

**KINDERGARTEN ASSOCIATIONS**

**SUPPORT STAFF**

**COLLECTIVE AGREEMENT**

**2018-2020**

## **PART ONE: OPERATION OF AGREEMENT**

### **1.1 PARTIES TO THE AGREEMENT**

This collective agreement is made pursuant to Part 5 of the Employment Relations Act 2000, and is made between, and is binding on the following parties:

- (i) Auckland Kindergarten Association;
- (ii) Waikato Kindergarten Association;
- (iii) He Whānau Manaaki o Tararua Free Kindergarten Association (Whanau Manaaki);
- (iv) Nelson District Free Kindergarten Association Incorporated (Nelson Tasman Kindergartens);
- (v) Tauranga Regional Free Kindergarten Association (Inspired Kindergartens);
- (vi) Marlborough Free Kindergarten Association Inc (Marlborough Kindergartens);
- (viii) Ruahine Kindergarten Association;
- (ix) Taranaki Free Kindergarten Association (Kindergarten Taranaki);
- (x) Kaitaia and District Kindergarten Association (Kindergartens Far North);
- (xi) Central North Island Kindergarten Trust
- (xii) Counties Manukau Kindergarten Association
- (xiii) Employers who are kindergarten associations may become party to this agreement, from the date that written advice is given to the original parties; and
- (xi) NZEI Te Riu Roa.

### **1.2 COVERAGE**

a) The following employees shall be covered by this agreement:

All employees employed by the employer parties to this agreement in an early childhood centre in the following capacities:

- In-training teaching assistant
- Unqualified teaching assistant
- Administrator
- Teacher aide
- Cook / lunch person

b) Employees who are employed in the employer's head office are not covered by this agreement.

c) The terms and conditions contained in this agreement are minimum provisions.

### **1.3 TERM OF AGREEMENT**

This agreement shall come into force from 14 November 2018 and shall continue in force until 30 September 2020.

### **1.4 VARIATIONS**

The terms and conditions contained in this agreement may be varied during its term by written agreement between the parties to this agreement.

### **1.5 DEFINITIONS**

**In-training teaching assistant** means an employee primarily employed in teaching duties who is undertaking an early childhood teaching qualification recognised by the Education Council of Aotearoa New Zealand for certification. The employers may have designated in-training positions. In the case of a designated in-training position, on attainment of the qualification, the employee employed in the position shall cease to be employed.

**Unqualified teaching assistant** means an employee primarily employed in teaching duties who does not hold an early childhood teaching qualification recognised by the Education Council of Aotearoa New Zealand for certification purposes. The employer may have designated unqualified positions.

**Administrator** means an employee who is substantively employed to undertake administration, or administration and support, duties in an early childhood centre.

**Teacher aide** means an employee who is substantively employed to support the teaching staff in duties related to the preparation and maintenance of the learning environment and the routine needs of children and who is not part of the teacher / child ratio.

**Cook / lunch person** means an employee responsible for the preparation of food and refreshments.

**Part time employee** means an employee employed to work for less than 40 hours per week.

**Part year employee** means an employee employed to work for less than 52 weeks in a year, due to the centre operating with a reduced roll or being closed for a portion of the year.

**Fixed term employee / temporary employee** means an employee employed to work for a set period of time, until a certain event occurs (e.g. completion of a project) or until the work they were employed to do is completed.

**Casual employee** means an employee employed on an as and when required basis.

## **PART TWO: HOURS OF WORK AND TYPE OF EMPLOYMENT**

### **2.1 HOURS OF WORK**

- a) Hours of work shall not exceed eight per day, or 40 hours or 5 days per week, nor be less than two hours per day.
- b) All hours of work shall be continuous from the time of starting each day without any breaks, other than the following breaks, in accordance with the Employment Relations Act:

For employees who work up to four hours in the day: one 10 minute paid refreshment break

For employees who work more than four hours and up to six hours in the day: one 10 minute paid refreshment break, and one unpaid 30 minute lunch break

For employees who work more than six hours and up to 10 hours in the day: two 10 minute paid refreshment breaks, and one unpaid 30 minute lunch break

- c) The employer will consult with the employees when changes to the hours of operation are being considered. Where proposed changes would impact on both support staff and teachers, the consultation process will take place simultaneously.

## **2.2 ADDITIONAL HOURS**

- a) Except as provided in sub clause 2.3 below, where an employee is required to work additional hours, hours in excess of 40 per week or 8 per day shall be paid for at the rate of time and a half.
- b) By agreement between the employer and employee, time off in lieu may be taken instead of overtime payment. Time in lieu shall be on an hour off for an hour worked basis.
- c) In the case of part time employees, time and a half rates shall only be paid when the additional hours are in excess of those set out in 2.1 (a). Otherwise, additional hours are paid at the employee's ordinary hourly rate.

## **2.3 SALARISED ARRANGEMENT**

By agreement between an employer and an employee, a salarised arrangement may operate instead of the provisions outlined in sub clauses 2.1 (a) and 2.2 above. In this case a salary shall be negotiated and agreed which includes recognition of the fact that the employee will work additional hours from time to time. In the case of an employee who has agreed a salarised arrangement, clause 2.2 shall not apply and additional hours may be required to be worked from time to time for which no additional payment is made. The annual salary shall be not less than the pay the employee would have received had they been paid on the relevant hourly rate.

## **2.4 ANNUALISATION**

- a) By agreement between an employer and an employee employed on a part year basis, projected earnings may be annualised. In the case of He Whanau Manaaki o Tararua free Kindergarten Association, Tauranga Regional Free Kindergarten Association, Central North Island Kindergarten Trust and Kaitaia and District Kindergarten Association, all new part-year employees shall have their earnings annualised. The employer and employee shall record this agreement in writing, along with the annualisation calculation. This will include the actual pay rate as well as the annualised rate.
- b) Annualisation is the process by which a part year employee's ordinary pay earnings, including annual leave and payment for public holidays, over a year are paid in equal fortnightly instalments throughout the 12 month period, for the purpose of regularity of earnings for the employee across times of the year that they are not provided with work by the employer.
- c) For the purposes of this provision, 'weekly earnings' in relation to
  - Any paid parental leave entitlement in accordance with section 71T of the Parental Leave and Employment Protection Act 1987; or
  - Any entitlements under the Injury Prevention, Rehabilitation and Compensation Act 2001

shall mean the employee's hourly rate multiplied by the employee's actual (i.e. non annualised) weekly hours which shall be provided to the appropriate authorities if required to ensure that the employee is not disadvantaged through the annualisation agreement.

- d) An employee with annualised earnings remains entitled to the provisions of clause 2.2 – additional hours and 4.1 – public holidays. Any additional payments earned through working additional hours or on a public holiday shall be paid at the time they are earned.
- e) At the end of the 12 month period of annualisation, the employer shall calculate the remuneration that would have been earned had the employee not had annualised earnings, and shall calculate whether any additional remuneration is owing to the employee, or whether there has been an overpayment to the employee. The employer shall provide the results of the calculation to the employee. In the case of an underpayment the employee shall receive the additional remuneration, and in the case of an overpayment the employer shall deduct the overpayment

from subsequent remuneration as per clause 3.9. Such a calculation shall also take place if the employee goes on leave without pay.

- f) If the employee's employment is to terminate, any overpayment shall be deducted from final pay. Two weeks written notice of any monies owed will be given, provided the proper notice of termination has been given, except in the case of serious misconduct.
- g) Where an employee under this clause seeks leave without pay for longer than two weeks, they shall be advised of the possibility of an overpayment.
- h) This process is not available to employees who have a salaried arrangement under clause 2.3.
- i) Where an employee's regular hours of work change or his/her pay rate changes, the revised calculation will be advised to the employee.

## **2.5 NON CONTACT TIME - IN-TRAINING AND UNQUALIFIED TEACHING ASSISTANT**

- a) All in-training and unqualified teaching assistants are entitled to 12.5% of the total ordinary hours for which they are employed each week to be worked as non-contact time (rounded to the nearest half hour). Such time may be accumulated to a maximum of five hours.
- b) Non-child contact is time spent undertaking responsibilities other than child contact within a teaching assistant's normal hours of work and may include such work as preparation of food, administration, planning, shopping, parent contact, preparation of activities etc.
- c) Availability to the children in cases of accident or emergency will not be diminished during this period.
- d) No children will be left unattended.

## **2.6 APPOINTMENTS**

- a) All part-time and full-time positions shall be permanent unless identified as fixed term positions; casual employees may also be employed.
- b) Offers of employment will be confirmed in writing including:
  - the proposed position;
  - (i) whether the appointment is permanent, fixed-term or for casual employment;
  - (ii) rate of pay; and
  - (iii) except in the case of casual employees, the hours of work and in respect of teaching assistants, the contact hours and non-contact time.
- c) Fixed term or temporary employees may be employed where operational circumstances so require and shall be given a written letter of appointment setting out the reason for the fixed term / temporary nature of their employment, and the circumstances which will bring the employment to an end. An in-training teaching assistant shall also be employed on a fixed term basis where the position is designated in-training.
- d) Casual employees may be employed as operational circumstances so require. Each engagement undertaken by the casual employee is a stand alone employment arrangement and the employment shall be at an end at the completion of the work required.

## PART THREE: REMUNERATION

### 3.1 PAY SCALES

a) This section sets out the minimum hourly rates of wages payable.

b) **Unqualified teaching assistant; Teacher aide; Cook**

Step	Hourly wage rate effective on commencement of agreement	Hourly wage rate effective 1 April 2019	Hourly wage rate effective 1 April 2020
1	16.96	17.25	18.00

#### In-training teaching assistant

Step	Hourly wage rate effective on commencement of agreement	Hourly wage rate effective 1 April 2019	Hourly wage rate effective 1 April 2020
1	16.96	17.25	18.00
2	17.41	17.75	18.25
3	17.85	18.00	18.50

#### Administrator

Step	Hourly wage rate effective on commencement of agreement	Hourly wage rate effective 1 April 2019	Hourly wage rate effective 1 April 2020
1	16.83	17.25	18.00
2	17.41	17.70	18.25
3	18.24	18.38	18.88
4	19.07	19.20	19.70

c) **Translation to new scales in 2016:**

In the case of the In-Training scale which had the bottom step removed in 2016, the employees translated to the new scale as follows:

Current Step	Current rate	Employee translates to new step:	Rate effective on commencement of agreement	Rate effective 1 October 2017
1	15.48	1	16.28	16.63
2	15.93			
3	16.37	2	16.72	17.07
4	16.80	3	17.15	17.50

Employees who translated onto step 1 of the new scale progressed to step 2 on their next anniversary date in accordance with clause 3.3 a).

### **3.2 APPOINTMENT ON A SCALE**

At the time of appointment the employer shall recognise previous paid work experience with a Kindergarten Association that is directly relevant to the employee's duties and responsibilities and which has occurred within 5 years of the appointment.

### **3.3 PROGRESSION ON A SCALE**

- a) An employee's progression on the relevant pay scale shall be on an annual basis on the employee's anniversary date, subject to competent performance.
- b) Employees shall have annual performance reviews against written position / job descriptions or other appropriate performance standards.
- c) An early childhood teaching assistant in training may not move from one in-training step to another without providing, at the completion of each training year, evidence of continued training.

### **3.4 MOTOR VEHICLE RUNNING EXPENSES**

Any employee who has the approval to use her/his car for centre purposes, or is required to relieve in another centre owned by their employer, shall be reimbursed at 58 cents per kilometre.

### **3.5 EVENING WORK**

The employer shall provide a reasonable meal or reimburse the actual and reasonable expenses incurred by the employee where the employer requires an employee's attendance at a meeting that prevents the employee returning home for the evening meal.

### **3.6 EXPENSES INCURRED IN THE ATTENDANCE AT COURSES**

- a) Where an employee attends a retraining course or any other course related to that employee's employment, the employer shall reimburse actual and reasonable expenses incurred by the employee, subject to the prior approval of these expenses by the employer and provision of receipts.
- b) Where attendance at courses is required by the employer, actual and reasonable expenses shall be met by the employer including travel costs and course fees. For the purposes of this clause:
  - (i) travel costs will be reimbursed as set out in a);
  - (ii) employees will 'car pool' where practicable; and
  - (iii) where the employer arranges a course and employees choose to attend the course in a different location and/or at a higher cost, employees shall receive those expenses that would have been incurred in attending the course arranged by the employer.

### **3.7 PAYMENT OF WAGES**

Wages shall be paid fortnightly by direct credit to the employee's nominated bank account.

### **3.8 DEDUCTIONS FROM WAGES**

Deductions may be made from an employee's wages for time lost due to sickness, accident, default, leave without pay or other reason agreed to by the parties. Deductions may be made from an employee's final wages for any debt owing by the employee to the employer or for any property of the employer which the employee has not returned.

### **3.9 OVERPAYMENTS**

- a) It is the responsibility of both the employer and the employee to ensure that payments are correct.
- b) Where an overpayment does occur the employer is entitled to recover the overpayment, provided the employee is given written notification of the intention to recover the overpayment, the amount to be recovered and a full explanation of the reasons for the overpayment. The employee shall be consulted about the method of recovery which must be reasonable and shall be spread over more than one pay week if the deduction of one lump sum would be too onerous for the employee.

## **PART FOUR: HOLIDAYS AND LEAVE PROVISIONS**

### **4.1 PUBLIC HOLIDAYS**

- a) The employee shall be entitled to the following public holidays, on pay, where they fall on days that would otherwise be working days for the employee: Christmas Day, Boxing Day, New Years Day, 2nd January, Good Friday, Easter Monday, the birthday of the reigning sovereign, Labour Day, Provincial Anniversary, Waitangi Day and Anzac Day.
- b) Where an employee is required to work on a Public Holiday that falls on a day that would otherwise be a working day for the employee, they shall be entitled to be paid for the hours so worked at time and a half rates, provided that the employee will be paid not less than what they would have received had the day in question not been a public holiday. In addition, the employee shall be granted a paid alternative holiday.
- c) Where an employee works on a Public Holiday that would not otherwise have been a working day for the employee, the employee is entitled to payment for the hours so worked at time and a half rates. No alternative holiday is provided.

### **4.2 ANNUAL LEAVE**

- a) **Annual leave:**  
On completion of 12 months service an employee shall be entitled to four (4) weeks annual leave, to be taken and paid in accordance with the Holidays Act.
- b) **Long service leave:**  
On completion of ten years service (including service occurring prior to the coming into force of this agreement), with the same employer an employee shall, at the end of the tenth year and for subsequent years, be entitled to annual leave of five (5) working weeks instead of four (4) weeks.
- c) Employees shall take their annual leave when centres are closed except where otherwise agreed.

### **4.3 SICK AND DOMESTIC LEAVE**

- a) Employees shall be entitled to sick leave of five days on commencement of employment, and to a further entitlement after six months continuous service and after each subsequent year of service as follows:
  - Employees who work five days per week: seven (7) days
  - Employees who work four days per week: six (6) days
  - Employees who work three days per week or less: five (5) days

- b) Sick leave can be used when an employee is sick or injured, or when the employee's spouse or partner or a person who depends on the employee for care is sick or injured. For the avoidance of doubt, the employee's family / whanau shall include the employee's spouse or partner, a dependent child or dependent parent of the employee or of the employee's spouse or partner or any relative or person who is demonstrated to have a dependency on the employee.
- c) Unused sick leave shall accumulate up to 70 days.
- d) If the period of absence on sick leave exceeds three consecutive calendar days, the employee may be required to provide proof of the injury or illness.
- e) Sick leave can be used for attendance at doctor, dentist and hospital appointments.

#### **4.4 BEREAVEMENT LEAVE / TANGIHANGA LEAVE**

- a) An employee shall be entitled to up to five days leave on pay on the death of a person with whom they have had a close association, due to blood or family ties or cultural obligations including significant responsibility for the arrangements for the ceremonies resulting from the death.
- b) One day's bereavement leave shall be allowed on the death of any other person where the employer accepts that the employee has suffered a bereavement at the time of the death.
- c) Additional leave, with or without pay, may be granted at the employer's sole discretion.

#### **4.5 PARENTAL LEAVE**

Parental leave shall be granted in accordance with the Parental Leave and Employment Protection Act.

#### **4.6 PROFESSIONAL DEVELOPMENT LEAVE**

- a) Full time permanent employees are entitled to a minimum of two paid working days per year professional development relevant to their role, but may be granted a further five days at the employer's discretion.

Permanent part-time and part-year employees shall be entitled to professional development as above calculated on a pro rata basis.

Unused entitlement is not carried into the next year.

Professional development may include:

- i. Learning and development which the employer requires the employee to participate in; and/or
  - ii. Learning and development opportunities relevant to the employee's role identified by the employee or employer and agreed by both parties.
- b) Where an employee makes a written request for paid professional development leave under sub-clause 4.6 a) the employer will provide a written response to that request no later than two weeks after the request was made by the employee.
  - c) Time off in lieu: Where an employee is required by the employer to attend a meeting, hui, conference or course, the employee may be granted time off in lieu or paid for the hours of attendance when the course falls on a day of the week not normally worked by the employee.

## **4.7 JURY SERVICE/ COURT LEAVE**

- a) Where an employee is legally required to attend court for jury service or work related purposes, the difference between the fees (excluding reimbursing payments) paid by the Court and the employee's basic daily pay shall be made up by the employer, provided that:
- Upon receipt of notification of the requirement to attend court the employee shall advise the employer, and
  - The employee produces the Court expenses voucher to the employer, and
  - The employee returns to work immediately on any day that they are no longer required by the Court.
- b) Payments for court leave shall be made for up to a maximum of five days in respect of each separate period of jury service/court attendance.
- c) Where the employee has been paid their usual payment by the employer in anticipation of the employee reimbursing the employer for the fees paid by the court, the employee may:
- (i) provide evidence of the payment received for jury service to the employer so that the employer can deduct this amount from the employee's next pay; or
  - (ii) reimburse the employer no later than one month after the employee receives the court payment.

If the employee fails to either reimburse the employer or provide details to the employer for deduction in accordance with (i) or (ii), the employer shall be entitled to deduct the payment the employer made to the employee for the jury service attendance from wages due to the employee.

If in exceptional circumstances the employee is physically unable to organise the payment (for example, in the case of extended sick leave) the employer and employee may agree on an alternative timeframe.

## **4.8 SPECIAL LEAVE**

Special leave, with or without pay, may be granted at the employer's sole discretion to cover special circumstances not otherwise recognised.

## **PART FIVE: TERMINATION**

### **5.1 TERMINATION**

In the case of all employees a minimum of four weeks' notice of termination of employment shall be given by either the employer or the employee unless a shorter period is agreed. The employer may elect to pay in lieu of notice. If the employee fails to give the required notice, the employee shall forfeit the amount of the notice not given through a deduction from final pay (including holiday pay). Nothing in this clause shall prevent dismissal without notice for serious misconduct.

### **5.2 ABANDONMENT OF EMPLOYMENT**

Where an employee is absent from work for more than five working days without notification to the employer, s/he shall be deemed to have terminated her/his employment.

### **5.3 EMPLOYEE PROTECTION PROVISION**

- a) Where the employer is contracting out, selling or transferring all or part of the business, including the part of the business where the employee is employed, the following provisions will apply:

- (i) Where practicable, the employee and the union will be consulted about any proposal to sell all or part of the business or to contract out or transfer work before a final decision is made.
  - (ii) If the employer decides to proceed with the proposed restructure, it will negotiate with the new contractor/service provider with a view to endeavouring to have the new employer offer the employee employment on the same or similar terms and conditions and recognising service as continuous. The employee and the union will be advised of timeframes for such negotiation, and for the acceptance of any offer of employment or of any application and interview process, as soon as possible.
  - (iii) The employee is entitled to choose whether or not to accept employment with the contractor/service provider. In the event that the contractor/service provider offers the employee employment in terms of sub clause (ii) above, no redundancy situation will arise, whether or not the employee chooses to accept the offer of employment.
- b) In the event that the contractor/service provider is not prepared to offer the employee employment in terms of sub clause ii) above, or offers employment on lesser terms and conditions and/or without recognition of the employee's service, the employee will receive notice of termination in accordance with this agreement.

#### **5.4 REDUNDANCY**

- a) Where a potential redundancy situation could occur, the employer shall consult with the union and potentially affected employees, where practicable, prior to making final decisions.
- b) Employees made redundant are entitled to 4 weeks notice of termination. This is not in addition to the notice provided under clause 5.1. The employer may elect to pay in lieu of some or all of the notice period.
- c) An employee who has at least one year's service with their employer at the time they are given notice of termination due to redundancy shall be entitled to four weeks' payment as redundancy compensation. Redundancy compensation shall not be payable where the employee is offered redeployment in accordance with this clause. An employee who does not have one year's service with the employer at the time notice is given is not entitled to redundancy compensation.
- d) Where a kindergarten is to close, or the number of staff may be reduced, and where natural attrition will not achieve the required decrease in positions, redeployment options shall be explored in consultation with the union. The employer will, in consultation with the union, identify any available or impending vacancies for which the employee may wish to be considered.
- e) During the notice period both the employer and the employee shall make reasonable efforts to locate suitable alternative employment for the employee. In the event that a reasonable offer of employment is made, the employer's responsibilities under these provisions shall be fulfilled.
- f) The employer shall provide reasonable paid leave to attend job interviews.
- g) The employer and any affected employee and the union may agree in writing to an alternative arrangement to the provisions contained in this clause.
- h) Employees shall be entitled to all holiday pay and salary/wages owing.

### **PART SIX: TERMS OF EMPLOYMENT AND HEALTH AND SAFETY**

#### **6.1 CONFIDENTIALITY**

Employees must not disclose any information or knowledge which they may acquire or have acquired during their employment with the employer concerning the business affairs or practices, trade secrets, business opportunities, property, customers, clients or staff of the organisation.

## **6.2 CONFLICT OF INTEREST**

Whilst employed by the employer employees must not own, operate or otherwise be involved in any business that may compete in any material respect with the business of the employer except with the written consent of the employer.

## **6.3 EMPLOYER PROPERTY**

Employees may not remove any property owned by the employer, including intellectual property (including intellectual property created by the employee as a result of their employment with the employer) from the premises without the prior consent of the employer. On termination of employment, employees are to return all of the employer's property in their possession including copies of the same.

## **6.4 HEALTH AND SAFETY AT WORK**

- a) When an employee's health and safety are shown to be significantly at risk through the course of their duties, the employer shall, in consultation with the appropriate health and safety authorities, take such steps as are necessary to provide protection for the employee.
- b) The employer shall ensure safe working practices and appropriate hygiene measures are in place to reduce the risk of infection by contagious disease. Where there is significantly increased risk, the situation shall be assessed on an individual basis and pre exposure immunization made available as advised by the Ministry of Health.
- c) Employers shall take all practical steps to ensure a safe working environment for employees. Employees also have a role in ensuring their own health and safety and that of people around them as described in the Health and Safety at Work Act 2015.

## **6.5 FIRST AID CERTIFICATE**

Where an employer requires an employee covered by this agreement to hold a first aid certificate, the employer shall meet the cost of obtaining / renewing the certificate from the employer's preferred provider in accordance with that Association's practice.

## **PART SEVEN: UNION PROVISIONS**

### **7.1 WORKSITE REPRESENTATIVES**

The employer recognises the role played by worksite representatives in the workplace.

### **7.2 RIGHT OF ENTRY**

In accordance with the Employment Relations Act 2000, a representative of the union shall be entitled to enter the workplace at all reasonable times for purposes related to the employment of its members and to the union's business. The representative will exercise this right in a reasonable way, having regard to the normal operations of the workplace and will comply with any reasonable procedures and requirements relating to health and safety or security.

### **7.3 UNION MEETINGS**

Union meetings may be held in accordance with the Employment Relations Act.

#### **7.4 UNION MEMBERSHIP FEES**

On written request from an employee, an employer shall deduct union fees from the employee's salary / wages and remit them to the union. The employer may deduct an administration fee of no more than 2.5%.

#### **7.5 UNION ROLES**

The employers acknowledge the roles of employees who are appointed to positions within NZEI. NZEI acknowledges the employers' need to maintain effective operations within kindergartens.

#### **7.6 EMPLOYMENT RELATIONS EDUCATION LEAVE**

Employment Relations Education Leave will be allowed in accordance with the Employment Relations Act.

### **PART EIGHT: EMPLOYMENT RELATIONSHIP PROBLEMS**

#### **8.1 SERVICES AVAILABLE FOR THE RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS**

##### **What is an Employment Relationship Problem?**

It is a problem between employee and employer. For example, it might be a personal grievance or a dispute about a provision in an employment agreement.

##### **Resolving an Employment Relationship Problem**

The employee and employer should first make a reasonable effort to discuss the problem and settle it by mutual agreement. (If it is a personal grievance, it must first be raised with the employer **within 90 days** - Personal Grievances are explained further below.)

An employee (or employer) has the right to be represented at any stage.

When a problem arises, union members should contact their local NZEI Te Riu Roa field officer for advice and representation.

Employers should contact an adviser/representative of choice.

##### **Personal Grievances**

A personal grievance is a particular type of employment relationship problem that normally must be raised with the employer within 90 days of the grievance arising.

An employee may have a personal grievance where:

- They have been dismissed without good reason, or the dismissal was not carried out properly.
- They have been treated unfairly.
- Their employment or a condition of their employment has been affected to their disadvantage by an unjustified action of their employer.
- They have experienced sexual or racial harassment, or have been discriminated against because of their involvement in a union or other employee organisation, or have suffered duress over membership or non-membership of a union or other employee organisation.
- They have been discriminated against in terms of the prohibited grounds of discrimination under the Human Rights Act 1993.

Note: The full meaning of the terms personal grievance, discrimination, sexual harassment, racial harassment, and duress, shall be the meaning given by sections 103 to 110 inclusive of the Employment Relations Act 2000 only.

As with other employment relationship problems, the parties should always try to resolve a personal grievance through discussion.

Either party can refer a personal grievance to the Employment Relations Service of the Ministry of Business, Innovation and Employment for mediation assistance, or to the Employment Relations Authority.

If the problem relates to a type of discrimination that can be the subject of a complaint to the Human Rights Commission under the Human Rights Act 1993, the person can either take a personal grievance, or complain to the Human Rights Commission, but not both. If in doubt, advice should be sought before deciding.

### **Services Available**

To help resolve employment relationship problems, the Ministry of Business Innovation and Employment provides:

#### **An Information Service**

This is free. It is available by contacting the Ministry of Business Innovation and Employment or by phoning toll free 0800 20 90 20. The Ministry's Employment Relations Service internet address is [www.dol.govt.nz](http://www.dol.govt.nz).

#### **Mediation Service**

- The Mediation Service is a free and independent service available through the Ministry of Business Innovation and Employment.
- This service helps to resolve employment relationship problems and generally to promote the smooth conduct of employment relationships.
- Mediation is a mutual problem solving process, with the aim of reaching an agreement, assisted by an independent third party.
- If the parties can't reach a settlement they can ask the mediator, in writing, to make a final and binding decision.
- A settlement reached through mediation and signed by the mediator at the request of the parties is final, binding and enforceable. Neither party can then take the matter any further and, either party can be made to comply with the agreed settlement by court order.
- If the problem is unresolved through mediation either party may apply to have the matter dealt with by the Employment Relations Authority.

#### **The Employment Relations Authority**

- This Authority is an investigative body that operates in an informal way. It looks into the facts and makes a decision on the merits of the case and not on the legal technicalities.
- Either an employer or an employee can refer an unresolved employment relationship problem to the Authority by filing the appropriate forms.
- The Authority may call evidence, hold investigative meetings, or interview anyone involved. It can direct the parties to try mediation. If mediation is unsuitable or has not resolved the problem, the Authority will make a decision that is binding on all parties. Any party can contest the Authority's decision through the Employment Court.

Note: All employment relationship problems, including personal grievances and any disputes about the interpretation or application of this agreement, must be resolved under Parts 9 and 10 of the Employment Relations Act 2000.

For NZEI Te Riu Roa: Date:

For Auckland Kindergarten Association: Date:

For Waikato Kindergarten Association: Date:

For He Whānau Manaaki o Tararua Free Kindergarten Association: Date:

For Nelson District Free Kindergarten Association: Date:

For Tauranga Regional Free Kindergarten Association: Date:

For Marlborough Kindergarten Association Inc: Date:

For Ruahine Kindergarten Association: Date:

For Taranaki Free Kindergarten Association: Date:

For Kaitaia and District Kindergarten Association: Date:

For Central North Island Kindergarten Trust: Date:

For Counties Manukau Kindergarten Association: Date: