



**Queensland Catholic  
Education Commission**

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**Submission by Queensland Catholic Education Commission on  
behalf of Catholic education employing authorities in  
Queensland - Response to National Employment Standards  
Discussion Paper**

The Queensland Catholic Education Commission (QCEC) seeks to make a submission in response to the Draft National Employment Standards Discussion Paper and specifically how the National Employment Standards could affect workplace relations in Catholic schools in Queensland. We ask that consideration be given to this submission when making deliberations on the proposed legislation.

In addition to comments made here, this submission supports and endorses that of the Australian Catholic Council for Employment Relations (ACCER) and the Catholic Education Commission of Victoria (CECV).

**Outline of Submissions**

- *In general there is support for the concept of National Employment Standards in providing a minimum set of entitlements to employees.*
- *This support is qualified where the introduction of a Standard could provide a detrimental outcome to employees.*
- *Atypical and unique employment conditions exist in the education sector. These conditions have been traditionally enshrined through specific state Awards for education employees.*
- *The NES provide minimum standards which if implemented as described in the Discussion Paper could provide detrimental educational outcomes and adversely impact on the operation of schools.*
- *Within the NES some ability exists to modify or vary the NES to suit existing industry/enterprise standards. It is believed that the NES as currently described would not provide sufficient ability to accommodate existing employment conditions within the education sector.*
- *It is submitted that the National Employment Standards should be flexible enough to allow these specific education sector entitlements to be preserved through Awards and or agreement making processes.*

### **Background - Catholic education employing authorities in Queensland**

There are 23 individual Catholic education employing authorities in Queensland. Each employing authority is responsible for all facets of the operation and conduct of the school or schools under their control, including all employment matters. The 23 Catholic education employing authorities are responsible for 286 schools (primary and secondary) with 14,500 staff.

QCEC exists to support each and all of the Catholic education employing authorities with a delegation to ensure that collaboration and consultation occur in order to coordinate industrial relations matters on behalf of the employing authorities. QCEC makes this submission with the authority and on behalf of the Catholic education employing authorities in Queensland.

### **Possible Impact of National Employment Standards**

It is submitted that if the National Employment Standards were introduced without regard to the atypical arrangements in the education sector that this would impact detrimentally on employees and could impose a penalty on employers. It is recognised that the Draft NES does allow for some variation, however this is limited in application and scope and would not sufficiently accommodate the atypical arrangements that exist in the education sector.

### **Terms and conditions for school employees**

Catholic education employing authorities in Queensland have since the early 1990s provided terms and conditions through state collective agreements underpinned by state Awards. Employees in Queensland Catholic education are covered by a variety of Awards with the primary Awards (currently Notional Agreements Preserving State Awards) being the *Teachers Award – Non-Governmental Schools* and the *School Officers Award – Non-Governmental Schools*.

Within the education sector, including Queensland Catholic education, there have been a number of conditions of employment which have developed as a consequence of custom and practice within schools. These have typically centred on the length of the school day and the arrangements during school vacations. Due to the nature of schools and the education industry, arrangements for teachers and school employees are markedly different to most other sectors of employment. The Awards and agreements have in combination provided a mechanism which secures some of the atypical employment arrangements in the education sector.

### **Draft National Employment Standards**

The Draft NES provide 10 employment standards that will be enshrined in legislation. Within each of the standards there exists a limited ability to modify or amend the standards with the scope and extent of modification expressly stated. Catholic education employers in Queensland provide general but qualified support for the NES, however this support is tempered due to the possible impacts that the standards would provide now. Currently existing employment conditions are mostly consistent or equivalent with the NES. There are some major exceptions being the annual leave provisions and the maximum weekly hours. Analysing the differences between the Draft NES and the existing conditions for these two provisions will highlight and explain the qualified nature of the support for the Draft NES.

#### Annual Leave

An example of the unique circumstances referred to above is the annual leave provision. Under the current NAPSA *Teachers Award Non-Governmental Schools* there is no provision for annual leave. Instead the Award enshrines that a teacher who works (or is on paid leave) each day of the school year is entitled to payment for each day of the calendar year. Thus, teachers are paid for school vacation times but are not required to attend to work. This equates to around 12 weeks per year.

Ideally it would be preferred to retain this atypical provision as is and not introduce the concept of annual leave. If there is a requirement to provide for 4 weeks annual leave as expressed in the Draft NES, if imposed without ability to modify appropriately through awards, would disadvantage either the employer or employee.

- Under the Draft NES an employee has an entitlement to four weeks annual leave and the timing of that leave is subject to application but the employer may not unreasonably refuse. There is a potential that, applied this way in Queensland Catholic education (and education generally), there will be a great disruption to the operation of schools and the delivering of educational outcomes to students. Teachers, under these provisions as they stand, could reasonably expect to be able to take annual leave at any stage throughout the year, including during school time.
- Another detrimental consequence due to the unique nature of operations of schools is the ability to re-credit annual leave if a period of paid personal/carer's leave was accessed during a period of annual leave. In the event that a teacher during non-school time was deemed to be on annual leave they could have this time re-credited. The issue here is that re-crediting creates the possibility that an employee could use that annual leave again sometime during the school year.

**It is therefore critical for operational and educational reasons that the NES are able to be varied or amended to the extent that within the education setting the leave can be directed and deemed to be taken during non-school time (and ideally during the summer vacation break). It will be submitted that the ability to vary or amend would be appropriately recognised within Awards.**

#### Maximum Weekly Hours

Another instance where the National Employment Standards impact on existing employment conditions is with the Maximum Weekly Hours standard. It is possible that the provision under the Draft NES that provides up to a maximum of 38 ordinary hours per week as having a negligible effect on the current arrangements in education, because it is stated as hours up to 38. The scenarios contemplated and provided for within the Draft NES are, however, quite different from the arrangement for hours of duty that currently exist in the education sector.

Within Catholic education in Queensland the hours of duty for teachers have been provided for in a state Agreement. This Agreement provides recognition of the hours, including contact and non-contact time and a description of other duties (eg playground supervision, meetings, etc). It is not contemplated within this framework that teaching hours can be or is appropriately regulated with a description of 38 hours, 52 weeks per year.

**It appears that within the Draft NES provision is made to accommodate the requirements of industry within specific awards. The extent that this accommodation can be made is not clarified but would appear to be limited. It will be submitted that the ability to amend or vary the standard within awards so that it then appropriately reflects existing industry standards and practice is essential. This ability needs to be made explicit and be sufficient to cater for the atypical and unique circumstances of the education sector.**

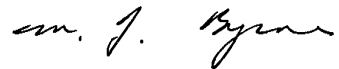
#### **Conclusion**

It is a concern of Catholic education employing authorities in Queensland that the Draft National Employment Standards, as they are currently expressed, are highly likely to impact detrimentally on the established award conditions that exist for employees and employers of Catholic education in Queensland. Where this would occur through the introduction of the NES it is our submission that

these conditions should be preserved through the Awards. It is further our submission that the NES should provide greater scope and flexibility in the ability to amend or vary through the award. By doing this it recognises that the NES provides a minimum set of entitlements but also recognises that awards are the appropriate mechanism to preserve specific and specialised conditions pertaining to an industry.

If you have any further queries regarding this submission please contact Colin O'Neill, Executive Officer – Employee Relations on (07) 3336 9302.

Yours sincerely

A handwritten signature in black ink, appearing to read "m. j. Byrne".

**Mike Byrne**  
**Executive Director**