

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

# Western Sydney University Early Learning Limited Enterprise Agreement 2021 - 2023

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# Western Sydney University Early Learning Limited Enterprise Agreement 2021 - 2023

## 1. TITLE

This Agreement will be known as the *Western Sydney University Early Learning Limited Enterprise Agreement 2021-2023*.

## 2. DEFINITIONS

**2.1** In this Agreement, defined terms have the following meanings:

- a) **Act** means the *Fair Work Act 2009* (Cth) as amended or replaced from time to time;
- b) **ACECQA** means the Australian Children's Education Care Quality Authority;
- c) **Casual Employee** means an Employee engaged by the hour and paid by the hour, in accordance with clause 40: Categories of Employment;
- d) **Consultation** means the timely provision of information about a matter requiring a decision, and opportunities for relevant Parties to identify, seek clarification and respond to issues that are raised for the purposes of:
  - i. achieving effective communication;
  - ii. allowing decision making by the WSU Early Learning management to be informed by the views of the parties who will be affected by the decision; and
  - iii. minimising the risks of conflict and misunderstanding.

While it is accepted that Consultation may not lead to agreement by the Parties, it does mean that the views that are expressed by the Parties shall be taken into account before final decisions are made;

- e) **Continuing Employee** means an Employee engaged on an ongoing basis for an indefinite period of time;
- f) **Continuous Service** means continuous service with WSU Early Learning without a break of more than 2 months on any one occasion. Any breaks in service of less than 2 months' duration will not break continuity of service, but will not count towards an Employee's length of service for any reason, including the accrual of entitlements under this Agreement (subject to applicable law);
- g) **Employee** means a staff member of WSU Early Learning employed on an ongoing, fixed term, or casual basis who is covered by this Agreement;
- h) **Fixed Term Employee** means an Employee whose contract of employment clearly specifies starting and finishing dates;

- i) **Full-time Employee** means an Employee engaged to work an average of 38 hours per week over a one, two or four week cycle;
- j) **FWC** means the Fair Work Commission or any relevant future statutory tribunal established to replace the FWC and having comparable powers previously held by the FWC to settle disputes;
- k) **General Manager** means the person appointed to be the General Manager of WSU Early Learning (or equivalent position), and includes anyone fulfilling that role on a temporary basis;
- l) **Immediate Family** means:
  - i. a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
  - ii. a child, parent, grandparent, grandchild, or sibling of the spouse or de facto partner of the Employee;
- m) **Job Share Employment** means where two Employees work a predetermined number of days each week to fill a full-time position, sharing all of the duties and responsibilities of the position in accordance with clause 51: Job Sharing;
- n) **Medical Certificate** means a certificate issued by a person registered or licensed as a practising health practitioner in respect of the area of practice in which the practitioner is registered or licensed;
- o) **NES** means the National Employment Standards contained in the Act;
- p) **Ordinary Hours** means an Employee's normal and regular hours of work, which do not attract overtime rates. This Agreement prescribes the maximum Ordinary Hours in a day, week, fortnight or month;
- q) **Ordinary Rate of Pay** means salary to which an Employee is entitled for performing their Ordinary Hours of work, and:
  - i. includes the director and acting director's allowance; but
  - ii. does not include overtime, penalty rates, or other payments of a like nature;
- r) **Parties** means WSU Early Learning, Employees, and the Union;
- s) **Part time Employee** means an Employee engaged to work less than 38 Ordinary Hours per week.
- t) **Partner** includes spouse, de facto and same-sex partner;
- u) **Recognised Teacher Training Institution** has the meaning prescribed by Schedule 1;
- v) **Recognised University** means an Australian University;
- w) **Representative** means a person chosen by an Employee to assist or represent them, who may be a Union official, but who is not a barrister or solicitor in private practice;
- x) **Roster** means the method of organising Employees to attend the workplace as identified in clause 34: Ordinary Hours of Duty;
- y) **Supervisor** means the person or position occupant identified as the supervisor in the position description, letter of offer, or as otherwise nominated by WSU Early Learning (noting that term does not necessarily refer to the same person as the nominated supervisor or Responsible Person placed

in day to day charge under applicable childcare legislation). Generally:

- i. a Service Director is deemed to be the Supervisor of all Employees at their service;
- ii. the General Manager is deemed to be the Supervisor of all Service Directors and any position that directly reports to the General Manager; and
- iii. the Chairperson of WSU Early Learning's Board is deemed to be the General Manager's Supervisor.

In matters involving a perceived or actual conflict of interest regarding an Employee's Supervisor, or in other matters in relation to which WSU Early Learning considers it appropriate, a reference to a Supervisor means the Supervisor's supervisor;

z) **Trainee** means an individual who is:

- i. a signatory to a training agreement registered with the relevant NSW Training Authority; and
- ii. involved in paid work and structured training, which may be on or off the job.

A trainee can be full-time, part-time or school-based;

aa) **Unions** mean the Independent Education Union and the United Workers Union;

bb) **WSU Early Learning** means Western Sydney University Early Learning Ltd; and

cc) **Year of Service** means twelve months of Continuous Service, exclusive of periods of leave without pay, with WSU Early Learning or the following predecessor entities:

- i. Nirimba Community Children's Centre Inc. (INC9875505);
- ii. UWS Hawkesbury Childcare Centre Inc. (Y1389702);
- iii. Unique Kids Early Childhood Centre Inc. (Y1609327);
- iv. Djalaringi Childcare Centre Inc. (Y2822520); and/or
- v. Milperra Community and Children's Services Ltd (ABN 17 002 874 526).

### 3. COVERAGE

**3.1** This Agreement covers:

- a) WSU Early Learning;
- b) Independent Education Union (NSW/ACT Branch), upon the Union making an application for coverage to the FWC;
- c) United Workers Union, upon the Union making an application for coverage to the FWC; and
- d) Employees employed by WSU Early Learning in the classifications set out in Schedule 1 to this Agreement.

#### Trainee Engagement

- 3.2** Any trainees engaged by WSU Early Learning will be paid in accordance with the trainee rate of pay prescribed by the Children's Services Award 2010 as amended or replaced from time to time, and otherwise entitled to all other conditions of employment in this Agreement.

## **4. RELATIONSHIP WITH AWARDS, OTHER AGREEMENTS AND PREVIOUS CONDITIONS**

- 4.1** This Agreement constitutes a closed agreement between the Parties and comprehensively regulates the relationship between WSU Early Learning and its Employees.
- 4.2** Subject to clause 3.2, this Agreement wholly displaces and operates to the exclusion of all awards and other agreements that would otherwise apply to Employees, except for the NES.
- 4.3** This Agreement does not affect or impede the use or application of any supported wage system for Employees with disabilities established by the Federal Government.
- 4.4** The above-Agreement protected conditions in Schedule 5 will apply to Employees employed as at 1 December 2011 as provided in that Schedule. Those conditions will apply to the extent of any inconsistency with other provisions of this Agreement.
- 4.5** This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of any inconsistency.

## **5. INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

- 5.1** WSU Early Learning and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:
- a) the agreement deals with one or more of the following matters:
    - i. arrangements about when work is performed;
    - ii. overtime rates;
    - iii. penalty rates;
    - iv. allowances;
    - v. leave loading; and
  - b) the arrangement meets the genuine needs of WSU Early Learning and Employee in relation to one or more of the matters mentioned in clause 5.1a); and
  - c) the arrangement is genuinely agreed to by WSU Early Learning and the Employee.
- 5.2** WSU Early Learning must ensure that the terms of the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the Act;

- b) are not unlawful terms under section 194 of the Act; and
- c) result in the Employee being better off overall than the Employee would be if no arrangement was made.

**5.3** WSU Early Learning must ensure that the individual flexibility arrangement:

- a) is in writing;
- b) includes the name of WSU Early Learning and the Employee;
- c) is signed by WSU Early Learning and the Employee and, if the Employee is under 18 years of age, signed by a parent or guardian of the Employee;
- d) includes details of:
  - i. the terms of the Agreement that will be varied by the arrangement; and
  - ii. how the arrangement will vary the effect of the terms; and
  - iii. how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- e) states the day on which the arrangement commences.

**5.4** WSU Early Learning must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

**5.5** WSU Early Learning or the Employee may terminate the individual flexibility arrangement:

- a) by giving no more than 28 days written notice to the other party to the arrangement; or
- b) if WSU Early Learning and Employee agree in writing – at any time.

## 6. LENGTH OF THE AGREEMENT

This Agreement will come into effect 7 days after the date on which the Agreement is approved by the FWC and will have a nominal expiry date, which is three years from the date of FWC approval. Upon reaching the nominal expiry date, this Agreement remains in force until it is either terminated or replaced in accordance with the Act. Negotiations for a new agreement will commence 3 months prior from the nominal expiry date.

## 7. RESOLVING DISPUTES

**7.1** The parties will use the procedure outlined in this clause to resolve disputes about the following matters:

- a) a matter arising under this Agreement;
- b) a matter arising under the NES; or
- c) any matter pertaining to the employment relationship.



- 7.2** A dispute may be initiated by:
- a) an Employee;
  - b) a Union; or
  - c) WSU Early Learning.
- 7.3** WSU Early Learning and the Employees have an interest in minimising and settling disputes in a timely manner. As far as possible, disputes should be resolved at the level at which they arise by discussions between the Employee/s directly involved. Those who are party to the dispute must co-operate to ensure that the resolution procedures are carried out as quickly as is reasonably possible.
- 7.4** A party to a dispute may appoint a Representative at any time during the dispute resolution process. If this occurs, the other party or parties to the dispute will recognise the Representative for all purposes relating to the dispute and will allow them to perform their role.

### Procedure

- 7.5** In the first instance, the parties to a dispute must attempt to resolve the matter informally through discussion between the Employee and their immediate Supervisor, unless it is not practicable to do so.
- 7.6** If informal discussions are unsuccessful or impracticable, the Employee must formally notify the dispute to the Director. This formal notification should, as far as practicable:
- a) be in writing (however an urgent dispute may be notified verbally provided that a formal dispute notification is issued in writing as soon as possible thereafter);
  - b) specify the clause(s) of this Agreement, NES and/or matter relating to the employment relationship to which the dispute has arisen;
  - c) state the nature of the dispute; and
  - d) outline the remedy being sought.
- 7.7** A formal dispute meeting will be held between the Employee and the Director within 5 working days of the formal dispute notification, unless otherwise agreed.
- 7.8** At any stage during the process, a party may request such an additional meeting with the other party to attempt to resolve the dispute. Any such meeting must be held within 5 working days of the request being made, unless otherwise agreed. At the conclusion of the discussion and if the matter has not been resolved, a response to the Employee's dispute must be provided, in writing, within 7 days of the discussions taking place, and must include reasons for not implementing any proposed remedy.
- 7.9** If the dispute is not resolved by the procedure referred to above, or there is an urgent need to resolve the matter, either party to the dispute may refer the matter to the FWC for conciliation and, if the dispute remains unresolved, by arbitration. If the dispute is arbitrated by the FWC, the parties agree to be bound by the FWC's decision, subject to any right of appeal that may arise under the Act.
- 7.10** While the dispute resolution procedure is being conducted, and subject to applicable work health

and safety legislation:

- a) work must continue under the conditions and arrangements that existed before the dispute arose, pending finalisation of the dispute, unless there is a reasonable concern about an imminent risk to health and safety, or a significant risk to the WSU Early Learning's financial viability or reputation; and
- b) an Employee must not unreasonably fail to comply with a direction by WSU Early Learning to perform work, whether at the same or another workplace, that is safe and appropriate for the Employee to perform.

## **8. ANTI-DISCRIMINATION AND HARASSMENT**

- 8.1** WSU Early Learning and its Employees agree to ensure that the workplace is non-discriminatory and there shall be no discrimination based on race, sex, carer responsibility, marital status, disability, homosexuality, transgender identity or age. WSU Early Learning is committed to a workplace free from harassment and is opposed to workplace bullying.
- 8.2** Bullying includes behaviour intended to demean, humiliate or intimidate Employees either as individuals or as a group. Supervisors have a role to play in the prevention of workplace bullying by taking action when instances of such behaviour come to their attention.
- 8.3** Reasonable action(s) carried out by a Supervisor, Director or other approved delegate of WSU Early Learning, to address the performance or behaviour of Employees, shall not constitute bullying, discrimination or harassment.

## **9. RATES OF PAY**

- 9.1** Rates of pay for Employees employed by WSU Early Learning on or after the date of commencement of this Agreement will be as contained in Schedule 2 – Wage Schedule.
- 9.2** Where an Employee is not already at the top of the salary scale for their classification, the Employee will be entitled to incremental progression to the next step in the salary scale in Schedule 2 for their classification, as provided in this Agreement, using their usual anniversary date in accordance with clause 11.2.

### **Casual Employees**

- 9.3** Casual Employees will receive hourly pay rates as contained in Schedule 2 – Wage Schedule, as per the – Casual Hourly Rate column applicable to their role or classification. This casual hourly rate includes a casual loading of 25% in lieu of all leave and other entitlements not expressly provided to Casual Employees in this Agreement or by the NES.

### **General**

- 9.4** The rates of pay contained in this Agreement are inclusive of any First Aid allowance specified in any enactment, award or industrial agreement. It is a requirement that Employees, other than an Administrative Support Worker and Cook, hold and maintain a current first aid certificate as recognised by the Education and Care Services National Regulations (as amended or replaced from

time to time).

## 10.SUPERANNUATION

- 10.1 WSU Early Learning will make superannuation contributions on behalf of Employees in accordance with the *Superannuation Guarantee (Administration Act) 1992* (as varied or replaced from time to time). These contributions will be made to a complying Superannuation Fund, as nominated by an Employee.
- 10.2 Where an Employee does not nominate a Superannuation Fund to which such contributions are to be made, WSU Early Learning will make all contributions to UniSuper or HESTA into a standard MySuper product under the Employee's name.

## 11.INCREMENTAL PROGRESSION

- 11.1 Subject to subclause 11.3, a Casual Employee will not be eligible for incremental progression in accordance with subclause 11.2 unless they are engaged as a teacher.
- 11.2 An eligible Employee who is not on the maximum step in their grade will incrementally progress to the next salary step, for each full-time equivalent Year of service.
- 11.3 A Service Director may, in their absolute discretion, approve incremental progression for a Casual Employee who is not otherwise eligible for progression.

## 12.POSITION CLASSIFICATION

- 12.1 All Employees will be classified in accordance with the position classifications in Schedule 1.
- 12.2 Employees are required to carry out the work assigned to them according to their classification as directed by their Supervisor. All Employees are expected to communicate and interact with children in a warm and positive way and be involved in the care education and safety of children as necessary.
- 12.3 An Employee will suffer no reduction in pay when called upon to temporarily perform duties for which a lower rate is fixed.

## 13.MISCELLANEOUS SALARY ARRANGEMENTS

### Payment of Wages

- 13.1 All Employees will be paid fortnightly by direct credit to the Employee's nominated bank account. Employees shall ensure that they have a nominated bank account which must be capable of receiving the Employee's pay. The regular WSU Early Learning payday, once determined, cannot be changed without consultation and a minimum of four (4) weeks' notice, other than in circumstances that could not have reasonably been known and are beyond WSU Early Learning's control.

### Child Care Fees for WSU Early Learning Employees

- 13.2** A Continuing or Fixed Term Employee who secures a place for their own child at a child care service operated by WSU Early Learning shall be entitled to request in writing and have their child care fee deducted from their wage and remitted to the appropriate WSU Early Learning service.

### **Overpayments/Underpayments**

- 13.3** Where a pay error occurs, resulting in an overpayment or underpayment in wages, WSU Early Learning and the affected Employee and, if requested, the Employee's representative, will, within 14 days of the matter coming to the attention of either party, consult and reach agreement on how the error will be rectified. Any dispute in relation to pay errors will be dealt with in accordance with clause 7: Resolving Disputes.

## **14. ACTING DIRECTOR ALLOWANCE**

- 14.1** If the Director of a service is absent for 10 or more consecutive days, another Employee may be designated as Acting Director for the period of the Director's absence.
- 14.2** An Employee who is appointed as an Acting Director will be paid the Acting Director allowance prescribed by Schedule 2 (**Allowance**) for the duration of the appointment as follows:
- a) for appointments between 10 and 40 consecutive working days' duration, the Employee appointed as Acting Director will be paid 60% of the of Allowance;
  - b) from the 41st working day onwards, the Employee appointed as Acting Director will be paid 100% of the Allowance;

taking into account the size of the service.

- 14.3** An Employee will not be required to carry out Acting Director duties for a period exceeding one year, except to cover a period of leave for a Director.
- 14.4** The Acting Director allowance will:
- a) be considered part of the Employee's Ordinary Rate of Pay for the duration of their appointment as an Acting Director; and
  - b) continue to be paid during any period of leave taken by an Employee during their appointment as an Acting Director.

## **15. TRAVEL ALLOWANCE AND REIMBURSEMENT**

- 15.1** Travelling and other out of pocket expenses reasonably incurred by an Employee in the course of duties required by WSU Early Learning shall be reimbursed by WSU Early Learning.
- 15.2** Where an Employee is required to use a personal vehicle for employment purposes, other than journeys to and from home and the place of employment, the Employee shall be paid an allowance in accordance with Schedule 4 (use of personal vehicle).

## **16. MEAL ALLOWANCE**

An Employee required to work overtime for more than two hours without being notified on the previous day or earlier that they will be so required to work will either be supplied with a meal by WSU Early Learning or paid an allowance in accordance with Schedule 4 (meals). No meal allowance is payable where an Employee could reasonably return home for a meal within the period allowed.

## 17.LEAVE HOURS

For the purpose of the leave clauses, a Full-time Employee's standard day for leave is 7.6 hours.

## 18.APPLICATION OF LEAVE PROVISIONS TO PART-TIME AND CASUAL EMPLOYEES

- 18.1** An Employee employed on a part-time basis shall be entitled to the amount of leave available under the relevant clauses of this Agreement on a pro-rata basis according to the proportion of their hours to full-time hours of employment.
- 18.2** Casual Employees are not entitled to leave unless expressly provided for in a specific clause of this Agreement.

## 19.PUBLIC HOLIDAYS AND END OF YEAR CLOSURE

### Public Holidays

- 19.1** This clause does not apply to Casual Employees.
- 19.2** For Part-time Employees, this clause only applies if the public holiday falls on the Employee's usual day(s) of work.
- 19.3** Employees are entitled to the following, public holidays without loss of pay;

New Year's Day	Australia Day
Good Friday	Easter Monday
Anzac Day	Queen's Birthday
Labour Day	Christmas Day
Boxing Day	

and any other day, or part day, declared or prescribed by or under a law of the State of New South Wales to be observed generally within the State, or region of the State, as a public holiday.

- 19.4** An Employee required to work on a public holiday will be paid at double time and a half, with a minimum payment of four hours at such rate.
- 19.5** An Employee may refuse to work on a public holiday if such refusal is reasonable, or the request to work is unreasonable.

## End of year closure

**19.6** WSU Early Learning may shut down over the end of year period to coincide with Western Sydney University's end of year closure. If this occurs:

- a) WSU Early Learning will, where possible, give Employees at least two months' notice of the closure period; and
- b) Employees will be required to take paid annual leave, RDOs and/or other accrued paid leave (excluding long service leave) during the closure period.

**19.7** If an Employee has insufficient paid leave (excluding long service leave) or RDOs to cover all or part of the closure period:

- a) WSU Early Learning may place the Employee on leave without pay for all or part of the closure period, as appropriate, once the Employee has exhausted all available annual leave, long service leave, flexi leave and time-in lieu entitlements; or
- b) the Employee and their Supervisor may enter into a written agreement for the Employee to take annual leave in advance to cover all or part of the closure period, as appropriate.

## **20. ANNUAL LEAVE**

### Principles

**20.1** All Employees are encouraged to regularly take annual leave to maintain their personal health and wellbeing.

### Eligibility and entitlement

**20.2** This clause does not apply to Casual Employees.

**20.3** All Continuing and Fixed-term Employees are entitled to be paid annual leave of 4 weeks per year of Continuous Service, accrued daily according to the Employee's Ordinary Hours of work, and accumulating year to year.

**20.4** Part-time Employees accrue annual leave on a pro rata basis.

**20.5** Annual leave accrues at half the ordinary rate whilst an Employee is on any form of half pay. Annual leave does not accrue on periods of leave without pay.

### Taking annual leave

**20.6** At the commencement of each calendar year, eligible Employees are required to submit to their Service Director a plan for taking annual leave throughout that year. The Service Director will either approve the plan as proposed by the Employee or negotiate an alternative plan, having regard to WSU Early Learning's operational needs and the leave plans of other Employees.

**20.7** If the Employee subsequently wishes to change their annual leave plan or to take any additional annual leave, approval of any such changes will be at the discretion of the Employee's Supervisor, having regard to WSU Early Learning's operational needs.

**20.8** The Employee's Supervisor will not unreasonably withhold approval of an Employee's annual leave plan, or any proposed change to the plan.

**20.9** An Employee's annual leave plan may include taking annual leave as it accrues, subject to approval of the start and completion dates of that leave.

#### **Direction to take excess accrued annual leave**

**20.10** If an Employee accrues more than 8 weeks of annual leave, the Service Director may direct the Employee to take annual leave with at least 8 weeks' (but not more than 12 months') notice if the Service Director and Employee cannot otherwise reach an agreement about how to reduce the accrued leave.

**20.11** Any direction issued under subclause 20.10 must:

- a) be in writing;
- b) specify the start and completion dates of the annual leave to be taken by the Employee, provided that an Employee cannot be directed to take less than 1 week's annual leave;
- c) ensure the Employee's leave balance is not reduced to less than 6 weeks at the completion of the leave; and
- d) give the Employee an opportunity to propose alternative dates for the leave, provided that the total period of leave is no less than the period of the directed leave, and subject to WSU Early Learning's operational needs.

#### **Direction to take leave during shutdown**

**20.12** WSU Early Learning will provide Employees with 4 weeks' written notice of a direction to take annual leave during any period in which WSU Early Learning shuts down the business, or any part of the business in which the Employee works, including but not limited to the end of year closure.

#### **Annual Leave Loading**

**20.13** Eligible Employees will be entitled to an annual leave loading equivalent to 17.5 per cent of 4 weeks of the Employee's base rate of pay for each full year worked.

**20.14** Leave loading will be paid within 4 weeks of the end of each calendar year.

**20.15** Employees who have worked less than the full calendar year, including upon termination and those taking leave without pay during the year, will be paid leave loading on a pro-rata basis.

## **21. PERSONAL/CARERS LEAVE**

**21.1** For the purposes of this clause, **immediate family** means:

- a) a spouse, de factor partner, child, parent, grandparent, grandchild or sibling of the Employee; or
- b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.

## **Eligibility and entitlement**

- 21.2** Continuing and Fixed Term Employees are entitled to up to 15 days of paid personal/carer's leave per year of Continuous Service, which accrues progressively during a year of service according to the Employee's Ordinary Hours of work.
- 21.3** Accrued but untaken personal/carer's leave will accrue from year to year.
- 21.4** Unpaid personal/carer's leave at the rate of 2 days per each occasion requiring such leave is available to:
- a) Casual Employees; and
  - b) Continuing and Fixed-term Employees who have exhausted their entitlement to paid personal/carer's leave.

## **Taking paid personal/carer's leave**

- 21.5** An eligible Employee is entitled to take paid personal/carer's leave:
- a) if the Employee is unable to attend or remain at work due to personal illness or injury affecting the Employee, provided the Employee is not receiving workers compensation benefits for the illness or injury; or
  - b) to provide care or support to a member of the Employee's immediate family or household member who is in need of care or support due to illness, injury or unexpected emergency affecting the member.

## **Notice and evidence requirements for personal/carer's leave**

- 21.6** An Employee must give notice to WSU Early Learning of the Employee's intention to take personal/carer's leave. Such notice must:
- a) be given as soon as practicable and, where possible, at least 2 hours prior to the commencement of the Employee's shift; and
  - b) as far as possible, advise the Employee's Supervisor of the expected period of absence.
- 21.7** An Employee who takes personal/carer's leave due to personal illness or injury must provide WSU Early Learning with a Medical Certificate which states they are unfit for work when the Employee is absent for more than 3 consecutive working days.
- 21.8** If an Employee takes personal/carer's leave because they have an infectious disease as defined by Staying Healthy in Childcare Fifth Edition (as amended or replaced from time to time):
- a) the Employee must notify WSU Early Learning accordingly; and
  - b) WSU Early Learning may require the Employee to provide a medical clearance prior to the Employee's return to work.
- 21.9** If an Employee is absent on personal/carer's leave for a total of 5 separate occasions of 1 to 3 days in any 12-month period without providing appropriate evidence, WSU Early Learning may notify the Employee that they must produce appropriate evidence for all such absences in the 12 months following notification. If the Employee does not:



- a) comply with the request to provide evidence; or
- b) nominate an alternative form of paid leave to cover the absence(s);

WSU Early Learning may notify the Employee that they will be placed on unpaid personal/carer's leave.

### **Illness or injury during annual and long service leave**

**21.10** An Employee who is ill or injured during a period of annual or long service leave may utilise their accrued personal/carer's leave instead of annual or long service leave for the period of the illness or injury, subject to the provision of a Medical Certificate.

### **Unpaid personal/carer's leave**

**21.11** WSU Early Learning may, at its discretion, grant unpaid personal/carer's leave to an Employee who has exhausted their personal/carer's leave entitlement, subject to provision of a Medical Certificate or other evidence that would satisfy a reasonable person that such leave is required for a reason specified in subclause 21.5.

**21.12** Unpaid personal/carer's leave will be counted as service for the purpose of determining accrual of:

- a) annual leave;
- b) personal/carer's leave;
- c) long service leave, except that when determining whether an Employee had completed 10 years of service, unpaid personal/carer's leave totalling more than 6 months will not count as service. Once an Employee has completed 10 years of service, any single period of unpaid personal/carer's leave not exceeding 6 months will continue to count as service; and
- d) special leave.

### **Submission of leave application**

**21.13** Employees are required to promptly submit a leave application in respect of any absence on personal /carer's leave.

## **22.COMPASSIONATE LEAVE**

### **Definitions**

**22.1** For the purposes of this clause, **compassionate reasons** will arise when a member of an Employee's Immediate Family or household:

- a) contracts or develops a personal illness that poses a serious threat to his or her life;
- b) sustains a personal injury that poses a serious threat to his or her life; or
- c) dies.

### **Entitlement**

- 22.2** Employees other than Casual Employees are entitled to 2 days of paid compassionate leave for each occasion on which compassionate reasons arise.
- 22.3** Casual Employees are entitled to 2 days of unpaid compassionate leave for each occasion on which compassionate reasons arise.
- 22.4** An Employee may take compassionate leave under subsection 22.1 as:
- a) a single continuous 2-day period;
  - b) 2 separate periods of 1 day each; or
  - c) any separate periods to which the Employee and their Supervisor agree.

#### **Notice and evidence requirements**

- 22.5** An Employee must give notice to WSU Early Learning of the Employee's intention to take compassionate leave. Such notice must be given to WSU Early Learning as soon as practicable.
- 22.6** An Employee who has given WSU Early Learning notice of their intention to take compassionate leave must provide WSU Early Learning with evidence that would satisfy a reasonable person that the leave is being taken for compassionate reasons. This evidence must be provided as soon as practicable and ordinarily within 5 working days of commencing the leave.
- 22.7** An Employee who fails to provide the required notice and evidence to WSU Early Learning will not be entitled to compassionate leave.

#### **Use of overtime, TOIL and flexible hours**

- 22.8** In addition to the use of compassionate leave, WSU Early Learning will positively consider Employee applications to use time off in lieu of overtime and/or the flexible hours provisions and/or clause 24: Special Leave in this Agreement to enable the Employee to meet their carer, bereavement or other personal requirements.

## **23.FAMILY AND DOMESTIC VIOLENCE LEAVE**

### **Definitions**

- 23.1** For the purposes of this clause, **family and domestic violence** means violent, threatening, or other abusive behaviour by a close relative of an Employee that:
- a) seeks to coerce or control the Employee; and
  - b) causes the Employee harm or to be fearful.

A **close relative** of the Employee is a person who:

- a) is a member of the Employee's immediate family (as defined in clause 21.1); or
- b) is related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.

### **Entitlement**

**23.2** Employees are entitled to family and domestic violence leave in accordance with the NES.

**23.3** In addition:

- a) WSU Early Learning agrees to the availability of certain practical measures to assist Employees who are experiencing family and domestic violence;
- b) Continuing and Fixed-term Employees who are experiencing family and domestic violence may access their accrued personal/carer's leave for the purposes of attending related appointments or commitments; and
- c) Employees who are experiencing family and domestic violence may also be granted additional paid leave at the discretion of the General Manager.

## **24. SPECIAL LEAVE**

### **Application**

**24.1** This clause does not apply to Casual Employees.

**24.2** Special leave is available to an Employee upon successful completion of the Employee's probationary period.

### **Principles**

**24.3** Paid special leave is available to assist Employees to achieve a work life balance and acknowledges that Employees are also members of families and communities and have commitments unrelated to work. In addition to the special leave available in accordance with this clause, Employees may use accrued annual leave, long service leave, or leave without pay for personal reasons.

**24.4** Special leave may be taken:

- a) to deal with an emergency situation arising from fire, flood, burglary, or other unforeseen event beyond the Employee's control;
- b) to attend the Employee's own graduation, citizenship and justice of the peace ceremony, up to half a day for each ceremony; or
- c) to adhere to and/or celebrate cultural or religious days observed by the Employee.

**24.5** Special leave is not available for absences due to personal illness or injury.

**24.6** The granting of special leave is subject to compliance with the notice and evidence requirements prescribed by this clause.

### **Entitlement**

**24.7** Employees are entitled to up to 5 days of paid special leave per year of service. Unused special leave does not accumulate from year to year.

**24.8** Special leave may be taken as half or full days.

### **Notice and evidence requirements**

**24.9** An Employee must give notice to WSU Early Learning of the Employee's intention to take special

leave. Such notice must:

- a) be given to WSU Early Learning as soon as practicable; and
- b) advise WSU Early Learning of the period, or expected period, of the leave.

**24.10** An Employee who has given WSU Early Learning notice of their intention to take special leave must provide WSU Early Learning with evidence that would satisfy a reasonable person that the leave is being taken for the reason(s) specified. This evidence must be provided as soon as practicable and ordinarily within 5 working days of commencing the leave.

**24.11** An Employee who fails to provide the required notice and evidence to WSU Early Learning will not be entitled to paid special leave.

#### **Use of overtime, TOIL and flexible hours**

**24.12** In addition to the use of special leave, WSU Early Learning will positively consider Employee applications to use time off in lieu of overtime and/or the flexible hours provisions in this Agreement to enable the Employee to meet carer, bereavement or other personal requirements.

## **25. LONG SERVICE LEAVE**

**25.1** The provisions of the Long Service Leave Act 1995 (NSW) will apply, except to the extent of any variations provided in this clause.

**25.2** For the purposes of this clause, continuous service is service with WSU Early Learning without an unauthorised break of more than 2 months on any one occasion.

#### **Principles**

**25.3** Long service leave is an entitlement that recognises length of service with WSU Early Learning. Once an Employee becomes eligible to take long service leave, they are encouraged to take periods of long service leave during their employment. Employees and Supervisors will discuss an Employee's long service leave plans in the context of annual work plans and annual leave plans.

#### **Eligibility and entitlement**

**25.4** An Employee is entitled to paid long service leave as follows:

- a) after 7 years of continuous service: pro rata long service leave calculated at a rate equivalent to 2 months' long service leave per 10 years of continuous service;
- b) after 10 years of continuous service: pro rata long service leave calculated at the rate of 1 month's long service per every additional 5 years of continuous service.

**25.5** If an Employee has completed 5 years, but less than 7 years, of continuous service and their employment is terminated:

- a) by the Employee as a result of illness, incapacity, or domestic or other pressing necessity;
- b) by WSU Early Learning for any reason, other than serious misconduct; or

c) the Employee's death;

the Employee will be entitled to a proportionate amount of one month's paid long service for every 5 years of completed service.

**25.6** Long service leave may be taken on half pay.

### **Taking long service leave**

**25.7** An Employee may take any long service leave at a time of their choosing if the Employee provides a minimum of 6 months' written notice. If the Employee provides less than 6 months' written notice, the timing of the leave is to be by agreement between the Employee and their Supervisor.

### **Direction to take long service leave**

**25.8** If an Employee has accrued long service leave under subclause 25.4 but has not given notice of the Employee's intention to take the leave, WSU Early Learning may direct the Employee to take at least 4 weeks' long service leave by providing at least 3 months' written notice.

**25.9** An Employee who has firm plans to take their accrued long service leave at a particular date in the future may apply for deferral of a direction to take leave issued in accordance with subclause 25.8.

## **26.LEAVE WITHOUT PAY**

**26.1** This clause does not apply to Casual Employees.

**26.2** Employees may apply for leave without pay after 12 months' employment. The General Manager may waive this qualifying period in cases of pressing personal or domestic hardship.

**26.3** WSU Early Learning will not unreasonably withhold its consent when considering an application for leave without pay, however leave without pay may not be granted if it will unduly disrupt WSU Early Learning's operations.

**26.4** The maximum period of leave without pay that may be taken by an Employee for each approved period of pay is 12 months. WSU Early Learning may consider granting a longer period of leave without pay in special circumstances.

**26.5** An Employee will not have an automatic right to return to work prior to the end of an approved period of leave without pay. Returning prior to the approved period of leave without pay is at the General Manager's discretion.

**26.6** Leave without pay does not break continuity of service, but does not count as service for the purposes of determining or accruing entitlements under this Agreement (other than approved personal or carer's leave without pay).

**26.7** An Employee who is on leave without pay remains employed by WSU Early Learning during the period of leave, and accordingly remains subject to WSU Early Learning's *Code of Conduct* and other policies and procedures as appropriate.

## **27.PARENTAL LEAVE**

**27.1** Parental leave consists of:

- a) maternity leave taken by an Employee in connection with the Employee's pregnancy or birth of the Employee's child;
- b) adoption leave taken by an Employee in connection with the adoption of a child;
- c) foster parent leave for fostering a child on a long-term placement; or
- d) partner leave taken by an Employee in connection with their partner's pregnancy or birth of their child (**partner** includes a spouse, de facto spouse, and partners of the same sex).

**Fixed-term Employees**

**27.2** If the contract of a Fixed Term Employee on parental leave is due to expire during the period of leave, the Employee's appointment will not be automatically extended, and the Employee will forfeit the balance of their leave. If, however, the Employee is offered a further appointment commencing immediately after expiry of the previous term, they may extend their parental leave into the term of the further appointment.

**Unpaid maternity, adoption, and foster parent leave – eligibility and entitlement**

**27.3** A Continuing or Fixed Term Employee is entitled to 12 months of unpaid parental leave if:

- a) at the time of commencing parental leave, the Employee has, or will have, completed at least 12 months of Continuous Service with WSU Early Learning; and
- b) the leave is associated with:
  - i. the birth of a child of the Employee or the Employee's partner; or
  - ii. the placement of a child with the Employee for adoption or long-term foster care; and
- c) the Employee is, or will be, the primary carer of the child.

**27.4** A Casual Employee is entitled to 12 months of unpaid parental leave if:

- a) at the time of commencing parental leave, the Employee has, or will have, been employed by WSU Early Learning on a regular and systematic basis for at least 12 months and, but for the birth, adoption, or placement of the child, the Employee would have had a reasonable expectation of continuing employment with WSU Early Learning on a regular and systematic basis; and
- b) the leave is associated with:
  - i. the birth of a child of the Employee or the Employee's partner; or
  - ii. the placement of a child with the Employee for adoption or long-term foster care; and
- c) the Employee is, or will be, the primary carer of the child.

**Requests to extend unpaid parental leave**

- 27.5** An Employee who takes unpaid parental leave may request that WSU Early Learning agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the Employee's initial period of leave, up to a total maximum of 24 months.
- 27.6** Any request under subclause 27.5 must be made in writing at least 4 weeks prior to the end of the Employee's initial period of unpaid parental leave.
- 27.7** WSU Early Learning will advise the Employee in writing as to whether the request has been approved or declined. This response will be given as soon as practicable, and not later than 21 days, after the request is made.
- 27.8** WSU Early Learning may only decline a request on reasonable business grounds. If a request is declined, the written response under subclause 27.7 will include details of the reasons for this decision.

### **Paid maternity, adoption, and foster parent leave – eligibility and entitlement**

- 27.9** A Continuing or Fixed Term Employee who has completed at least 52 weeks of Continuous Service with WSU Early Learning at the time of commencing parental leave will be eligible for paid parental leave as follows:

<b>Period of Continuous Service</b>	<b>Paid parental leave entitlement</b>
1 or more years but less than 3 years	6 weeks at the rate equivalent to that paid under the Australian Government Parental Leave Pay Scheme
More than 3 years but less than 4 years	7 weeks at the rate equivalent to that paid under the Australian Government Parental Leave Pay Scheme
More than 4 years but less than 5 years	8 weeks at the rate equivalent to that paid under the Australian Government Parental Leave Pay Scheme
5 or more years	10 weeks at the rate equivalent to that paid under the Australian Government Parental Leave Pay Scheme

An Employee may elect to take their paid parental leave entitlement at half pay.

- 27.10** For clarity, an Employee's paid parental leave entitlement under subclause 27.9 is in addition to any payment to which the Employee may be entitled under the Australian Government Parental Leave Pay Scheme.

### **Paid partner leave**

- 27.11** A Continuing or Fixed Term Full-time Employee who is not the primary carer is entitled to five days of paid partner leave which may be taken at any time in the 3-month period following the birth, adoption, or placement of their child.

### **Notice and evidence requirements**

**27.12** An Employee must give their Supervisor notice of their intention to take parental leave. This notice must:

- a) be in writing;
- b) be given at least 10 weeks prior to the commencement of parental leave;
- c) be accompanied by medical evidence (in the case of pregnancy) or a statutory declaration (in the case of adoption or placement) indicating the expected date of the birth, adoption, or placement; and
- d) advise the intended start and end dates of the Employee's parental leave.

**27.13** At least 4 weeks prior to the intended start date of an Employee's parental leave, the Employee must:

- a) confirm the intended start and end dates of the Employee's parental leave; or
- b) advise of any changes to the intended start and end dates of the Employee's parental leave;

unless it is not practicable to do so.

**27.14** In exceptional circumstances (for example, premature birth), it will be sufficient for an Employee to provide notice of parental leave as soon as reasonably practicable after the birth, adoption, or placement of the child.

**27.15** Any change to approved parental leave requires at least 4 weeks' written notice.

### **Taking parental leave**

**27.16** An Employee can commence parental leave at any time from 6 weeks prior to the expected date of birth or adoption/placement of their child, but no later than the date of birth, adoption, or placement of the child.

**27.17** If a pregnant Employee who is entitled to unpaid parental leave continues to work during the 6-week period before the expected date of birth of the child, WSU Early Learning may ask the Employee to provide a Medical Certificate containing the following statements (as applicable):

- a) a statement of whether the Employee is fit for work;
- b) if the Employee is fit for work, a statement of whether it is inadvisable for the Employee to continue in the Employee's present position during a stated period because of:
  - i. illness or risks arising out of the Employee's pregnancy; or
  - ii. hazards connected with the Employee's position.

**27.18** WSU Early Learning may require an Employee to take a period of unpaid parental leave (period of leave) as soon as practicable if:

- a) the Employee does not provide WSU Early Learning with the certificate requested under subclause 27.17 within 7 days of being requested to do so;
- b) within 7 days of the request, the Employee gives WSU Early Learning a Medical



- Certificate stating that the Employee is not fit for work; or
- c) within 7 days of the request, the Employee gives WSU Early Learning a Medical Certificate stating that the Employee is fit for work, but it is inadvisable for the Employee to continue in the Employee's present position during a stated period because of:
- i. illness or risks arising out of the Employee's pregnancy; or
  - ii. hazards connected with the Employee's position.

**27.19** An Employee may elect to take their accrued annual and/or long service leave entitlements or time in lieu in conjunction with parental leave.

**27.20** Paid parental leave is exclusive of any public holidays referred to in subclause 0.

### **Future entitlement to paid parental leave**

**27.21** Any future entitlement to paid parental leave is subject to the Employee completing 6 months of Continuous Service with WSU Early Learning following their return to work after the first period of paid parental leave.

### **Parental leave for Employee couples**

**27.22** If both parents are Employees, they may share the parental leave entitlement provided that both Employees have, or will have, completed the 12-month qualifying period at the time of commencing parental leave. If this occurs, however, any period of parental leave taken by the other Employee parent will be taken into account when assessing an Employee's application for parental leave.

### **Cessation of pregnancy**

**27.23** In the event of a still birth or miscarriage after the commencement of parental leave, the Employee may access their personal, sick, annual, long service leave and/or leave without pay for such period as a registered medical practitioner certifies necessary, provided that the aggregate of paid leave shall not exceed 52 weeks.

**27.24** Any illness suffered by an Employee that is not directly related to the birth will be dealt with in accordance with clause 21 (personal/carers leave).

### **Medical risks from pregnancy**

**27.25** Where, in the opinion of a registered 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 be at work, the Employee will choose to:

- a) commence parental leave;
- b) be temporarily transferred to a safe job until the commencement of parental leave; or
- c) negotiate with their Supervisor for a temporary variation of primary duties or hours of work to exclude the risks and hazards until the commencement of parental leave.

- 27.26** If an Employee chooses transfer or variation under subparagraphs 27.25 (b) or (c), the Employee's Supervisor will make reasonable attempts to provide the work requested, however if suitable work is not available, the Employee must then commence parental leave.
- 27.27** Employees involved in primary care/teaching roles are advised to seek medical advice from their medical practitioner about the risks associated with working with young children when pregnant.

### **Effect of parental leave on service**

**27.28** Periods of unpaid parental leave will not break an Employee's continuity of service with WSU Early Learning but will not be taken into account in calculating the Employee's length of service for any purpose under this Agreement.

### **Termination of employment during parental leave**

**27.29** An Employee on parental leave may terminate their employment at any time by providing notice in accordance with clause 50: Notice of Termination of Employment or Resignation.

**27.30** WSU Early Learning will not terminate an Employee's employment on the grounds of pregnancy or absence on parental leave, but the rights of WSU Early Learning in relation to termination of employment are not otherwise affected.

### **Right to return to former position**

**27.31** An Employee has the right to return to their former position after parental leave. An Employee's former position is the position held by the Employee immediately before commencing parental leave or temporarily being transferred to a safe job, or a position as close as possible to such position.

**27.32** An Employee will forfeit their right to return to their former position if they do not resume duty at the expiration of the total period of approved parental leave.

### **Communication during parental leave**

**27.33** If WSU Early Learning makes a definite decision to introduce significant workplace change whilst an Employee is on parental leave, WSU Early Learning will take reasonable steps to:

- a) make available to the Employee information about any significant effect the change will have on the position held by the Employee before commencing parental leave; and
- b) provide the Employee with an opportunity to discuss any significant effect the change will have on the position held by the Employee before commencing parental leave.

**27.34** An Employee will take reasonable steps to inform WSU Early Learning about any significant matter that affects:

- a) the duration of the Employee's parental leave;
- b) whether the Employee intends to return to work; and/or
- c) whether the Employee intends to request to return to work on a part-time basis.

**27.35** An Employee will also notify WSU Early Learning of any changes to the Employee's address or other contact details whilst on parental leave.

## **28. JURY SERVICE**

**28.1** An Employee required to attend for jury service during ordinary working hours shall be provided with paid leave for this purpose. The Employee shall be reimbursed by WSU Early Learning an amount

equal to the difference between the amount paid in respect of the Employee's attendance for such jury service and the amount of wage the Employee would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.

- 28.2** The Employee shall notify their supervisor as soon as possible of the date upon which he or she is required to attend for jury service. The Employee shall provide to WSU Early Learning a copy of the summons to attend jury duty and a record of payments received as proof of attendance
- 28.3** If the Employee is not called to attend Jury Service and is rostered to attend work, the Employee must attend the workplace.

## 29. STUDY LEAVE

- 29.1** This clause does not apply to Casual or Fixed Term Employees.
- 29.2** Eligible Part-time Employees receive the entitlements in this clause on a pro rata basis.
- 29.3** Paid study leave is available to Continuing Employees who have completed 12 months' Continuous Service and are undertaking formal award courses that are:
- a) directly relevant to their position; and
  - b) provided by a recognised tertiary education institution or training institution.

Any exception to this will be at the discretion of the General Manager.

- 29.4** Paid study leave will be granted on a basis of 2 days per semester for each module equivalent to a 10 credit point subject at WSU or similar at other tertiary institutions, up to a maximum of 4 days per semester and 8 days per calendar year.
- 29.5** Employees undergoing relevant Higher Degree Research (HDR) who are not required to complete modules or unit work may apply to the General Manager for study leave of up to 6 days per year, taken at a maximum of 3 days per semester for a two-semester year. All applications will require supporting evidentiary documents.
- 29.6** For Employees undertaking TAFE studies, paid study leave will be calculated based on the number of hours students are expected to attend class (e.g. 1 night per week would be equivalent to 1 day per semester), up to a maximum of 2 days per semester and 4 days per calendar year.
- 29.7** Employees will not be eligible for paid study leave in situations where the Government requires and pays for release time for study.
- 29.8** The time of taking such leave will be negotiated with the Service Director.
- 29.9** Employees shall provide evidence of enrolment and results at the end of each study period.
- 29.10** Study leave will not be provided for repeat subjects.
- 29.11** Employees may request approval to accumulate leave entitlements under clause 20: Annual Leave for the purpose of completing professional experience practicums.
- 29.12** Except as provided in Schedule 1, clause 3 (3 year to 4 year trained teacher), following graduation, any reclassification of an Employee to a higher classified position will be at the discretion of WSU

Early Learning.

**29.13** Employees shall provide evidence of enrolment and results at the end of each study period.

**29.14** Study leave will not be provided for repeat subjects.

**29.15** Employees may request approval to accumulate leave entitlements under clause 20: Annual Leave for the purpose of completing professional experience practicums.

**29.16** Except as provided in Schedule 1, clause 3 (3 year to 4 year trained teacher), following graduation, any reclassification of an Employee to a higher classified position, will be at the discretion of WSU Early Learning.

## 30. OTHER LEAVE

An Employee is entitled to unpaid leave for voluntary emergency management activities according to the National Employment Standard Community Service Leave - unpaid leave for voluntary emergency activities.

## 31. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE

**31.1** This clause applies if WSU Early Learning is seeking to implement major workplace change that is likely to have a significant effect on Employees.

**31.2** An affected Employee may appoint a Representative to assist, represent, and/or advise them for the purposes of this clause.

**31.3** **Significant effect** includes the following outcomes:

- a) termination of employment for redundancy;
- b) major changes in the composition, operation or size of WSU Early Learning's workforce or in the skills required of its Employees;
- c) the elimination or diminution of job opportunities, promotion opportunities or job tenure;
- d) the need for retraining or transfer of Employees to other work or locations, provided that a location transfer will not be taken to have a significant effect where it is reasonable having regard to an Employee's individual circumstances; and/or
- e) the restructuring of jobs.

**31.4** Once WSU Early Learning has decided that it is seeking to implement major workplace change, it will consult with affected Employees and any appointed representative(s) about the proposed change as soon as practicable but no later than 7 days after the decision, and the Union or any other nominated representative as applicable, the introduction of the change and the effect the change is likely to have on the Employees. Such consultation will take the form of a discussion with affected Employees and any appointed representative(s) in which WSU Early Learning must discuss with the relevant Employees:

- a) the introduction of the proposed change; and
- b) the effect the proposed change is likely to have on the Employees; and
- c) any measures WSU Early Learning proposes to take in order to avert or mitigate the adverse effect of the proposed change on the Employees.

**31.5** WSU Early Learning will give affected Employees and the Union at least 7 days' written notice of its intention to hold the discussion referred to in subclause 31.4, together with the following documentation:

- a) all relevant information about the change including the nature of the proposed change;
- b) information about the expected effects of the change on the Employees; and
- c) any other matters likely to affect the Employees;

however, WSU Early Learning is not required to disclose confidential or commercially sensitive information.

**31.6** WSU Early Learning must give prompt and genuine consideration to matters raised about the proposed major workplace change by affected Employees and any appointed representative(s).

**31.7** WSU Early Learning will notify affected Employees and the Union in writing as soon as it has made a final decision regarding major workplace change, and:

- a) explain the effects of the decision; and
- b) advise whether WSU Early Learning has declined to adopt any alternative to the proposed change suggested by affected Employees and any appointed Representative(s) and, if so, any reasons why the alternative could not be adopted.

**31.8** WSU Early Learning must act in good faith in relation to the consultation process provided in this clause. Good faith includes obligations to meet, disclose relevant information, genuinely consider proposals and respond with reasons, and to refrain from capricious or unfair conduct that undermines consultation.

**31.9** While the consultation process is being undertaken, the status quo will remain.

#### **Consultation on changes to regular rosters or hours of work**

**31.10** WSU Early Learning will consult with Employees, and their Representative, if any, where it is proposed to change if any, their regular roster or Ordinary Hours of work. WSU Early Learning will provide details of the change to Employees and invite them to put forward their views regarding the impact of the proposed changes including those on any family or caring responsibilities Employees may have. WSU Early Learning will then promptly consider those views. These provisions are to be read in conjunction with any other Agreement provisions concerning the scheduling of work and notice requirements and will not apply where Employees have irregular, sporadic or unpredictable hours.

## 32.DIRECTION TO CARRY OUT DUTIES

- 32.1** WSU Early Learning may direct an Employee to carry out such duties as are within the limits of the Employee's skills, competence and training, and consistent with the classification structure of this Agreement, provided that such duties are not designed to promote de-skilling.
- 32.2** WSU Early Learning may direct an Employee to carry out such duties and use such tools and equipment as may be required, provided that the Employee has been properly trained in the use of such tools and equipment.
- 32.3** Employees engaged as Educators may be required to assist with duties incidental to their primary contact care role.
- 32.4** Any direction issued by WSU Early Learning shall be consistent with WSU Early Learning's responsibilities to provide a safe and healthy working environment.

## 33.REDUNDANCY

### Principles

- 33.1** WSU Early Learning recognises that job security is important for Employees and is committed to minimising the need for forced redundancies by exploring alternate measures to mitigate any negative consequences of workplace change. Such measures may include natural attrition, or voluntary measures such as voluntary separations, fixed term contracts, leave without pay, voluntary conversion to part-time employment, long service leave, and/or redeployment.
- 33.2** Forced redundancies will be implemented as a last resort.

### Application

- 33.3** This clause applies only to Continuing Employees.

### Definition

- 33.4** For the purposes of this clause:
- a) a position is **redundant** if it is identified as surplus to WSU Early Learning's requirements for reasons of an economic, technological, structural or similar nature;
  - b) **Weeks of Pay** means the all-purpose rate of pay for the Employee concerned at the date of termination, and includes, in addition to the Ordinary Rate of Pay, any over award payments, shift penalties and/or other all-purpose allowances payable in accordance with this Agreement.

### Notice of termination arising from redundancy

- 33.5** Subject to subclause 33.6, the provisions of clause 50: Notice of Termination of Employment or Resignation will apply if a position is made redundant.
- 33.6** If a position is made redundant due to the introduction of new technology, the Employee concerned will receive 3 months' notice of termination or payment in lieu.

### **Time off during the notice period**

- 33.7** An Employee will be entitled to up to one day's paid leave during each week of notice of termination, up to a maximum of five weeks, for the purposes of seeking other employment.
- 33.8** If an Employee takes paid leave of more than one day in accordance with subclause 33.7, WSU Early Learning may require the Employee to produce proof of attendance at an interview, failing which the Employee will not be paid for the absence.

### **Employee Leaving during the notice period**

- 33.9** If an Employee leaves during the period of notice, they will be entitled to the same benefits and payments they would have received under this clause had they remained with WSU Early Learning until the expiry of the notice period, other than payment in lieu of the balance of the notice period.

### **Statement of Employment**

- 33.10** If requested, WSU Early Learning will provide an Employee with a written statement specifying the period of the Employee's employment and the classification of or the type of work performed by the Employee.

### **Centrelink Separation Certificate**

- 33.11** If requested, WSU Early Learning will provide an Employee with an 'Employment Separation Certificate' in the form required by Centrelink.

### **Transfer to lower paid duties**

- 33.12** Where an Employee is transferred to lower paid duties for reasons set out in clause 33.4(a), the Employee shall 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, and WSU Early Learning may at WSU Early Learning's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

### **Redundancy Payment**

- 33.13** An Employee whose position is made redundant will be entitled to redundancy pay as follows:

<b>Completed years of Continuous Service</b>	<b>Weeks of Pay (Employee aged under 45 years)</b>	<b>Weeks of Pay (Employee aged 45 years or more)</b>
Less than 1 year	NIL	NIL
1 year and less than 2 years	4 weeks	5 weeks
2 years and less than 3 years	7 weeks	8.75 weeks
3 years and less than 4 years	10 weeks	12.5 weeks
4 years and less than 5 years	12 weeks	15 weeks



5 years and less than 6 years	14 weeks	17.5 weeks
6 years and over	16 weeks	20 weeks

### **Partial redundancies**

**33.14** A position will be considered as having been made partially redundant if:

- a) an Employee's working hours are reduced by 6 or more hours per fortnight, in which case the Employee will be entitled to a pro rata redundancy calculated by reference to subclause 33.13; or
- b) a part-time teacher trained educator hours are reduced by more than 25%, in which case the Employee will be entitled to the provisions of this clause, including redundancy payments, the latter of which will be calculated by multiplying the number of hours that have been reduced by the Employee's hourly rate. This amount is then multiplied by the number of weeks' redundancy pay to which the Employee would have been entitled under subclause 33.13 if their position had been made fully redundant.

## **34. ORDINARY HOURS OF DUTY**

**34.1** The Ordinary Hours of work of a Full-time Employee, inclusive of breaks, will be an average of 38 hours per week over a one, two or four week cycle.

**34.2** Except as provided by subclauses 36.11, 37 and 38 (time off in lieu of overtime, right to request flexible working arrangements, and flexible hours options) Ordinary Hours will be:

- a) in periods not exceeding eight hours per day;
- b) between Monday and Friday;
- c) for administrative Employees between 7am and 6.30pm; and
- d) for all other Employees, between 6.30am and 6.30 pm;

**34.3** If WSU Early Learning decides to introduce or use broken shifts, it will comply with any applicable award provisions regarding broken shifts.

### **Part-time Employees**

**34.4** For a Part-time Employee who is not engaged as an Early Childhood Teacher, WSU Early Learning may vary the Employee's days of attendance and/or normal hours of work either:

- a) at the commencement of each calendar year; or
- b) during the year by giving the Employee four weeks' written notice of the change,

provided that an Employee's days of attendance and normal hours of work may be varied or increased at any time by mutual agreement between WSU Early Learning and the Employee. Such agreement will not be unreasonably withheld by either party.

**34.5** For a Part-time Employee who is engaged as an Early Childhood Teacher, WSU Early Learning may only vary the Employee's days of attendance and/or normal hours of work if:

- a) the Employee consents to the variation; or
- b) the variation is required as a result of a change in funding, enrolment, or curriculum, in which case WSU Early Learning will provide the Employee with 4 weeks' written notice of the change.

### **The Roster**

**34.6** A Supervisor will establish the roster pursuant to which Employees will be required to work. This roster will be displayed in a readily accessible place at least 7 days prior to the roster commencing, and will indicate:

- a) days of work;
- b) hours of work; and
- c) starting and finishing times.

**34.7** A roster may only be changed with less than 7 days' notice if:

- a) the change is brought to the Employees' attention as soon as practicable; and
- b) the Employee and WSU Early Learning agree to the changed hours; or
- c) the change is to cover the absence of another Employee on personal/carer's leave or other absence where the absent Employee has given less than 7 days' notice of their absence; or
- d) for Part time Employees, the change is in accordance with subclause 36.12, which deals with additional hours for Part-time Employees.

**34.8** In all other situations, a change to the roster with less than 7 days' notice will incur overtime payment.

**34.9** Employees may be requested to work reasonable additional hours to meet any demands particular to the work. Whether additional hours are reasonable for the purposes of this Agreement will depend on the circumstances of each case.

**34.10** An Employee's Supervisor will endeavour to accommodate Employees in relation to the preparation of their rostered hours but may, from time to time, nominate the rostered hours and the Employees agree to work on those rostered hours.

**34.11** The rostered days of a Part-time Employee shall be agreed on engagement.

## **35.BREAKS**

**35.1** All breaks are to be taken at a time to enable the continued supervision of children.

### **Meal breaks**

**35.2** An Employee will not be required to work in excess of five hours without an unpaid meal break of 30 minutes. Employees who are engaged for not more than six continuous hours per shift may elect to

forego a meal break.

- 35.3** Notwithstanding clause 35.2, where an Employee is required to remain on WSU Early Learning's premises, the Employee will be entitled to a paid meal break of 20 minutes. This paid meal break is to be counted as time worked.

#### **Rest periods**

- 35.4** An Employee working for four hours or more on any engagement will be entitled to a paid rest period of 10 minutes.
- 35.5** An Employee working for seven hours or more on any engagement will be entitled to two paid rest periods of 10 minutes each unless the Employee agrees to forego one of these rest periods.
- 35.6** All rest periods must be uninterrupted.
- 35.7** Subject to operational requirements and the Service Director's approval, an Employee may combine their meal break and rest period entitlements into a break of 30 minutes, 20 minutes of which will be paid.

## **36.OVERTIME**

#### **Eligibility**

- 36.1** WSU Early Learning may require Employees to work reasonable additional hours at overtime rates.
- 36.2** An Employee may refuse to work overtime in circumstances where doing so would result in the Employee working hours that are unreasonable having regard to:
- a) any risk to Employee's health and safety;
  - b) the Employee's personal circumstances including any family responsibilities;
  - c) WSU Early Learning's operational requirements;
  - d) whether the Employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
  - e) any notice given by WSU Early Learning of any request or requirement to work the additional hours;
  - f) any notice given by the Employee of their intention to refuse to work the additional hours;
  - g) the usual patterns of work in the industry, or the part of an industry, in which the Employee works;
  - h) the nature of the Employee's role, and the Employee's level of responsibility; and
  - i) any other relevant matter

#### **Approval and claiming overtime**

- 36.3** Except as provided elsewhere in this Agreement, all time worked outside the ordinary hours of work prescribed by subclause 34.2 will be overtime.

- 36.4** Where an Employee is required to stay back to supervise children who have not been picked up or to cover another Employee's absence, the Employee will be paid at the rate of time and one half for the first two hours and double time thereafter.
- 36.5** WSU Early Learning may require an Employee to attend parental meetings, staff meetings, and/or perform other duties that do not include the supervision of children outside the Employee's Ordinary Hours of work as follows:
- a) Employees other than Directors – up to a maximum of 2 hours per month; and
  - b) Directors – up to 4 hours per month;
- pro rata for Part-time Employees. Any such attendance or performance of duties will:
- c) if it occurs on a weekday, be paid at overtime rates in accordance with subclause 36.7.; or
  - d) if it occurs on a Saturday or Sunday, be paid at overtime rates in accordance with subclause 36.7.
- 36.6** Overtime or time off in lieu of overtime is not permitted without prior approval of an Employee's Supervisor. Overtime claims must be submitted at the end of the fortnightly cycle in which the overtime was worked.
- 36.7** Overtime will be paid at the rate of time and a half for the first two hours and double time thereafter provided that overtime at the rate of double time shall be paid for all time worked after 12:00 noon on a Saturday and all work performed on a Sunday. In calculating overtime, each day's work will stand alone.
- 36.8** In computing overtime any portion of an hour will be taken to closest 5 minute interval.
- 36.9** When overtime work is necessary it shall, wherever reasonably practicable, be arranged so that an Employee has at least 10 consecutive hours off duty between the work on successive days.
- 36.10** An Employee, other than a Casual Employee, who works overtime such that they do not have at least 10 consecutive hours off duty between work on successive days shall, subject to this subclause, be released after completion of the overtime until they have had 10 consecutive hours off duty, without loss of pay, for ordinary working time occurring during such absence. If on the instruction of WSU Early Learning the Employee resumes or continues work without having had 10 consecutive hours off duty, the Employee shall be paid at double time until they are released from duty and shall be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

#### **Time off instead of payment for overtime**

- 36.11** An Employee and WSU Early Learning may agree, in writing, that the Employee will be provided with time off instead of being paid an overtime payment for all authorised work performed outside of or in excess of the Employee's ordinary or rostered hours subject to the following:
- a) any periods of time off in Ordinary Hours will equate to the relevant period of overtime worked;
  - b) unless agreed otherwise in writing with the General Manager or Service Director,

an Employee must not accumulate more than 8 hours per month which must be taken within 1 month of its accrual. The General Manager or Service Director will negotiate with the Employee a mutually suitable time for the accrued time to be taken. Where time off is not taken the overtime will be paid for in the next pay period at the appropriate rate of overtime applicable;

- c) by agreement between the Employee and WSU Early Learning, time off instead of payment for overtime may be accrued and taken as part of annual leave;
- d) if the Employee requests at any time. WSU Early Learning must pay the Employee for overtime not taken as time in lieu. Any such payment will be made:
  - i. at the overtime rate applicable to the overtime when it was worked: and
  - ii. in the next full pay period following the request; and
- e) any remaining accrued time off in lieu will be paid out upon termination of employment. The Employee and the Service Director will work together to reduce the accrued time off in lieu as much as possible during their notice period.

### **Extra hours for Part-time Employees**

**36.12** Part-time Employees who agree to work additional hours in excess of their Ordinary Hours will be paid at their regular hourly rate up to 8 hours per day or 38 hours per week. Normal overtime provisions apply if more than 8 hours per day or 38 hours per week are worked.

### **Attendance at Meetings, Seminars and Professional Development**

**36.13** Employees may be required to attend staff meetings, parent meetings, seminars and professional development or training courses totalling up to 50 hours duration in any calendar year. In computing such attendance, each calendar year shall stand alone.

**36.14** Attendance at such meetings, seminars and in-service courses may be outside normal working hours. All such work performed out of normal working hours will be unpaid unless attendance was directed by the General Manager or Service Director, in which case it will then be paid at overtime rates in accordance with subclause 36.7. These are considered reasonable additional hours.

**36.15** Employees are responsible for ensuring that they are aware of new developments in early childhood education. However, the Parties recognise that continuing professional development of Employees is a joint responsibility of both WSU Early Learning and the Employee.

**36.16** WSU Early Learning may request an Employee to attend any courses after hours relating to professional development, training and planning. The Employee cannot unreasonably refuse to attend such courses. All hours of attendance shall be subject to the overtime or time in lieu provisions contained within this Agreement.

## **37. RIGHT TO REQUEST FLEXIBLE WORKING ARRANGEMENTS**

**37.1** Subject to clause 37.2, a request for flexible working arrangements may be made by:

- a) Continuing and Fixed Term Employees with at least 12 months of Continuous

Service with WSU Early Learning at the time of making the request; and

- b) Casual Employees who have been engaged by WSU Early Learning on a regular and systematic basis for at least 12 months at the time of making the request and have a reasonable expectation of ongoing employment with WSU Early Learning on a regular and systematic basis.

**37.2** An eligible Employee may make a request for flexible working arrangements if the Employee:

- a) is a parent, or has responsibility for the care, of a child who is school age or younger;
- b) is a carer within the meaning of the *Carers (Recognition) Act 2010* (NSW) as amended or replaced from time to time;
- c) has a disability;
- d) is aged 55 or older;
- e) is experiencing violence from a member of their family; or
- f) provides care or support to a member of their immediate family or household who requires care or support because they are experiencing violence from the member's family.

**37.3** For the purposes of subclause 37.2(f), immediate family means:

- a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
- b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.

**37.4** A request for flexible working arrangements must:

- a) be in writing; and
- b) set out details of the change sought and of the reasons for the change.

**37.5** To avoid doubt, an Employee who is:

- a) is a parent, or has responsibility for the care, of a child; and
- b) is returning to work after taking leave in relation to the birth or adoption of the child,

may request to work part-time to assist the Employee to care for the child.

**37.6** WSU Early Learning will respond to a request for flexible working arrangements in writing within 21 days, stating whether the request has been approved or declined. If the request is declined, WSU Early Learning will provide reasons.

**37.7** WSU Early Learning may decline a request for flexible working arrangements only on reasonable business grounds.

## 38.FLEXIBLE HOURS OPTIONS

**38.1** The flexible hours options prescribed by this Agreement aim to provide eligible Employees with flexibility in their working hours whilst allowing for the operational needs of the service to be met. It is the responsibility of Employees and their Supervisors to ensure that any time accumulated towards Rostered Days Off or as Time Off in Lieu can be taken.

### RDO Scheme

**38.2** A Full time Employee may work under a RDO Scheme by agreement with their Supervisor.

**38.3** The usual RDO pattern is as follows:

- a) an Employee works a 40-hour week (without overtime pay) and banks 2 hours each week towards a paid RDO; and
- b) in each 4-week period, the Employee works 19 days accruing the additional work hours and then takes or accrues one RDO. Where an Employee works under such a pattern for a year, 12 RDOs per year will be accrued over 48 weeks of work.

**38.4** As an alternative to subclause 38.3, an Employee and their Supervisor may agree in writing for the Employee to work four 9.5 hour days per week.

**38.5** The following conditions apply to the RDO Scheme:

- a) an Employee will not work more than 10 hours in a day;
- b) an Employee may accrue up to 2 RDOs at any one time, with any greater accrual to be by written agreement with the General Manager or Service Director;
- c) any RDO is to be taken at a time agreed between the Employee and their Supervisor;
- d) if an Employee accrues more than 2 RDOs, these must be taken within 1 month unless otherwise agreed in writing with the Employee's Supervisor;
- e) RDOs will be rostered in the next roster cycle following a full day accrual; and
- f) other RDO patterns of work, and the taking of RDOs may be agreed in writing between the Employee and their Supervisor.

**38.6** Any hours worked in excess of 152 hours per 28 consecutive days will be credited to the Employee in accordance with clause 36: Overtime and Time Off in Lieu.

**38.7** Time accrued towards an RDO not taken will be paid out upon termination of employment at the relevant overtime rate as prescribed by clause 36: Overtime and Time Off in Lieu.

## 39.ABSENCE FROM DUTY AND ABANDONMENT OF EMPLOYMENT

### Absence from duty

**39.1** Employees are expected to advise their Supervisor of all absences from duty as soon as practicable

and preferably by no less than 2 hours before the commencement of their rostered shift.

**39.2** Employees are required to promptly submit a leave application in respect of any absence. Where a leave application is not submitted by an Employee, their Supervisor may arrange for the appropriate leave record to be adjusted and for the Employee to be notified of that adjustment.

**39.3** A Supervisor must bring to the attention of the General Manager any repeated failure by an Employee to comply with subclause 39.1 without reasonable excuse. WSU Early Learning may address any such failure as unsatisfactory performance.

### **Abandonment of employment**

**39.4** An Employee is considered to have abandoned their employment when they are absent from work for 3 or more consecutive working days without notice. If this occurs, WSU Early Learning will make all reasonable attempts to contact the Employee by email (if the Employee's email address is known), phone and letter, allowing the Employee 1 working day to respond prior to any action being taken. If the Employee does not respond, the General Manager may deem the absence to be abandonment of employment and the Employee will be considered as having terminated their employment.

## **40. CATEGORIES OF EMPLOYMENT**

**40.1** WSU Early Learning engage an Employee as a:

- a) Continuing Employee;
- b) Fixed Term Employee; or
- c) Casual Employee.

**40.2** Continuing and Fixed Term Employees may be engaged on either a full-time or part-time basis.

**40.3** A Part-time Employee will be engaged under fixed hours of work each fortnight.

**40.4** A Fixed Term Employee may be engaged for a maximum period of 12 months, unless:

- a) the Employee has been engaged to cover another Employee who is on leave or working reduced hours due to a flexible working arrangement, in which case the (initial or extended) term of the appointment may be equal to the duration of leave or arrangement;
- b) the Employee is a Diploma Trainee, in which case the term of the appointment may be for a maximum of 24 months;
- c) the Employee is a Certificate 3 Trainee, in which case their initial 12-month appointment may be extended if required for completion of the Employee's qualification;
- d) the position is externally funded (including, but not limited to, the Inclusion Support Subsidy).

**40.5** A Casual Employee engaged:



- a) in an administrative role will be paid a minimum of 3 hours' pay for each engagement; and
- b) in all other roles will be paid a minimum of 2 hours' pay for each engagement.

**40.6** All Casual Employees may be employed for a maximum of 20 consecutive working days per engagement.

**40.7** A Casual Employee may be entitled to conversion to continuing employment in accordance with Schedule 3.

**40.8** An Early Childhood Teacher will be considered to be a Part-time Employee if engaged to work less than 90% of the hours of a Full-time Employee. If the hours of a Part-time Employee are above 90% (34.2 hours), the Employee will be considered to be a Full-time Employee. A Part-time Employee who requests to work above 90% of full-time hours, but less than full-time, will not be considered to be a Full-time Employee and will be remunerated for the actual hours worked.

## 41. CONTRACT OF EMPLOYMENT

**41.1** Upon employment, WSU Early Learning will provide to the Employee a contract of employment which stipulates:

- a) the type of appointment (Continuing, Fixed Term, or Casual Employee);
- b) whether the position is full-time or part-time and the Employee's weekly number of Ordinary Hours of work;
- c) the normal days and hours to be worked;
- d) the procedure for altering days of work;
- e) the hours of operation of the service;
- f) commencement date;
- g) the classification; salary step and rate of salary at appointment;
- h) the length of the probationary period;
- i) the notice required for termination or resignation; and
- j) in the case of an educator of children with special needs, advice that their days and hours can be varied with at least 4 weeks' notice or otherwise by agreement.

**41.2** With the exception of teacher trained educators and administrative support workers, WSU Early Learning will ordinarily commence a new Employee at a maximum of step two of the relevant salary classification. Commencement at a higher salary step will be at the discretion of the General Manager.

**41.3** The commencement salary step of a new early childhood teacher will ordinarily be as follows:

- a) 3 year teacher trained educators will commence no greater than step 8 and progress to step 11 in accordance with years of service;

- b) 4 year teacher trained educators will commence no greater than step 6 and progress to step 9 in accordance with years of service.

## 42. PROBATION

**42.1** This clause does not apply to Casual Employees.

**42.2** WSU Early Learning may engage an Employee subject to a probationary period of up to 24 weeks. Employees already employed at the date of commencement of this Agreement will not have a new probationary period applied to their existing position as a result of this clause.

**42.3** The probationary process will include:

- a) informal and formal review and development, with a formal review to take place by no later than 12 weeks and again at 24 weeks;
- b) a planning discussion between the Employee and their supervisor during the initial stages of probation to agree on performance expectations and support; and
- c) throughout the probationary period, a process of regular informal feedback, which will include the Supervisor promptly advising the Employee in writing of any impediments to the continuation of the Employee's employment.

**42.4** Before the end of the probationary period, and based on the outcome of the review process prescribed by subclause 42.3, WSU Early Learning will either:

- a) confirm the Employee's employment in writing;
- b) give the Employee written notice of termination in accordance with clause 50: Notice of Termination of Employment;
- c) extend the Employee's probationary appointment by up to 12 weeks (within the maximum period of 24 weeks probation) and notify the Employee accordingly in writing, provided that WSU Early Learning can only extend an Employee's probationary period if the review process has indicated that:
  - i. the Employee's performance has not yet met the standard required for a Continuing or Fixed Term appointment; and
  - ii. the Employee's Supervisor is of the view that the Employee may reach the required standard during the extended probationary period.

**42.5** If an Employee's probationary period is extended, the Employee's supervisor will provide the Employee with a formal written plan that identifies:

- a) how the Employee has not fulfilled the requirements of their position;
- b) WSU Early Learning's expectations of the Employee; and
- c) any agreed support measures.

**42.6** At least 2 weeks before the end of the extended probationary period, and based on the outcome of

the review process, WSU Early Learning will either:

- a) confirm the Employee's employment in writing; or
- b) give the Employee written notice of termination in accordance with clause 50: Notice of Termination of Employment.

**42.7** Notwithstanding anything in this clause, either party may terminate the employment relationship during the probationary period in accordance with clause 50: Notice of Termination of Employment. WSU Early Learning reserves the right to terminate, the employment of a probationary Employee without notice where the Employee is found to have engaged in serious misconduct as defined by subclause 50.8 of this Agreement.

## **43. WORK HEALTH AND SAFETY**

**43.1** WSU Early Learning and Employees are committed to achieving and maintaining a healthy and safe workplace by abiding to all relevant Work Health and Safety legislation.

**43.2** WSU Early Learning will provide Employees with any training necessary for compliance with its WHS policy provisions.

**43.3** In addition to observing WSU Early Learning's WHS policy, Employees are expected to:

- a) participate in WHS training, including an induction process upon commencement of employment;
- b) participate in WHS meetings;
- c) accept directions from their supervisor in respect of WHS issues; and
- d) identify any unsafe practices and report these to their supervisor.

**43.4** Employees who do not accept the supervisor's reasonable directions or who deliberately participate in unsafe practices causing injury to themselves or others will be given counselling and a formal warning.

**43.5** Employees who receive more than one warning in respect of work health and safety matters, which together constitute serious misconduct, during the life of this Agreement, may have their employment terminated.

**43.6** Serious breaches of work health and safety policies will be grounds for a finding of serious and wilful misconduct. WSU Early Learning will be entitled to terminate the employment of an Employee without notice.

**43.7** WSU Early Learning will provide Employees with the appropriate protective clothing in respect of the particular work the Employee is required to undertake.

### **First Aid Qualifications**

**43.8** All Employees, except Cooks and Administrative Support Workers, will be required to obtain and maintain an approved First Aid asthma, anaphylaxis and CPR Certification. WSU Early Learning will pay for Employees to enable them to maintain this certificate during their course of employment in an applicable role.

## 44. PROFESSIONAL DEVELOPMENT

- 44.1** WSU Early Learning is committed to encouraging and enabling ongoing professional development and career development and training where possible and will advise Employees about opportunities available.
- 44.2** Employees will undertake such training and retraining as required by WSU Early Learning.
- 44.3** Where training is undertaken at WSU Early Learning's request:
- a) the Employee concerned shall not suffer any loss of ordinary pay for attending the training;
  - b) costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in WSU Early Learning's library) incurred in connection with the undertaking of training shall be reimbursed by WSU Early Learning upon production of evidence of such expenditure. Provided that reimbursement shall also be on an annual basis subject to the presentation of reports of satisfactory progress;
  - c) travel costs incurred by an Employee undertaking training in accordance with this clause which exceed those normally incurred in travelling to and from work shall be reimbursed by WSU Early Learning.

Note: Refer to clause 36.15 for all other training

## 45. OUTSIDE WORK

During the term of employment with WSU Early Learning, a Full-time Employee may only perform outside work with prior consent in writing from WSU Early Learning, provided that consent will not be unreasonably withheld. When assessing the application, consideration will be given to hours and nature of the work performed.

## 46. PROGRAMMING TIME AND DIRECTOR ADMINISTRATION TIME

- 46.1** Primary contact Employees contributing to the written curriculum documentation shall receive non-contact time a minimum of 2 hours per week pro rata to perform such duties where they are not required to supervise children. Supervisors will allocate this time in accordance with curriculum responsibility and workloads. Teachers or educators who are responsible for preparation of transition to school statements will be supported to complete in work time.
- 46.2** Directors shall receive a minimum of 2 days non-contact time per week to perform administrative duties.
- 46.3** Where the Educational Leader is not the Director, the Employee will receive an additional 2 hours per week to oversee the service program. The parties agree to meet to review this provision (regarding the education leader and whether two hours covers the responsibilities involved).

46.4 Wherever possible non-contact time should be rostered in advance.

## 47. RIGHT OF ACCESS BY UNIONS

- 47.1 Union officials will have access to hold a meeting with Employees at the end of a service's staff meeting on an annual basis at each worksite for consultation meetings at a time mutually agreed with the Service Director.
- 47.2 Union officials may enter WSU Early Learning services premises for any purpose connected to this Agreement including consultation with persons covered by the agreement about their rights and obligations under the agreement, the operation of the agreement, to deal with disputes arising under the agreement, to consult with Employees about the negotiation of a replacement agreement and for any other purpose connected to the work of the Employees covered by this Agreement. Right of entry under this clause is also subject to the requirements specified in Part 3-4 of the Act.
- 47.3 Provided that unless otherwise agreed with the Service Director, access to the premises in relation to (a) and (b) shall not take place in early childhood services when Employees are performing face-to-face contact duties with children.

## 48. DISPLAY OF AGREEMENT

- 48.1 WSU Early Learning will ensure a current copy of the agreements is available to all Employees on the WSU Early Learning Web site and a hard copy at each Service.

## 49. MANAGING UNSATISFACTORY PERFORMANCE

### Application

- 49.1 This clause does not apply to:
- a) Casual Employees; or
  - b) Employees serving a probationary period.

### Definitions

- 49.2 For the purposes of this clause, **unsatisfactory performance** occurs when an Employee has, over a reasonable period of time, failed to meet the standard of performance expected for the Employee's position, having regard to the Employee's level and duties, and any mitigating factors.

### General

- 49.3 A Supervisor and/or an Employee may choose to be accompanied by a support person or Representative at any stage of the process prescribed by this clause.
- 49.4 Supervisors and the General Manager are required to keep a written record of any meetings held under this clause.

### Informal counselling

**49.5** If an Employee's Supervisor has concerns about the Employee's unsatisfactory performance, the Supervisor will meet with the Employee to discuss:

- a) the nature of the Supervisor's concerns;
- b) the nature of the improvement required, which may include directing the Employee to undertake appropriate training;
- c) a reasonable timeframe within which the required improvement is expected; and
- d) the Employee's response, if any, to the Supervisor's concerns (including any mitigating factors).

**49.6** The Supervisor will conduct a review meeting at the conclusion of the timeframe for improvement.

### **Performance Improvement Plan (PIP)**

**49.7** If:

- a) the Employee does not satisfactorily respond to the Supervisor's concerns and/or disclose any mitigating factors; and
- b) the Employee's performance does not satisfactorily improve during the required timeframe after informal counselling;

the Supervisor will implement a Performance Improvement Plan (**PIP**) to assist the Employee to improve their performance.

**49.8** The PIP will set out:

- a) the nature of the Employee's unsatisfactory performance;
- b) the specific areas that require improvement;
- c) the specific performance standard that is expected of the Employee and how improvement will be measured;
- d) any support to be provided to assist the Employee to reach the specific performance standard;
- e) the length of the review period, which will provide a reasonable opportunity for the specific performance standard to be met;
- f) the date(s) on which the Employee and the Supervisor will meet to discuss the Employee's progress under the PIP; and
- g) the consequences of continued unsatisfactory performance.

**49.9** If the Employee refuses to participate in the PIP process, the Supervisor may issue a lawful and reasonable direction to the Employee to participate in the process.

### **Review of PIP**

**49.10** If, at the conclusion of the review period specified in the PIP, the Supervisor is of the view that:

- a) the Employee's performance has satisfactorily improved, the Supervisor will advise the Employee in writing at the unsatisfactory performance process will

conclude; or

- b) the Employee has demonstrated a reasonable level of improvement towards reaching the specific performance standard identified in the PIP, the Supervisor may extend the review period by a maximum of 6 weeks; or
- c) the Employee has not reached the specific performance standard identified in the PIP, the Supervisor will refer the matter to the General Manager for determination.

## **Determination by General Manager**

**49.11** The General Manager may determine that:

- a) no further action should be taken, in which case the unsatisfactory performance process will conclude, and the Employee advised accordingly; or
- b) the review period in the PIP should be extended by a maximum of 6 weeks, in which case the matter will be referred back to the Employee's Supervisor; or
- c) disciplinary action should be taken, which may include, but is not limited to:
  - iii. a formal written warning;
  - iv. withholding incremental progression for a period of up to one year for Employees who are not Teachers; or
- d) the Employee's employment be terminated for unsatisfactory performance, in which case the Employee will receive payment in lieu of notice of termination in accordance with subclause 50.1.

**49.12** This clause does not affect the rights of WSU Early Learning to issue formal written warnings or summarily dismiss an Employee for misrepresentation, neglect of duty or serious misconduct.

## **50. NOTICE OF TERMINATION OF EMPLOYMENT OR RESIGNATION**

### **General**

**50.1** If either WSU Early Learning or an Employee gives notice of termination for any reason WSU Early Learning may, in its absolute discretion, elect to make payment in lieu of the applicable notice period. If this occurs:

- a) the Employee's employment will cease on the date payment in lieu of notice is made; and
- b) the payment in lieu will be equal to the amount the Employee would have received had they remained employed for the period to which the payment in lieu of notice relates, unless the Employee terminates their employment during the notice period.

**50.2** Notice of termination of employment or resignation must be provided in writing either at the time notice is given, or as soon as practicable thereafter.

### **Notice of termination or resignation**

**50.3** Except as otherwise provided in this clause, notice of termination of employment or resignation must be provided as follows:

- a) Head Office Employees, Teacher Trained Educators and Directors: 4 weeks' notice;
- b) Casual Employees: one hour's notice, or the payment/forfeiture of one hour's pay (noting this does not override the requirement to pay a minimum of two hours for each engagement), as applicable.



c) all other Employees:

Period of Continuous Service	Notice period
Up to 3 years	2 weeks
More than 3 years but less than 5 years	3 weeks
5 years or more	4 weeks

If WSU Early Learning gives notice of termination of employment in accordance with subclause 50.3(a) or (c), the notice period will be increased by one week if the Employee is over 45 years of age and has completed at least 2 years of Continuous Service with WSU Early Learning.

### Fixed-term Employees

- 50.4** Unless terminated earlier in accordance with this Agreement, a Fixed Term Employee's employment will cease at the conclusion of the fixed term.
- 50.5** If WSU Early Learning terminates the employment of a Fixed Term Employee before the conclusion of the fixed term for any reason other than serious and wilful misconduct, WSU Early Learning will pay the balance of the contractual term to the Employee. If this occurs, the Employee's employment will cease on the date WSU Early Learning gives notice of termination.

### Probationary Employees

- 50.6** If an Employee is serving a probationary period under clause 42: Probation, either the Employee or WSU Early Learning may terminate the Employee's employment by providing the following period of notice:
- a) Employees other than teachers – 2 weeks' notice; or
  - b) Employees engaged as teachers – 4 weeks' notice.

### Termination for serious misconduct

- 50.7** Nothing in this Agreement affects the right of WSU Early Learning to dismiss an Employee without notice where the Employee is found to have engaged in serious misconduct.
- 50.8** For the purposes of subclause 50.7, **serious misconduct** includes, but is not limited to:
- a) wilful or deliberate behaviour by an Employee that is inconsistent with the continuation of the contract of employment;
  - b) conduct that causes imminent and serious risk to the health or safety of a person, child or Employee, or the reputation, viability or profitability of WSU Early Learning's business;
  - c) a reportable, notifiable, or serious breach of WSU Early Learning's policies (in which case WSU Early Learning may suspend the Employee without pay pending conclusion of the matter);
  - d) fraud (including falsifying time records);

- e) assault;
- f) the Employee being intoxicated at work; or
- g) the Employee refusing to carry out a lawful and reasonable instruction that is consistent with the Employee's contract of employment.

### **Return of WSU Early Learning property**

**50.9** Upon termination of employment, an Employee is required to immediately return all documents, publications, manuals and other property in the Employee's possession as a consequence of their employment with WSU Early Learning.

### **Statement of service**

**50.10** If requested by an Employee, the Employee's Supervisor will provide the Employee with a signed statement of service upon termination, which confirms:

- a) the Employee's position with WSU Early Learning;
- b) the start and end dates of the Employee's employment with WSU Early Learning; and
- c) the type of work the Employee was required to perform.

## **51.JOB SHARING**

### **General Employment Conditions**

**51.1** A job share position shall only be created by mutual agreement between WSU Early Learning and the Employee occupying the position to be job shared.

**51.2** Subject to the provisions of clause 51.8 relating to overtime, job sharers will be employed on pro-rata hours, wages and conditions for the relevant classification or grade of the position filled.

**51.3** Before any job sharing arrangements are approved, WSU Early Learning shall provide each prospective job sharer with a copy of this clause and obtain her or his acceptance of the job share position to be worked.

**51.4** Job sharers will discuss with WSU Early Learning arrangements to determine how the job is to be split and agree the hours to be worked by each job sharer including the arrangements to be adopted when one job sharer is absent.

**51.5** Where a job share position is of a specific duration and instead of being filled by two existing Employees an additional Employee must be engaged to share the position, such additional Employee shall be advised that the position is only available for the duration sought and approved.

### **Hours of Duty**

**51.6** The hours of work of job sharers shall be worked in accordance with clause 34 (Ordinary hours of duty) of this Agreement.

**51.7** The hours of job sharers once established will not be changed except by mutual consent of both the job sharers and WSU Early Learning or subject to the operational requirement of the service. Where

WSU Early Learning is required to change a job sharers hours because of the operational requirement of the service, WSU Early Learning shall give the job share Employees notice in accordance within the provisions within this Agreement.

- 51.8** The total weekly hours of job sharers of a full-time position shall not exceed an average of 38 hours per week to be worked in accordance with clause 34 (Ordinary hours of duty) or to be paid overtime in accordance with clause 36 (Overtime), of this Agreement.
- 51.9** Job Sharers shall not be entitled to accrue credits towards rostered days off provided for under clause 38 (Flexible Hours Options).

### Leave

- 51.10** Job sharers shall be entitled to all leave provisions available under this Agreement on a pro rata basis.
- 51.11** Job sharers may take annual leave or other leave at the same time or separately.
- 51.12** Job sharers may be asked and may agree to cover for the absences of the other job share Employees. Such coverage may be either for part of the absence or for the full period.
- 51.13** All leave arrangements wherever possible will be made by mutual agreement between both job sharers and WSU Early Learning.
- 51.14** Where a job share Employee agrees to cover for the other job share Employee whilst he or she is on leave, they shall be paid at their Ordinary Rate of Pay for the extra days or extra hours worked subject to the provisions of clause 51.15 of this subclause.
- 51.15** Where the absence of one job sharer on leave is covered by the other job sharer the aggregate number of hours worked shall not exceed those of a Full-time Employee without the payment of overtime.

### Termination of Employment

- 51.16** The position of a job sharer may be terminated in accordance with the relevant provisions of this Agreement.
- 51.17** Where one job sharer has been terminated, the position of the remaining job sharer shall not be prejudiced.
- 51.18** Where one job-sharer has been terminated, the position may be filled internally or externally provided that any replacement Employee is advised of the job share nature of the position and particularly when the position is of a specific duration, or the remaining job-sharer may be offered the option of occupying the full position on a continuing basis.

# SCHEDULE 1 – CLASSIFICATION OF POSITIONS

## 1. GENERAL

**1.1** WSU Early Learning shall determine the appropriate classification for each position having regard to the needs of the Service. WSU Early Learning may choose not to appoint anyone to a particular classification in the Agreement, subject to the provisions of legislation related to working with children protection (the Education and Care Services National Law (2011), Education and Care Services National Regulations, and the NSW Commission for Children and Young People Act 1998 as amended or replaced from time to time).

**1.2** An Employee will be appointed to the position and the corresponding classification in this Agreement having regard to the duties required by WSU Early Learning to be undertaken by the Employee, the qualifications of the Employee and the Employee's length of service:

- a) with WSU Early Learning;
- b) with the predecessor owners of the WSU Early Learning services; and/or
- c) with other employers recognised by WSU Early Learning in accordance with subclause 1.3 below.

**1.3** For the purposes of subclause 1.2(c), WSU Early Learning will recognise service with the following other Employees:

**For Teacher trained educators:**

- a) teaching experience in preschools, kindergartens, early intervention services, long day care services and other similar services, including family day care services;
- b) teaching experience of children from four to eight years (or in the infants department) of a registered school;
- c) service as lecturer in early childhood education or development, or as a child development officer or equivalent,

For recognition of casual or part-time service, the equivalent of a full-time teaching year is 240 days of teaching.

**For other Employees:**

- a) for a Diploma (Advanced Educator): a period of service as:
  - i. a lecturer in early childhood education or child development;
  - ii. a Family Day Care Co-ordinator or equivalent; and/or
  - iii. an educator in the child care industry, including service as a Family Day Care Educator (as recognised under State Government Regulations) or a Child Care Certificate worker or equivalent;

shall be recognised at the rate of one increment for each completed year of service, based on full-time equivalent service;

- b) all other Employees: a period of service in early childhood or childcare services for children aged 0-12 years at the rate of one increment for each completed year of service, based on full-time equivalent service;
- c) a Casual Employee's length of service will be calculated on a pro rata basis by reference to a Full-time Employee's Ordinary Hours;
- d) when calculating employment for the purposes of this clause, one year of employment may be deducted for every period of five year's absence from early childhood education and care services.

**1.4** For the purpose of this clause, any Employee, if required by WSU Early Learning, shall upon engagement establish to the satisfaction of WSU Early Learning, the length of their teaching service with any employer other than WSU Early Learning.

**1.5** Employees who are eligible for progression in accordance with clause 11: Incremental Progression shall progress thereafter through the steps in their applicable salary scale in accordance with this Agreement, with progression for eligible Part-time and Casual Employees being based on full-time equivalent service.

**1.6** An Employee may apply for a higher classification when a position becomes available within WSU Early Learning, subject to the Employee possessing the requisite qualifications and appropriate WSU Early Learning selection procedures being followed.

**1.7** An Employee may be required to perform duties not listed in the classification level as required by WSU Early Learning as are within the knowledge, skills and capabilities of the Employee, including duties at a lower classification provided this does not promote de-skilling.

**2 CLASSIFICATION CATEGORIES** Each Employee shall be classified by WSU Early Learning into one of the following positions:

- a) Support Worker;
- b) Cook;
- c) Administrative Support Worker (levels 1-5);
- d) Trainee Certificate 111 in Education and Care Services or equivalent;
- e) Certificate 111 in Education and Care Services or equivalent;
- f) Diploma in Education and Care Services or equivalent;
- g) Early Childhood Teacher; or
- h) Service Director

**2.2** Where WSU Early Learning seeks to create and appoint to a position which is not covered in the classification 2.1 (a)-(h), it will classify and pay the Employee at a rate which is proportionate to the nearest classified position based on the skills, effort and responsibility required and provided further

that it is no less than the relevant award rate for such a position.

**2.3 Support Worker** means an Employee appointed by WSU Early Learning to contribute to the development of and assist in the implementation of the program under the general direction of and responsible to a Supervisor. Such Employees include those appointed to the roles of break cover, Educator off the floor cover, RDO cover and Inclusion Support Workers. An Employee at this level will be required to perform some or all of the following duties:

- a) positively interact with children and assist with daily routines and supervision of children and effectively communicate with colleagues and families;
- b) assist a qualified cook;
- c) laundry work, cleaning and gardening; and
- d) other duties as required by WSU Early Learning as are within the knowledge, skills and capabilities of the carer, including duties at a higher classification; provided that this does not promote de skilling.

**2.4 Cook** means an Employee who holds basic qualifications in cooking, and is appointed by WSU Early Learning to cook meals in the service. An Employee in this classification may be required by WSU Early Learning to perform other duties as required by WSU Early Learning as are within the knowledge, skills and capabilities of the Employee including duties at a higher or lower classification, provided that this does not promote de skilling.

**2.5 Administrative Support Worker Level 1** means an administrative Employee who is a recruit with limited relevant experience. Initially work is performed under close direction using established practices, procedures and instructions.

Employees at this level:

- a) perform routine clerical and office functions requiring an understanding of clear, straightforward rules or procedures and may be required to operate certain office equipment. Problems can usually be solved by reference to established practices, procedures and instructions; and
- b) are responsible and accountable for their own work within established routines, methods and procedures and the less experienced Employees' work may be subject to checking at all stages. The more experienced Employee may be required to give assistance to less experienced Employees in the same classification;
- c) are responsible for:
  - i. reception or switchboard duties including directing telephone callers to appropriate staff;
  - ii. issuing, receiving and processing standard forms;
  - iii. relaying internal information;
  - iv. greeting visitors;
  - v. maintaining records;

- vi. filing, collating and copying documents;
- vii. handling or distributing mail including messenger service;
- viii. dealing with accounts, invoices and orders
- ix. utilising CCMS for data input purposes, charging of fees and monitoring of accounts under the supervision of the nominated supervisor in order to achieve competency in Level 2; and
- x. operating a keyboard and related business equipment in order to achieve the competency in Level 2.

**2.6 Administrative Support Worker Level 2** means an administrative Employee has had who is a recruit with limited relevant experience. Initially work is performed under close direction using established practices, procedures and instructions.

Employees at this level:

- a) are responsible and accountable for their own work which is performed within established guidelines. In some situations detailed instructions may be necessary. This may require the Employee to exercise limited judgment and initiative within the range of their skills and knowledge;
- b) may be required to check the work or provide guidance to other Employees at a lower level or provide assistance to less experienced Employees at the same level or any combination of one or more of these requirements; and
- c) are responsible for:
  - i. reception or switchboard duties set out in Level 1 and, in addition, responding to enquiries, as appropriate, consistent with their knowledge of the organisation's operations and services or where presentation, or the use of interpersonal skills, is a key aspect of the position;
  - ii. operation of business equipment including telephone equipment, computers and printing devices.
  - iii. word processing, such as the use of a word processing software package to create, format, edit, correct, print and save text documents such as standard correspondence and business documents;
  - iv. maintenance of records or journals (or both) including initial processing and recording relating to the following:
  - v. utilising CCMS for data input purposes, charging of fees and monitoring of accounts, providing regular reports to Service Directors;
  - vi. distributing incoming or outgoing cheques, invoices, debit or

- credit items, and correspondence;
- vii. computer applications, including using a software package which may include one or more of the following functions:
  - create new files and records;
  - spreadsheet or worksheet;
  - graphics;
- viii. following standard procedures and using existing models or fields of information; and
- ix. providing general advice and information on the organisation's products and services such as at the front counter or by telephone.

The work of Employees at this level may be subject to final checking and, as required, progress checking.

**2.7** **Administrative Support Worker Level 3** means an Employee who is responsible to the General Manager for the smooth functioning of administrative functions of WSU Early Learning.

Employees at this level:

- a) may be supervised by professional Employees and may be responsible for the planning and management and evaluation of the work of others;
- b) apply knowledge with substantial depth in some areas, and a range of skills, which may be varied or highly specific;
- c) may receive assistance with specific problems;
- d) apply knowledge and skills independently and non-routinely;
- e) are required to exercise judgement and initiative;
- f) are responsible for:
  - i. maintaining accurate CCMS records in accordance with all relevant legislation, and providing the General Manager with updates on changes and meet reporting needs as required;
  - ii. the establishment and maintenance of office systems, and procedures;
  - iii. reconciliation of accounts, payment of creditor accounts, provision of accurate and timely information to the Management Accountant as required for financial statements; and
  - iv. handling customer service enquiries on the phone and in



person; and

- g) will work under limited supervision with checking related to overall progress and are expected to apply knowledge with depth in some areas and possess a broad range of skills.

**2.8** **Early Educator** is a trainee engaged with a commitment to undertake and complete a Certificate III in Children's Services qualification through TAFE or RTO under a workplace traineeship.

**2.9** **Certificate III** means an Employee who holds a Certificate III in Education and Care or equivalent Certificate 111 recognised by the National Quality Authority: Australian Children Education and Care Quality Authority (ACECQA) or its successor under Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time, and is appointed by WSU Early Learning with the responsibility to contribute to the development, planning and implementation of the child care program.

Employees at this level:

- a) are responsible to the Service Director of a service and may be responsible for the direction of other Employees within the group for which they have responsibility;
- b) may be required to perform the following duties:
  - i. assume direct responsibility for the management of a group or groups of children;
  - ii. liaise with parents as to needs of the children and the service;
  - iii. maintain appropriate and up-to-date records;
  - iv. ensure that programs are planned, implemented and evaluated for each child in their care; ensure that all regulations, licensing guidelines, service policies and procedures are observed; and
  - v. incidental cleaning and administrative duties; and
- c) are required to possess and maintain a current first aid certificate recognised under the Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time and administer first aid as required.

NOTE: step 4 is for Certificate III educators that have reached step three and have been designated and accepted a responsible person role as per the Education and Care Services National Regulations 2011 as amended or replaced from time to time.

**2.10** **Diploma Educator** means a qualified educator who holds a Diploma in Education and Care Services or equivalent diploma recognised by the National Quality Authority: Australian Children Education and Care Quality Authority (ACECQA) or its successor under Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time, and is appointed by WSU Early Learning with the responsibility to contribute to the development, planning and implementation of the child care program.

Employees at this level:

- a) are responsible to the Service Director and may be responsible for the direction of other Employees within the group for which they have responsibility;
- b) may be required by WSU Early Learning to perform the following duties:
  - i. assume direct responsibility for the management of a group or groups of children;
  - ii. liaise with parents as to needs of the children and the service and maintain appropriate and up-to-date records;
  - iii. ensure that programs are planned, implemented and evaluated for each child in their care;
  - iv. ensure that all regulations, licensing guidelines, service policies and procedures are observed; and
  - v. carry out administrative duties which relate to effective room management and child care responsibilities;
- c) are required to possess and maintain a current first aid certificate recognised under the Education and Care Services National Regulations 2011 as amended or replaced from time to time and administer first aid as required; and
- d) are required to obtain approval as a Responsible Person placed in day to day charge as per the Education and Care Services National Regulations 2011 as amended or replaced from time to time.

NOTE: Diploma educators in a second in charge role will receive no less than step 3.

**2.11** **Early Childhood Teacher** means a teacher trained educator who holds an approved 3 or 4 year early learning childhood degree, recognised by the National Quality Authority: Australian Children Education and Care Quality Authority (ACECQA) or its successor under Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time and as defined below:

Three Years trained Early Childhood Teacher means a teacher who has satisfactorily completed a 3-year fulltime course of study in Early Childhood Education recognised by the National Quality Authority: Australian Children Education and Care Quality Authority (ACECQA) or its successor under Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time.

Four Years trained Early Childhood Teacher means a teacher who has satisfactorily completed a 4-year fulltime course of study in Early Childhood Education recognised by the National Quality Authority: Australian Children Education and Care Quality Authority (ACECQA) or its successor under Children (Education and Care Services National Law Application) Act 2010 as amended or replaced from time to time.

Employees at this level:

- a) are required to obtain approval as a Responsible Person placed in day to day charge as per the Education and Care Services National Regulations 2011 as

- amended or replaced from time to time;
- b) are required to:
- i. assume direct responsibility for the management of a group or groups of children;
  - ii. liaise with parents as to needs of the children and the service;
  - iii. maintain appropriate and up-to-date records;
  - iv. ensure that programs are planned, implemented and evaluated for each child in their care;
  - v. ensure that all regulations, licensing guidelines; service policies and procedures are observed; and
  - vi. carry out administrative duties which relate to effective room management and child care responsibilities.

**2.12** **Service Director** means the Employee who is responsible for the day to day operation and management of the Early Childhood Services Service and who holds: a Bachelor of Teaching and/or Early Childhood Education; or a Diploma in Children's Services and is working towards a Bachelor qualification.

Employees at this level are responsible for:

- a) assuming direct responsibility to ensure the service's compliance with the Education and Care National Regulations and National Quality Framework;
- b) directing responsibility for management of Employees within the service; and
- c) guiding and support a team which provides high quality early childhood education and care managing and monitoring the financial operations of the service.

**2.13** All teacher trained educators are required to obtain and maintain Teacher accreditation in NSW through New South Wales Education Standards Authority (NESAs) as a condition of their employment.

### **3 RE-CLASSIFICATION – Three Year Early childhood trained teacher**

**3.1** Where a three year trained senior educator completes a course which entitles them to be recognised as a four year trained senior educator, the Employee will be eligible to transfer to the salary scale applicable to that higher classified position. This recognition is subject to providing evidence of the conferral of the applicable diploma, degree or equivalent course completion to their Supervisor.

**3.2** The Employee will be transferred to the salary scale for the higher classified position from the next pay period following provision of the evidence to the Supervisor on the basis of transferring to step on the new pay scale which nearest to but no less than their current pay rate. The Employee shall thereafter commence through the new pay scale on the basis of annual increment using their existing increment date. For clarity, the Employee will be back paid to the date of completion of the qualification provided the Employee has provided satisfactory evidence to the Supervisor within 3 months of completion.

## Schedule 2: Wage Schedule

Classification		Effective from the second full pay period commencing following fair work approval			Effective from the first pay period commencing after 1/10/2021			Effective from the first pay period commencing after 1/10/2022			
		Annual Salary	Hourly Rate	Casual hourly Rate	Annual Salary	Hourly Rate	Casual hourly Rate	Annual Salary	Hourly Rate	Casual hourly Rate	
	Step/ Unit	1.5% increase	1.5% increase	1.5% increase	1.5% increase	1.5% increase	1.5% increase	1.5% increase	1.5% increase	1.5% increase	
Untrained Support Worker	1	48,119	24.27	30.34	48,841	24.63	30.79	49,574	25.00	31.25	
Certificate 3 Support Worker	1	50,172	25.30	31.63	50,925	25.68	32.10	51,689	26.07	32.59	
Diploma qualified Support Worker	1	56,411	28.45	35.56	57,257	28.88	36.10	58,116	29.31	36.64	
Qualified Cook	1	48,119	24.27	30.34	48,841	24.63	30.79	49,574	25.00	31.25	
Administrative Support Worker	L1	1	45,282	22.84	28.55	45,961	23.18	28.98	46,650	23.53	29.41
	L2	1	47,133	23.77	29.71	47,840	24.13	30.16	48,558	24.49	30.61
		2	48,401	24.41	30.51	49,127	24.78	30.97	49,864	25.15	31.44
		3	49,347	24.89	31.11	50,087	25.26	31.58	50,839	25.64	32.05
	L3	1	52,124	26.29	32.86	52,906	26.68	33.35	53,700	27.08	33.85
Educator/Certificate 111 in Education and Care Service	1	50,172	25.30	31.63	50,925	25.68	32.10	51,689	26.07	32.59	
	2	51,299	25.87	32.34	52,069	26.26	32.83	52,850	26.65	33.32	
	3	52,064	26.26		52,845	26.65		53,638	27.05		
	4	52,708	26.58		53,499	26.98		54,301	27.39		
Diploma trained in certificate three role	1	53,915	27.19	33.99	54,724	27.60	34.50	55,545	28.01	35.02	
Diploma in Education and Care Services	1	56,411	28.45	35.56	57,257	28.88	36.10	58,116	29.31	36.64	
	2	58,021	29.26	36.58	58,891	29.70	37.13	59,775	30.15	37.68	
	3	60,839	30.68		61,751	31.14		62,677	31.61		
	4	63,857	32.21		64,815	32.69		65,787	33.18		
Early Childhood Teacher (3 Year Trained)	1	58,605	29.56	36.95	59,484	30.00	37.50	60,376	30.45	38.06	
	2	61,523	31.03	38.79	62,446	31.49	39.37	63,382	31.97	39.96	
	3	64,783	32.67	40.84	65,755	33.16	41.45	66,741	33.66	42.08	
	4	67,762	34.18	42.72	68,778	34.69	43.36	69,810	35.21	44.01	
	5	70,821	35.72	44.65	71,883	36.25	45.32	72,961	36.80	46.00	

	6	74,322	37.48	46.85	75,437	38.05	47.56	76,569	38.62	48.27
	7	76,134	38.40	48.00	77,276	38.97	48.72	78,435	39.56	49.45
	8	77,945	39.31	49.14	79,114	39.90	49.88	80,301	40.50	50.62
	9	81,064	40.88		82,280	41.50		83,515	42.12	
	10	84,304	42.52		85,569	43.16		86,853	43.80	
	11	86,579	43.67		87,877	44.32		89,195	44.99	
Early Childhood Teacher (4 Year Trained)	1	62,308	31.42	39.28	63,242	31.90	39.87	64,191	32.37	40.47
	2	66,131	33.35	41.69	67,123	33.85	42.32	68,130	34.36	42.95
	3	69,895	35.25	44.06	70,943	35.78	44.72	72,007	36.32	45.40
	4	74,000	37.32	46.65	75,110	37.88	47.35	76,237	38.45	48.06
	5	77,824	39.25	49.06	78,992	39.84	49.80	80,176	40.44	50.55
	6	81,064	40.88	51.11	82,280	41.50	51.87	83,515	42.12	52.65
	7	84,486	42.61		85,753	43.25		87,039	43.90	
	8	87,947	44.36		89,266	45.02		90,605	45.70	
	9	91,509	46.15		92,882	46.84		94,275	47.55	
Directors Allowance	0-39	1	13,705	6.91		13,911	7.02		14,120	7.12
	40-59	2	16,301	8.22		16,546	8.34		16,794	8.47
	60+	3	17,549	8.85		17,812	8.98		18,080	9.12

The above salaries and pay rates have been calculated on the following basis:

#### 4. Casual Pay Rates

**4.1** The hourly pay rate for Casual Employees provided in the Table is the relevant classification divided by 38-hour week plus a 25% loading. The applicable step is based on years of full-time equivalent service.

**4.2** The maximum hourly pay rate for Casual Early Childhood Teacher shall be:

Three Years Trained	Eight Step
Four Years Trained	Six Step

**4.3** The maximum casual rate for all other Employee's will be step two of each classification excluding administrative support workers.

**4.4** Commencement at an accelerated salary step will be at the discretion of the General Manager.

#### 5 Early Childhood Teachers

### **5.1 Early Childhood Teachers Three Years Trained Early Childhood Teachers**

a. A Three years' teacher trained Teacher shall commence on step 1 of the scale and no greater than step 8 and progress to step 11 in accordance with years' service.

### **5.2 Four Years Trained Early Childhood Teachers**

a. A four year teacher trained Teacher will commence on step 1 of the scale and no greater than step 6 and progress to step 9 in accordance with year service.

### **WSU Early Learning Part-time and Fixed Term Early Childhood Teacher**

i. An Early Childhood Teacher will be considered part-time if engaged to work less than 90% of the hours of a Full-time Employee. If the hours of a Part-time Employee are above 90% (34.2hours), the Employee will be considered to be full-time. A Part-time Employee who requests to work above 90% of full-time hours, but less than full-time, will not be considered to be full-time and will be remunerated for the actual hours worked.

ii. A fixed term full-time early childhood teacher shall be paid at the same rate as that prescribed for a full-time teacher with the corresponding classification.

## **SCHEDULE 3 - CASUAL EMPLOYEE CONVERSION**

### **1. OBJECTIVES OF THIS SCHEDULE**

- 1.1 Casual Employees will be entitled to request conversion to full-time or part-time employment in accordance with the provisions of this Schedule.
- 1.2 This Schedule does not apply to Employees who perform work pursuant to the Technical and Further Education Commission Act 1990 or successor legislation.

### **2. CASUAL CONVERSION**

- 2.1 A Casual Employee will be eligible to request conversion to full-time or part-time employment if:
  - (a) the Employee has been employed by WSU Early Learning on a regular and systematic basis for at least 6 months; and
  - (b) the Employee could continue to perform the same pattern of work, without significant adjustment, as a Full-time or Part-time Employee.
- 2.2 A Casual Employee who has worked equivalent full-time hours during their employment may request to have their employment converted to full-time employment.
- 2.3 A Casual Employee has worked less than equivalent full-time hours during their employment may request to have their employment converted to part-time employment.
- 2.4 WSU Early Learning will notify a Casual Employee of their right to request conversion within 4 weeks of the Employee becoming eligible to make the request. Any failure by WSU Early Learning to comply with this notice requirement will not affect an Employee's right to request conversion.
- 2.5 Any request for conversion under subclause 2.1 must be made in writing.
- 2.6 WSU Early Learning may only decline a Casual Employee's request for conversion on reasonable grounds after consultation with the Employee. Reasonable grounds include that:
  - (a) it would require a significant adjustment to the Casual Employee's hours of work for the Employee to be engaged as a Full-time or part-time Employee in accordance with the provisions of this Agreement (that is, the Casual Employee is not employed on a regular and systematic basis);
  - (b) it is known or reasonably foreseeable that the Casual Employee's position will cease to exist within the next 12 months;
  - (c) it is known or reasonably foreseeable that the hours of work the Casual Employee is required to perform will be significantly reduced in the next 12 months; or
  - (d) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the Casual Employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the Employee is available to work.
- 2.7 If WSU Early Learning declines a Casual Employee's request for conversion, WSU Early Learning must provide the Employee with the reasons for refusal in writing and within 21 days of the request being made.
- 2.8 If the Casual Employee does not accept WSU Early Learning's refusal, this will constitute a dispute that will be dealt with under clause 7: Resolving Disputes.
- 2.9 If WSU Early Learning accepts a Casual Employee's request to convert to full-time or part-time employment, WSU Early Learning and the Employee will discuss and record in writing:

- (a) the form of employment to which the Employee will convert; and
- (b) if the Employee is converting to part-time employment:
  - (i) the number of hours to be worked each day;
  - (ii) the days of the week on which the Employee will work; and
  - (iii) the times at which the Employee will start and finish work each day.

- 2.10 Unless otherwise agreed, conversion will take effect from the next full pay cycle following the request for conversion being approved.
- 2.11 Once a Casual Employee has converted to a full-time or part-time employment, the Employee may only revert to casual employment with the written agreement of WSU Early Learning.
- 2.12 Nothing in this Schedule obliges a regular and systematic Casual Employee to convert to full-time or part-time employment, nor does it permit WSU Early Learning to require such a Casual Employee to so convert.
- 2.13 A Casual Employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.



## SCHEDULE 4 – ALLOWANCES

Use of Personal Vehicle	Clause 15.2	\$0.80 per kilometre or the maximum amount allowed by the ATO (whichever is the greatest)
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Allowance	Clause	Payable second pay period following approval of Agreement by FWC	Effective from the first pay period commencing after 1/10/2021	Effective from the first pay period commencing after 1/10/2022
Meal	Clause 16	12.40	12.69	12.88

## **SCHEDULE 5 – ABOVE AGREEMENT PROTECTED**

### **CONDITIONS**

1. The above-Agreement conditions in each of the services named below will apply only to Employees who were employed by a named service as at 1 December 2011. These conditions will apply to the extent of any inconsistency with other provisions of this Agreement.

### **UNIQUE KIDS CHILDCARE SERVICE**

2. Employees are entitled to accrue Rostered Days Off at the rate of one day per month and to use them in blocks of up to 12 days for teachers.

3. Employees are entitled to either paid parental leave at their normal salary as set out below, or the equivalent to the Government Paid Maternity leave allowance in subclause 27.10, whichever is the higher:

- a) 12 months of service = 2 weeks,
- b) 24 months of service = 4 weeks,
- c) 36 months of service onwards = 6 weeks.

4. Employees with children at the service can swap their child's days (if there is a spot available) if their days of work are temporarily changed (by swapping with another Employee). All other families are required to give 2 weeks' notice.

5. Employees other than teachers are entitled to one paid Picnic Day to be taken during the Christmas closure period.

### **DJALARANGI**

6. Subject to completion of at least 12 months' service, Employees are entitled to paid parental leave at their normal salary (rather than equivalent to the Government Paid Maternity leave allowance in clause 27.10) of:

- a) 12 months of service = 2 weeks;
- b) 24 months of service = 4 weeks; and
- c) 36 months of service onwards = 6 weeks.

7. An Employee will be entitled to another period of paid parental leave for another birth subject to serving at least 6 months service on return before being entitled to next period of paid parental leave for another birth.

### **HAWKESBURY**

8. Employees are entitled to paid pro rata long service leave after 7 years of Continuous Service based on the equivalent of one month per 5 years of service.

### **MILPERRA**

9. In the event that Milperra Service transfers its assets and liabilities to WSU Early Learning, Employees engaged as at the date of that transfer will be entitled to paid pro rata long service leave after 5 years of Continuous Service based on the equivalent of one month per 5 years of service.

## **NIRIMBA**

10. Employees other than teachers are entitled to one paid Picnic Day to be taken during the Christmas closure period.

11. Employees with children at the service can swap their child's days (if there is a spot available) if their days of work are temporarily changed (by swapping with another Employee). All other families are required to give 2 weeks' notice.

# Signing page

Signed for and on behalf of **Western Sydney University Early Learning Ltd**

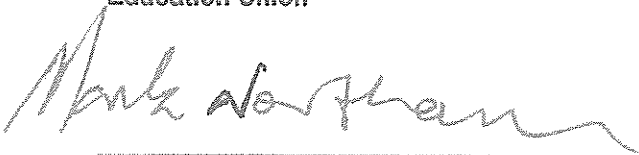


Angie Atkinson

General Manager

Locked Bag 1797 Penrith, NSW 2751 Australia

Signed for and on behalf of the **Independent Education Union**



[Name] Mark Northam  
[Role] 485 - 501 Wattle Street  
Ultimo NSW 2007  
[Address] NSW/ACT Branch Secretary, IEUA

Authorised under rule \_\_\_ of the Independent Education Union's rules to sign industrial agreements

Signed for and on behalf of **United Voice (NSW Branch)**

[Name]  
[Role]  
[Address]

Authorised under rule \_\_\_ of the United Voice (NSW Branch) rules to sign industrial agreements

# Signing page

Signed for and on behalf of **Western Sydney University Early Learning Ltd**

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Angie Atkinson

General Manager

Locked Bag 1797 Penrith, NSW 2751 Australia

Signed for and on behalf of the **Independent Education Union of Australia**



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Carol Matthews

Deputy Secretary, NSW/ACT Branch

485 – 501 Wattle Street  
Ultimo NSW 2007

Authorised under rule 13A of the Independent Education Union's rules to sign industrial agreements

Signed for and on behalf of **United Voice (NSW Branch)**

---

[Name]

[Role]

[Address]

Authorised under rule \_\_ of the United Voice (NSW Branch) rules to sign industrial agreements

# Signing page

Signed for and on behalf of **Western Sydney University Early Learning Ltd**

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Angie Atkinson

General Manager

Locked Bag 1797 Penrith, NSW 2751 Australia

Signed for and on behalf of the **Independent Education Union**

Signed for and on behalf of the **United Workers Union**



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[Name]

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Helen Gibbons

[Role]

Executive Director, Early Education

[Address]

1/303 Cleveland St, Redfern, NSW 2006

Authorised under rule \_\_\_ of the Independent Education Union's rules to sign industrial agreements

Authorised under rule 62(a)(ii) of the United Workers Union Rules to sign industrial agreements

## IN THE FAIR WORK COMMISSION

**FWC Matter No.:**  
AG2020/4177

**Applicant:**

Western Sydney University Early Learning Limited

Section 185 – Application for approval of a single enterprise agreement

### Undertaking - Section 190

I, Angie Atkinson, General Manager give the following undertakings with respect to the Western Sydney University Early Learning Limited Enterprise Agreement 2021-2023 ("the Agreement") on behalf of Western Sydney University Early Learning Limited ("WSU Early Learning"):

1. I have the authority given to me by Western Sydney University Early Learning Limited to provide this undertaking in relation to the application before the Fair Work Commission.
2. In relation to clause 21.6a) of the Agreement dealing with notice of taking personal leave, WSU Early Learning undertakes that the clause will operate subject to the National Employment Standards, in that the clause will be interpreted as requiring the notice be given as soon as practicable, which may be a time after the personal leave has commenced.
3. In relation to clause 40.5b) of the Agreement dealing with minimum engagement periods for Casual Employees, WSU Early Learning undertakes that clause 40.5b) will be replaced with:

"A Casual Employee engaged:

- a. in an administrative role will be paid a minimum of 3 hours' pay for each engagement;
- b. in a teacher role, will be paid a minimum of:
  - i. where they are required to work for up to 2 hours, 2 hours;
  - ii. where they are required to work for more than 2 hours and up to 4 hours, 4 hours; and
  - iii. where they are required to work for more than 4 hours and up to a full day, the full day rate, based on their appropriate hourly rate of pay; and
- c. in all other roles will be paid a minimum of 2 hours' pay for each engagement."

4. In relation to Schedule 1, clause 2.2 of the Agreement, WSU Early Learning undertakes that the Employee will be paid a rate that is no less than the relevant award rate for the position plus 1.5% of the relevant award rate.
5. In relation to clause 9.4 of the Agreement, WSU Early Learning undertakes to ensure that the rates of pay contained in the Agreement for employees who are or become entitled to a first aid allowance under any enactment, award or industrial instrument and for whom the Children's Services Award 2020 is the reference instrument for the better off overall test, are at least 1.5% above the corresponding minimum rate of pay in that Award.
6. In relation to Part-Time Employees, WSU Early Learning undertakes:
  - a. the minimum shift a Part-Time Employee in an administrative role will be rostered is 3 consecutive hours; and
  - b. the minimum shift all other Part-Time Employees will be rostered is 2 consecutive hours.
7. In relation to clause 3.2 of the Agreement, WSU Early Learning undertakes that any trainees engaged by WSU Early Learning will be paid in accordance with the trainee rate of pay prescribed by the Children's Services Award 2010 as amended or replaced from time to time, plus 1.5% of the relevant rate of pay.
8. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

**Angie Atkinson**



**General Manager  
Western Sydney University Early Learning Limited**

**5 February 2021**