27 PROTECTIVE CLOTHING

Where protective clothing is deemed necessary by the Employer for the performance of duties, the Employer will either provide such clothing or reimburse the Employee for cleaning costs incurred.

28 JURY SERVICE LEAVE

28.1 Entitlement

28.1.1 An Employee if required to appear and/or serve as a juror will be entitled to be granted leave for the period during which attendance at court is required.

28.1.2 An Employee must notify the Employer as soon as possible of the date upon which the Employee is required to attend for jury service.

28.1.3 An Employee must provide the Employer with written proof of the requirement to attend for jury service and an estimate of the duration of the absence from duty.

28.1.4 The Employee must inform the Employer immediately of any change to the known period of absence and provide the Employer with written proof of the payments made by the Court Authorities with respect to jury service.

28.1.5 Subject to 28.1.2 to 28.1.4 of this clause, an Employer will reimburse an Employee granted leave pursuant to 28.1.1 an amount equal to the

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difference between the amount paid in respect of the Employee's attendance for such jury service and the amount of salary the Employee would have received had the Employee not been on jury service.

29 EXAMINATION LEAVE

An Employee will be granted leave with pay to attend compulsory examinations in an approved relevant course of study.

30 QUALIFICATION CONFERRAL LEAVE

An Employee will be granted leave with pay for up to one day for the purpose of having a degree/diploma or other qualification conferred in an approved relevant course of study.

31 MISCELLANEOUS BENEFITS AND ENTITLEMENTS

- 31.1 An Employee who undertakes a course of study with prior approval by the College is entitled to a grant of up to \$200 in any one year to cover tuition and/or other costs. A similar grant is also available to who wish to participate in any other approved personal or professional development program. Reimbursement for up to \$200 in any one year to cover tuition and/or other costs will be paid on the successful completion of the course of study by providing a transcript of results and appropriate receipts.
- 31.2 An Employee who joined the College after 1987 and has children enrolled at the College are entitled to a 25% deduction on school fees. A Part Time Employee employed by the College are entitled to the 25% discount on school fees on a pro-rata basis equal to their employment fraction. An Employee who joined the College prior to 1987 will be entitled to such deduction as was applicable at the time of their commencing employment with the College.
- 31.3 Where an Employee who joined the College prior to 1987 has had their full time employment reduced to part-time employment after that date, they will be entitled to such deduction as was applicable at the time of their commencing employment with the College on a pro-rata basis equal to their employment fraction.
- 31.4 An Employee wishing to take advantage of the discount, is required to authorise the College in writing to deduct school fees from their fortnightly net remuneration. The written authority will provide that, in the event of termination of employment, the College may deduct any outstanding school fee debt owed to it from any money owing to the Employee by the College on termination of employment.
- 31.5 This provision is subject to any policy of the College in relation to the payment of Fringe Benefit Tax. In the event that Fringe Benefit Tax legislation or rulings by the Australian Taxation Office change, the College may alter its policy in respect of school fee concessions by written advice to an Employee.

32 ADVERTISING OF POSITIONS

All positions of responsibility which become available will be advertised in all campuses and divisions of the College.

33 TERMINATION OF EMPLOYMENT

33.1 Termination by the School

The School may terminate employment for reasons of redundancy, unsatisfactory performance and/or unsatisfactory conduct.

33.1.1 Redundancy

Where termination takes place for reasons of redundancy, clause 23 will apply.

33.1.2 Unsatisfactory Performance

Where termination of employment may take place for reasons related to performance, the School would undertake a process that includes the provisions outlined in 33.1.3 and 33.1.4 (Due Process) below.

33.1.3 Commencement of Due Process

Due process will commence with the School advising the employee in writing of:

- the School's concerns with the Employees performance;
- the time, date and place of the first due process meeting;
- the Employees right to be accompanied by a nominee of the Employees choice at all due process meetings;
- the School's right to terminate employment should due process not resolve the School's concerns.

33.1.4 Due Process Meetings

Due process meetings will:

- include discussion of the School's concerns with the Employees performance;
- give the Employee an opportunity to respond to the School's concerns;
- include discussion of any counselling or assistance, where appropriate, available to the Employee ;
- include documentation, where appropriate;
- set periods of review, as appropriate.

33.2 Unsatisfactory Conduct

33.2.1 Where termination of employment may take place for reasons related to unsatisfactory conduct, the School will investigate the alleged misconduct, provide the employee with an opportunity to respond to the allegations and take disciplinary action deemed appropriate by the School. Where an issue of misconduct is to be investigated, the Employee is entitled to be accompanied by a nominee of the Employee's choice. Disciplinary action may include termination of the Employee's employment.

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33.2.2 Where termination of employment may take place for reasons related to serious misconduct, the following shall apply. Summary dismissal relates to circumstances where an Employee's behaviour is such that termination without notice is warranted.

33.2.3 The services of an Employee may be terminated without notice when that Employee is guilty of serious neglect of duty, wilful misconduct, serious misrepresentation or behaviour which is detrimental to the welfare of students and/or staff or which is prejudicial to the continued operation of the College.

33.2.4 Procedure for instituting summary dismissal:

In cases where it is deemed necessary by the Principal to institute summary dismissal of an Employee where allegations of serious misconduct have arisen, the Employee will be suspended on full pay pending completion of the following steps:

- The Employee may be suspended following consultation with the Employee to determine whether there are any other appropriate alternatives to suspension.
- The allegations are investigated.
- Following investigation, the Employee and his or her representative meets with the College and its representatives, if appropriate, to discuss the details of the allegation, the investigation results and the Employee's explanation.
- The College then determines the outcome.

PART 3 – CONDITIONS OF EMPLOYMENT FOR SCHOOL ASSISTANTS

34 CLASSIFICATIONS AND SALARIES

34.1 Schedule 2A sets out the classification structure for a School Assistant.

34.2 Schedule 2B sets out the salary of a School Assistant entitled to School Holidays.

34.3 To the extent necessary, the Employer and the Employee agree that the guarantee of the Basic Periodic Rate of Pay may be satisfied over a period of 12 months.

35 HOURS OF WORK

35.1 The ordinary hours of work for a Full Time School Assistant will be 35 hours per week.

35.2 The ordinary hours of work may be averaged over a fortnight or a four-week period.

35.3 The Employer may require a School Assistant to work reasonable additional hours, in accordance with the arrangement specified in Schedule 2B.

36 SCHOOL HOLIDAYS

36.1 A School Assistant is entitled to School Holidays, which is inclusive of annual leave, if specified at the time of employment or during a period of employment.

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- 36.2 The salary for a School Assistant in Schedule 2B takes this period of additional leave into account.
- 36.3 A School Assistant is entitled to public holidays that fall during this period of additional leave but they do not create any additional entitlements.
- 36.4 A School Assistant who is employed for part only of a School Year or who takes leave without pay in excess of 10 working days in any School Year, will be paid on a pro rata basis during School Holidays with the calculation based upon the proportion of weeks worked at the rate of pay applicable at the time of the School Holidays or at the time that employment is terminated. The formula to calculate an entitlement to School Holidays in accordance with this clause is as follows:

$$\left\{ \frac{\text{Number of working weeks excluding paid holiday periods}}{3} \right\} - \text{School Holidays already paid}$$

37 NOTICE OF TERMINATION

- 37.1 Where the Employer wishes to terminate the employment of a School Assistant serving a qualifying period pursuant to clause 9, or a School Assistant wishes to resign during a qualifying period, the period of notice is specified by clause 9.
- 37.2 Where the Employer wishes to terminate the employment of a School Assistant, who has had more than six months' continuous service with the Employer, seven weeks' notice wholly within the one school term shall be given in writing, or full payment in lieu, will be provided to the School Assistant.
- 37.3 Where the Employer wishes to terminate the employment of a School Assistant, who has had five or more years continuous service in the school where currently employed, a full terms notice shall be given in writing, or full payment in lieu, will be provided to the School Assistant.
- 37.4 Payment in lieu of notice is calculated by taking the amount of salary and rates of pay in Schedule 2B that a School Assistant would have received by working during the notice period if the School Assistant's employment had not been terminated.
- 37.5 A School Assistant, who has had more than six months' continuous employment with the Employer, must provide the Employer with a minimum of four weeks' notice in writing. Where a School Assistant is entitled to School Holidays, notice is to be given wholly within the one school term.
- 37.6 In addition to the period of notice specified in 37.1, 37.2 a School Assistant over 45 years of age at the time of being given notice with not less than 5 years of continuous service will be entitled to an additional week's notice.
- 37.7 The notice period in this clause and in clause 9 do not apply where the School Assistant is guilty of serious misconduct.

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EXECUTED as an Agreement this day of 2009.

Signed for and on behalf of:

Signed for and on behalf of:

[Legal Name].

[ABN/ACN]

Principal

Address

Authority to Sign

In the presence of

Witness

The [school]

as represented by

Name in Print

Authority to Sign

Signature

In the presence of

Witness

SCHEDULE 2A – SCHOOL ASSISTANT CLASSIFICATION STRUCTURE

2A.1 Classifying School Assistants

2A.1.1 Positions for ancillary staff employed in libraries, laboratories and on audio-visual duties, and as teacher aides will be classified in accordance with the following criteria.

2A.1.2 With the exception of Grade 1A, gradings will be given on a basis of a comparison of the work performed in the position with the duties which are specified as “typical” at each of the grades. A position need not involve all the duties listed as “typical” of the grade nor are the typical duties the only ones which may be required.

2A.1.3 Upon engagement, the Employer will inform a School Assistant of the classification grade and the rate of pay applying to that classification.

2A.2 Grade 1

2A.2.1 Positions

Positions for which qualifications are not required:

- teacher aide
- library assistant
- laboratory assistant
- audio visual assistant
- kindergarten Assistant

2A.2.2 Characteristics

It is characteristic of this classification that the School Assistant may be required to perform any combination of a wide range of routine functions under reasonably direct oversight but may after gaining experience, exercise some degree of autonomy and exercise discretion.

2A.2.3 Typical duties

The duties of positions at this level may include some or all of the following:

2A.2.3(a) Library assistant:

Provision of general assistance of a supportive nature for professional and para-professional library staff including:

- processing books (marking, covering, repairing and shelving)
- sorting catalogue cards
- accessioning
- recording library statistics
- participation in stocktaking
- assisting in preparing display and graphic material
- assisting with circulation systems
- following up overdue loans
- general typing and photocopying

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2A.2.2(b) Audio-visual assistant

Routine tasks associated with the operation of a resource centre or in connection with the maintenance, control and operation of audio-visual equipment of the school, such as assisting with audio and video recording.

2A.2.3(c) Laboratory assistant

Routine tasks including:

- simple maintenance of equipment and materials
- care of fauna and flora
- setting up less complex experiments such as are typically conducted at years 7-10 general science
- preparation of teaching aids under direction
- preparation of standard solutions

2A3.2.3(d) Teacher aide

Provision of general assistance of a supportive nature for teaching staff as directed including:

- assist with the collection, preparation and distribution of teaching aids
- maintain records of books and materials distributed
- assist with clerical duties associated with normal classroom activities eg. pupil records, collections etc
- collect and distribute stock and equipment
- assist teachers with care of children on School excursions, sports days, and other out of classroom activities.

2A.3 Grade 1A

2A.3.1 Characteristics

Positions, the occupants of which are required by the Employer to undertake a relevant post-secondary course of study or in the case of a Kindergarten Assistant, the occupant has completed a relevant and approved course of study.

2A.3.2 Positions

- library technician-in-training
- laboratory technician-in-training
- audio-visual technician-in-training
- qualified kindergarten assistant

2A.4 Grade 2

Positions, the duties of which require knowledge and skills which would normally be gained by completion of a relevant post-secondary certificate or associate diploma qualification, but could also be gained from on the job relevant experience considered equivalent by the Employer.

2A.4.1 Positions

- library technician
- laboratory technician
- audio-visual technician

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2A.4.2 Characteristics

It is characteristic of this classification that the School Assistant may be required to perform any combination of a wide range of functions under direction but may, after gaining experience, exercise some degree of autonomy and accept personal responsibility for some functions requiring initiative and exercise discretion.

2A.4.3 Typical duties

In addition to some or all Grade 1 or Grade 1A duties, the duties of positions at this level may include some or all of the following:

2A.4.3(a) Library technician

Performance of responsible tasks associated with the efficient operation of a library including such tasks as:

- assisting teachers and students to use the catalogue and/or locate books and resource material
- explaining the function and use of the library and library equipment to students
- under direction, assist teaching staff to take story groups
- searching and identifying fairly complex bibliographic material
- simple copy cataloguing
- filing catalogue cards
- organising inter-library loans
- answering ready-reference enquiries
- supervising dispatch and recovery of damaged books to/from commercial binders

2A.4.3(b) Audio-visual technician

Performing responsible tasks associated with the efficient operation of an audio-visual section including such tasks as:

- operating and maintaining a wide range of equipment
- demonstrating and explaining the operation of equipment
- providing general technical support for teaching staff
- reproducing materials by means of sound and photographic equipment, etc
- evaluating and making recommendations for purchase

2A.4.3(c) Laboratory technician

Performing responsible tasks associated with the efficient operation of the laboratory/s including such tasks as:

- manufacturing and servicing equipment
- implementing measures for proper storage control and handling or disposal of dangerous or toxic substances
- culturing, preparing for use and being responsible to the Head of Department for the security of bacterial, viral or other like substances
- ordering supplies and materials

2A.5 Grade 3

Positions, the duties of which require, in addition to the knowledge and skills required at Grade 2 level, additional experience or knowledge such as would normally be gained from the completion of an additional year of post-secondary

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qualification but could also be gained from on the job relevant experience considered equivalent by the Employer.

2A.5.1 Positions

- senior library technician
- librarian
- senior laboratory technician
- laboratory manager
- senior audio-visual technician
- audio-visual co-ordinator

2A.5.2 Characteristics

It is an essential characteristic of a School Assistant at this classification level that such School Assistant is often required to exercise significant initiative and discretion, work with little supervision, and demonstrate expertise and accept personal responsibility significantly beyond that required of a School Assistant classified as a School Assistant Grade 1 or 2.

2A.5.3 Typical duties

In addition to some duties specified for lower level positions, the duties of positions at this level may include some or all of the following:

2A.5.3(a) Senior library technician/librarian

Performing responsible tasks associated with the efficient operation of a library such as:

- preparing descriptive cataloguing for library materials
- supervising the operation of circulation systems
- answering reference and information enquiries other than ready reference
- assisting in evaluating and selecting equipment and supplies
- providing guidance in the use of information systems
- supervising staff
- arranging in-service training of para-professional and unqualified staff where appropriate
- in-charge of an identifiable functional unit (eg. audio-visual)
- selection and ordering of periodicals
- liaison with outside bodies (schools, public libraries, educational authorities) regarding the use of and access to external materials

2A.5.3(b) Senior A/V technician/laboratory manager

Under general direction, undertake substantial responsibility associated with the efficient operation of an audio-visual department including some or all duties of lower level positions, and in addition some or all of the following:

- production of resource material, e.g., multi media kits, video and film clips
- teaching skills to teachers and individual students
- maintaining security of equipment and materials
- budgeting
- liaison with heads of department on curriculum
- organising resources material
- developing borrowing strategies
- supervising staff

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2A.5.3(c) Senior laboratory technician/laboratory manager

Under general direction, undertake substantial responsibility associated with the efficient operation of the laboratory/s including some duties specified for lower level positions and in addition some or all of the following:

- provision of technical assistance and advice as requested
- assist in the planning and organisation of laboratories and field work
- supervision of staff
- testing of experiments
- demonstrating experiments (with teaching staff)
- responsible to Head of Department for safe storage, handling and disposal of hazardous or toxic substances

2A.6 Grade 4

The duties of which require responsibility for the overall management and coordination of major resource areas within the College, particularly science laboratories. Occupants of this position will generally have responsibility for supervision of staff comprising at least two full-time employees or at least three employees if any of the employees are part-time.

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SCHEDULE 2B – SALARIES (SCHOOL ASSISTANTS WITH SCHOOL HOLIDAYS)

2B.1 Annual Salary

2B.1.1 A Full time School Assistant in receipt of School Holidays will be paid not less than the relevant salary specified for the School Assistant's classification and experience level.

Grade	First pay period commencing on or after		
	1/2/09 \$	1/2/10 \$	1/2/11 \$
Grade 1			
1st Year	\$31,874	\$32,990	\$34,144
2nd Year	\$32,853	\$34,003	\$35,193
3rd Year	\$33,865	\$35,050	\$36,277
4th Year	\$34,804	\$36,022	\$37,283
5th Year +	\$35,811	\$37,064	\$38,362
Grade 1A			
1st Year	\$36,896	\$38,187	\$39,524
2nd Year	\$37,783	\$39,105	\$40,474
Grade 2			
1st Year	\$37,783	\$39,105	\$40,474
2nd Year	\$38,770	\$40,127	\$41,531
3rd Year	\$39,753	\$41,144	\$42,584
4th Year	\$40,736	\$42,162	\$43,637
5th Year	\$41,726	\$43,186	\$44,698
6th Year +	\$42,711	\$44,206	\$45,753
Grade 3			
1st Year	\$42,711	\$44,206	\$45,753
2nd Year	\$43,888	\$45,424	\$47,014
3rd Year	\$45,092	\$46,670	\$48,304
4th Year	\$46,277	\$47,897	\$49,573
5th Year	\$47,455	\$49,116	\$50,835
6th Year +	\$48,647	\$50,350	\$52,112
Managerial Grade			
1st Year	\$58,366	\$60,409	\$62,523
2nd Year	\$60,169	\$62,275	\$64,455
3rd Year	\$61,982	\$64,151	\$66,397
4th Year	\$63,796	\$66,029	\$68,340

2B.1.2 A School Assistant employed in a position that is not covered by a classification (Schedule 2A) is entitled to be paid not less than a Grade 1 salary.

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2B.2 Weekly Salary

The weekly salary is calculated by dividing the annual salary by 52.18

2B.3 Part Time Salary

A Part Time School Assistant will be paid pro rata of the salary that the School Assistant would be entitled to receive if employed as a Full Time School Assistant. The pro rata weekly salary is calculated using the following formula:

$$\frac{\text{Total hours employed per week}}{35} \times \text{appropriate full-time weekly salary}$$

2B.4 Incremental advancement

- 2B.4.1 Advancement to the next increment within and between grades shall take place on the anniversary of a School Assistants first appointment or in the case of non-continuous service, after the completion of the equivalent of a school year.
- 2B.4.2 An employee employed for 50 per cent or less of full-time working hours will be required to complete 2 years' service before advancement. Service for the purposes of this clause shall include all service in any other school at the grade to which staff are appointed;
- 2B.4.3 Advancement between Grades will be in accordance with the following conditions:
- An employee will be eligible to advance from Grade 1 to Grade 1a upon undertaking a relevant and approved course of study. Kindergarten assistants who have received some form of child care training approved by the College will receive a wage equivalent to that of a third year Grade 1 school assistant and will be able to advance to a cap of Grade 1A conditional on completing an approved course;
 - Upon completion of a relevant course of study, an Employee (other than a kindergarten assistant) will be eligible to advance subject to 2B.4.1 from Grade 1A-Year 1 to Grade 2-Year 1 or from Grade 1A-Year 2 to Grade 2-Year 2.
 - An Employee may apply to the Principal for promotion to Grade 3 during year 6 of grade 2. Subject to the Principal's approval, the Employee will advance subject to 2B.4.1 to Grade 3-Year 2 upon completion of Grade 2-Year 6;
- 2B.4.4 The College may direct that a school assistant perform temporarily, duties applicable to a classification higher than that of the school assistant. Where a school assistant does so for more than one week, and those duties constitute the whole or substantially the whole of the type of duties which would attract the higher classification, the school assistant shall be paid a salary at the rate applicable to the higher classification for the whole period during which the duties are performed;
- 2B.4.5 Kindergarten support employees who teach Jewish Studies in addition to their general responsibilities will be entitled to receive an additional allowance of \$5,200 pa. This allowance will be subject to normal salary percentage increases.

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2B.5 Adjustments to the Salary Scale

As a general principle, the College is committed to ensuring that salary levels paid to Employees as identified under this agreement beyond 1 February 2011 will be competitive after taking into consideration developments in the wider educational market and the College's financial position.

2B.6 Casual Rate of Pay

2B.6.1 A Casual School Assistant will be paid an hourly rate of pay calculated as follows:

$$\frac{\text{Weekly Salary in Schedule 2C for 1st year of adult experience for the appropriate grade}}{35} \times 1.25$$

2B.6.2 The 25 per cent loading incorporated in the rate of pay is in lieu of any entitlement under this Agreement to annual leave or School Holidays, leave loading, personal leave (including paid sick leave and paid carer's leave) and paid compassionate leave.

2B.7 Junior Salary

A junior School Assistant is entitled to be paid not less than the following percentage of the full-time salary for the position and years of experience, classified in accordance with Schedule 2A of this Agreement.

<u>Age</u>	<u>Percentage of full-time rate</u>
	%
Under 17 years	50
At 17 years	60
At 18 years	70
At 19 years	80
At 20 years	90

2B.8 Reasonable Additional Hours

Where the Employer requires a School Assistant to work hours additional to the averaging arrangement, the Employer will pay the School Assistant for the hours worked at the ordinary time rate of pay.