DECISION

*Fair Work Act 2009*
s.185—Enterprise agreement

**Australian Curriculum Assessment and Reporting Authority**
(AG2012/7160)

**ACARA ENTERPRISE AGREEMENT 2012-2016**

Commonwealth employment

COMMISSIONER DEEGAN CANBERRA, 19 JULY 2012

*Application for approval of the ACARA Enterprise Agreement 2012-2016.*

[1] An application has been made for approval of an enterprise agreement known as the ACARA Enterprise Agreement 2012-2016 (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act) by the Australian Curriculum Assessment and Reporting Authority. The Agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act, as are relevant to this application for approval, have been met.

[3] The CPSU, the Community and Public Sector Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) of the Act I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 26 July 2012. The nominal expiry date of the Agreement is 30 June 2016.

Printed by authority of the Commonwealth Government Printer

<Price code J, AE895420 PR526395>
Enterprise Agreement
2012-2016
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Part 1 – Application and Operation of Agreement

1. Agreement Title

1.1. This Agreement will be referred to as the ACARA ENTERPRISE AGREEMENT 2012-2016, hereinafter referred to as the Agreement.

2. Coverage of the Agreement

2.1. This Agreement covers:

2.1.1. Australian Curriculum, Assessment and Reporting Authority, hereinafter referred to as ACARA;

2.1.2. All persons directly employed by ACARA, hereinafter referred to as employee/s; and

2.1.3. The CPSU and any other registered association, if FWA, in accordance with s 183(1) of the Act notes that that organisation is covered in its decision to approve the Agreement.

2.2. For the avoidance of doubt, this Agreement does not set the terms and conditions of employment for the CEO, General Managers, contractors, temporary staff, consultants and secondees.

3. Purpose

3.1. The broad aim of this Agreement is to support ACARA to meet its functions as set out in s 6 of the Australian Curriculum, Assessment and Reporting Authority Act 2008 (Cth) while promoting harmonious, productive and cooperative workplace relations and ensuring compliance with Commonwealth and, where applicable, State workplace laws.

4. Commitments by ACARA and its employees

4.1. ACARA is committed to providing flexible working arrangements to assist employees in achieving an appropriate balance between their work and personal lives. All parties to this Agreement recognise the need to balance these flexibilities with ACARA’s requirement to efficiently and effectively perform its functions.

4.2. Managers and employees will work to ensure the flexible working arrangements in this Agreement are used to achieve sustainable working patterns which provide a balance between work and personal lives, identify opportunities for improved productivity and minimise the need for employees, including managers, to work hours in addition to their ordinary hours.

4.3. ACARA respects and values the diversity of its workforce, and provides support to prevent and eliminate harassment, bullying and discrimination on the basis of race,
colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, and social origin.

4.4. ACARA will create a workplace that actively supports the careers and cultural needs of all employees and particularly Aboriginal and Torres Strait Islander employees.

5. Date and Period of Operation

5.1. This Agreement will come into operation 7 days after approval by FWA, and will nominally expire on 30 June 2016.

5.2. This Agreement will continue in force until it is terminated or it no longer applies to any employee.

6. Relationship to Other Instruments

6.1. To the extent of any inconsistencies in a contract of employment or an ACARA policy this Agreement will prevail.

6.2. The operation of this Agreement is supported by ACARA policies that, as amended from time to time, will continue to apply to all employees. These policies provide employees and managers with a more comprehensive understanding of provisions and conditions relating to their employment and responsibilities as employees and managers.

6.3. Where there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms in this Agreement will prevail.

6.4. Policies, procedures and guidelines that support the operation of this Agreement may be made or varied from time to time following consultation with the parties to this Agreement and will apply in the form they are in as at the time of any relevant action/decision. Where a proposed, new or altered policy, procedure or guideline may detrimentally affect employee conditions or entitlements, the policy may only be made or varied by agreement of the parties to this Agreement.

6.5. Policies cannot alter conditions or entitlements contained in this Agreement.

6.6. Disputes over the content, application or interpretation of any policies, procedures or guidelines that support the operation of this Agreement will be subject to the Dispute Settlement Procedure at clause 12 of this Agreement.

6.7. Policies will be posted on the ACARA intranet site.

7. No Extra Claims

7.1. From the commencement of this Agreement, a person or association covered by the Agreement will not pursue further claims for terms and conditions of employment
that would have effect during the period of operation of this Agreement, except where consistent with the terms of this Agreement.

8. Negotiations for Next Agreement

8.1. It is agreed between the parties that they will enter into negotiations for the next agreement by 1 October 2015 with the intention that the next agreement will operate from 1 July 2016.

9. Variation of Agreement

9.1. This Agreement may be varied in accordance with Div 7 of Pt 2-4, Ch 2 of the Act. Under ss 207 and 208 of that Act, an Agreement may be varied where a valid majority of the affected employees vote to approve the variation.

10. Base Salary and Superannuation Increases

10.1. The base salaries of employees covered by this Agreement, with the exception of any employee on a PIP pursuant to clause 32.4 of this Agreement, will be adjusted over the life of the Agreement as follows:

10.1.1. 1.5% on 1 July 2012;
10.1.2. 1.45% on 1 January 2013;
10.1.3. 2.95% on 1 January 2014;
10.1.4. 2.95% on 1 January 2015; and
10.1.5. 2.95% on 1 January 2016.

10.2. The employer contributed superannuation of employees covered by this Agreement will be adjusted over the life of the Agreement as follows:

10.2.1. 0.25% on 1 July 2012;
10.2.2. 0.25% on 1 July 2013;
10.2.3. 0.25% on 1 July 2014; and
10.2.4. 0.25% on 1 July 2015.

10.3. For the avoidance of doubt, the contributions in clause 10.2 of this Agreement are in addition to any statutory increases that might apply.

10.4. Where an employee successfully completes a PIP pursuant to clause 32.4 of this Agreement and is appraised as ‘achieved expectations’ in the following performance and recognition program, any base salary adjustments that would have otherwise applied under clause 10.1 of this Agreement will be paid to the employee from the point at which they ‘achieved expectations’. For the avoidance of doubt, base salary adjustments of this type will not be back-paid.

11. Definitions
11.1. ACARA means the Australian Curriculum, Assessment and Reporting Authority.

11.2. Accruing quarter means the 3 months in which additional hours are accrued. The accrual quarter is offset one month in advance of the expending quarter.


11.4. Additional hours means up to an additional 3 directed or self-directed hours worked beyond ordinary hours in a day. This time is governed by the contracted hours system.

11.5. Base salary means the pay point to which an employee is assigned within their classification band. It excludes employer contributed superannuation.

11.6. CEO means ACARA’s Chief Executive Officer.

11.7. CPSU or union means the Community and Public Sector Union.

11.8. Consultant means a person engaged as a contractor with the title of consultant.

11.9. Contracted hours system means ACARA’s Hours of Work Policy and clause 23.4 of this Agreement which allow employees to vary their pattern of hours from the standard working day.

11.10. Contractor means a person engaged on a contract for services arrangement and not directly employed by ACARA.

11.11. Core hours means the hours of 10.00am – 4.00pm Monday to Friday during which employees must be in attendance at their nominated business premises. For the avoidance of doubt, core hours correspond to the time zone of the individual employee’s business premises whether this is the Sydney office, an interstate ACARA office or another remote working location, for example, working from home.

11.12. Delegate means a person to whom functions or powers under this Agreement have been delegated.

11.13. Employee means a person directly employed by ACARA.

11.14. Excess hours means directed hours worked beyond 10 hours in a day, or between midnight Friday and midnight Sunday. This time is governed by the TOIL system.

11.15. Executive means the CEO and General Managers.

11.16. Expending quarter means the 3 months in which additional hours are acquitted. The expending quarter aligns with the financial year quarter i.e. July – Sept, Oct – Dec, Jan – March, and April – June.

11.17. FWA means Fair Work Australia.

11.18. General Manager means the employee’s General Manager and, in the case of an employee in the Office of the CEO business unit, the CEO.
11.19. **Home department/agency** means the substantive employer of a Secondee.

11.20. **Hours of work framework** means ACARA’s Hours of Work Policy and clause 23 of this Agreement concerning employee hours of work. The hours of work framework is comprised of the elements: ordinary hours, standard working day, contracted hours system, and time off in lieu system.

11.21. **Immediate family** means:

   11.21.1. A spouse, de facto spouse or same sex partner;

   11.21.2. A child or an adult child, grandchild, parent, grandparent, cousin, aunt, uncle or sibling of the employee or their spouse, de facto spouse or same sex partner; or

   11.21.3. A person who lives with the employee.


11.23. **Ordinary hours** means the employee’s contracted hours of work subject to clause 23.3.1 in this Agreement.

11.24. **PIP** means a performance improvement plan to manage underperformance in accordance with clause 32.4 of this Agreement.

11.25. **Policy** means an ACARA policy and any related documents.

11.26. **Salary range** means the minimum pay point to the maximum pay point determined for a band in ACARA’s Classification Structure.

11.27. **Secondee** means a person appointed to ACARA for a fixed term but whose employer remains their home department/agency.

11.28. **Secondment agreement** means a tripartite agreement between ACARA, a secondee and a home department/agency on which terms the secondee is engaged by ACARA.

11.29. **Standard working day** means 9.00am – 5.00pm Monday to Friday, except where a public holiday occurs. This spread of hours includes a 1 hour unpaid rest break and is the default spread of hours where an employee is not using the contracted hours system.

11.30. **Temporary staff** means a person engaged through a recruitment agency or labour hire firm.

11.31. **Time off in lieu system** means the process by which excess hours of work are recognised.

11.32. **Total remuneration package** means the value of an employee’s base salary plus the value of employer contributed superannuation.
11.33. **Unreasonable hours** means a reference to the principles set out in s 62 of the Act, and below, which aid employees to determine whether additional or excess hours are reasonable or unreasonable for the purposes of clause 23 of this Agreement. For the avoidance of doubt, the following must be taken into account:

11.33.1. Any risk to employee health and safety from working the additional or excess hours;

11.33.2. The employee’s personal circumstances, including family responsibilities;

11.33.3. The needs of the workplace or enterprise in which the employee is employed;

11.33.4. Any notice given by the employer of any request or requirement to work the additional or excess hours;

11.33.5. Any notice given by the employee of his or her intention to refuse to work the additional or excess hours;

11.33.6. The usual patterns of work;

11.33.7. The nature of the employee’s role, and the employee’s level of responsibility; and

11.33.8. Any other relevant matter.

11.34. **Workplace delegate** means an appointed or elected representative of the CPSU (or other relevant industrial association) in the ACARA workplace.
Part 2 – Dispute Resolution

12. Dispute Settlement Procedure

12.1. Where a dispute relates to:

12.1.1. A matter arising under this Agreement;
12.1.2. The NES;
12.1.3. Work health and safety; or
12.1.4. Any other work-related matter (including a dispute about whether a workplace right has been breached) this clause sets out the procedures to settle the dispute.

12.2. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee/s and relevant supervisors and/or manager/s.

12.3. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to FWA for resolution using any of its powers (including powers under s 739(4) of the Act).

12.4. FWA may deal with the dispute in two stages:

12.4.1. FWA will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
12.4.2. If FWA is unable to resolve the dispute at the first stage, FWA may then:

12.4.2.1. Arbitrate the dispute; and
12.4.2.2. Make a determination that is binding on the parties.

Note: A decision that FWA makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

12.5. ACARA or an employee/s who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

12.6. The parties to the dispute and their representatives must act in good faith by following the same principles as good faith bargaining requirements set out in s 228 of the Act.

12.7. While the parties are trying to resolve the dispute using the procedures in this clause, the parties will respect the status quo i.e. an employee must continue to
perform their work, in accordance with the established custom and practice at ACARA that existed prior to the dispute arising, as they would normally, unless they have a reasonable concern about an imminent risk to their health or safety.

12.8. The parties to the dispute agree to be bound by a decision made by FWA.

12.9. Any disputes arising under a policy or the NES that are unresolved at the date of commencement of this Agreement, will be progressed using the procedures in this clause.
Part 3 – Employer and Employee’s Duties, Employment Relationship and Related Arrangements

13. Terms of Engagement

13.1. Employees covered by this Agreement are employed on the following types of arrangements:

13.1.1. Permanent ongoing (full-time and part-time);

13.1.2. Fixed term (full-time and part-time); and

13.1.3. Casual.

13.2. The appointment of new employees will be in accordance with ACARA’s Recruitment Policy and ACARA’s Equal Employment Opportunity, Anti-Discrimination and Affirmative Action Policy.

13.3. ACARA will maintain a workforce that is comprised of permanent ongoing employees where practicable.

13.4. Fixed term and casual employees will not be engaged where the nature of the work is, or has become, ongoing or where no specific duration, task or project can be defined.

14. Permanent ongoing employment

14.1. Permanent ongoing employment is where a person is employed by ACARA on an ongoing and continuing basis.

15. Fixed term employment

15.1. Fixed term employment is where a person is employed by ACARA for a fixed term or to complete a defined task/s or project/s.

15.2. The employment of a fixed term employee ends on the expiry of the period or on completion of the defined task/s or project/s, unless terminated earlier by ACARA or the employee.

15.3. Fixed term employees may be employed for the following periods:

15.3.1. Up to 3 years on a single engagement for a defined task/s or project/s (or associated with backfilling of such positions) without any right of ongoing employment; or

15.3.2. Up to 12 months (in total) on 1 or more engagements for a defined task/s or project/s or to meet a temporary increase in workload or a temporary shortage of skills.

15.4. Where a fixed term employee is engaged on consecutive engagements (including roll-over) or as a permanent ongoing employee without a break in service (up to and
including 8 weeks), the entire period of fixed term employment will counts as service.

16. Casual employment

16.1. Casual employment is where a person is employed by ACARA on an irregular, intermittent or hourly basis with no fixed hours and no expectation of continuing employment.

16.2. Casual employees are engaged by the hour and paid a 23% loading in lieu of public holidays not worked and all leave entitlements except long service leave, parental leave (if the employee is an eligible casual employee as defined by the Act) and compassionate leave.

17. Probation

17.1. New employees will be subject to a period of probation not less than 3 months and not greater than 6 months. Decisions as to the length of probation will be determined by the Senior Manager, Human Resources in consultation with the employee’s General Manager.

17.2. The probationary period provided for in this clause does not affect the minimum employment period provided under s 383 of the Act.

18. Work Health and Safety (WHS)

18.1. ACARA’s officers and workers are obligated under the Work Health and Safety Act 2011 (Cth) to take reasonable care for their own health and safety and ensure their acts or omissions do not adversely affect the health and safety of other persons. They will strive to promote and maintain a safe workplace and work environment, one that is free from hazards that include bullying, harassment, and excessive workloads and hours.

18.2. WHS and protection from bullying and harassment are to be facilitated by appropriate measures including the ACARA Health and Safety Management System, WHS policies, a WHS Committee and the election of Health and Safety Representatives (HSRs).

18.3. ACARA through its officers will:

18.3.1. Conduct and maintain a health and wellbeing program;

18.3.2. Monitor WHS issues and make available funding within budget for activities which address WHS issues including, for example, back problems arising from sitting for long periods;

18.3.3. Make available annual influenza vaccinations to all employees;
18.3.4. Provide access by employees and their families to the Employee Assistance Program;

18.3.5. Provide access to specialist critical incident stress debriefing to employees as required; and

18.3.6. Ensure all vacant HSR and WHS Committee positions are filled within 3 months.

18.4. ACARA will continue to provide appropriate numbers of Fire and Building Wardens, Anti-Discrimination and Harassment Contact Officers, First Aid Officers, first aid kits, rest rooms, lactation rooms and carers' rooms.

18.5. An employee who has a workers compensation or rehabilitation claim against the Commonwealth will not have their base salary reduced as a result of an assessment of productive capacity.

19. Anti-Discrimination

19.1. ACARA takes the principles of Equal Employment Opportunity (EEO) seriously in all aspects of the working environment. ACARA encourages diversity and is committed to affirmative action as set out in ACARA’s EEO, Anti-Discrimination and Affirmative Action Policy.

19.2. ACARA and its employees will provide a workplace free from all forms of discrimination.

19.3. ACARA and its employees are committed to providing a workplace free from all forms of harassment and bullying.
Part 4 – Remuneration and Benefits

20. Classifications and Salary Ranges

20.1. Employees are assigned to a particular classification within a band with an accompanying position description.

20.2. Classifications and salary ranges are set out in Tables A and B of Schedule 1 of this Agreement.

21. Higher Duties

21.1. Opportunities for work at higher levels will be made available, where appropriate, in order to:

21.1.1. Enable ACARA to manage short-term absences and temporary work requirements; and

21.1.2. Enable employees to develop or enhance skills and demonstrate higher level competencies.

21.2. Where an employee is selected for a temporary assignment to work at a higher classification level for a continuous period of 21 calendar days or more but less than 1 year, the employee will be paid at a pay point in that higher classification band nominated by the employee’s General Manager in consultation with the Senior Manager, Human Resources provided that the recommended pay point is no less than 5% and no greater than 10% above the employee’s existing base salary. Where in this 5% - 10% range it is not possible to reach the requisite pay point, the employee’s base salary will be lifted to meet the next pay point (which may include a minimum pay point) in the higher classification band. Upon approval, an employee will be advised whether full or partial responsibilities of the higher position are required to be performed, the pay point and anticipated duration of higher duties.

21.3. Where the period of higher duties is not expected to be for 21 calendar days or more, but for whatever reason does extend to 21 calendar days or more, higher duties will be payable for the entire period worked at the higher level, backdated to commencement of the period.

21.4. Where an employee is selected for temporary additional duties that are within their classification band, yet constitute a measurable increase in work complexity, or a significant increase in workload, the employee’s General Manager in consultation with the Senior Manager, Human Resources may approve a temporary increase in the employee’s base salary to a higher amount within their band. This amount will be no more than a 5% increase to the employee’s base salary.
21.5. If ACARA requires higher duties to be performed for a period of more than 3 months, the employee’s General Manager in consultation with the Senior Manager, Human Resources will advertise the role internally and request expressions of interest. If no interest is expressed the employee’s General Manager may nominate an employee to fill the role provided that each 3 months further expressions of interest will be sought.

21.6. If ACARA requires higher duties to be performed for a period of more than 1 year, the employee’s General Manager in consultation with the Senior Manager, Human Resources may decide to reclassify an employee to the appropriate base salary and position title for the performance of the required work for a specified time period providing the terms of clause 21.5 of this Agreement have been met including that the employee can meet the key selection criteria of the role.

22. Superannuation

22.1. ACARA’s default fund is UniSuper. If employees do not complete a choice form, ACARA will make the following contributions to UniSuper:

22.1.1. Compulsory employer contributed superannuation provided at the superannuation guarantee charge (‘SGC’) rate, currently 9%; and

22.1.2. Any additional employer contributed superannuation provided under clause 10.2 of this Agreement.

22.2. Employer contributed superannuation for employees in other accumulation schemes will be at the same rate as for employees in UniSuper.

22.3. Employees may choose to sacrifice part of their salary from a menu of non-cash benefits in accordance with ACARA’s Flexible Salary Packaging Policy. Participation in salary packaging will not affect salary for superannuation purposes or any other purpose.

22.4. Employer contributed superannuation will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer contributed superannuation (e.g. unable to accept contributions for people aged over 75).

22.5. ACARA will make superannuation contributions for employees who earn below the SGC minimum payment of $450.00 per month.

22.6. For employees who take paid parental leave, employer contributions will be made for a period equal to a maximum of 52 weeks, in accordance with the rules of the appropriate superannuation scheme.
22.7. Employer contributed superannuation will not be paid in respect of periods of unpaid leave, unless prescribed by legislation.

22.8. The CEO may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer (EFT).

22.9. Employees over the age of 75 will receive a superannuation allowance, where ACARA is not permitted by any Commonwealth law to pay all of the employer contribution to the employee’s superannuation fund. The superannuation allowance payable to the employee will be equivalent to the amount ACARA would have paid if the employee was entitled to receive employer superannuation contributions, less any contribution amount accepted to the employee’s superannuation fund. This will comprise part of the employee’s taxable fortnightly salary, and does not count as salary for superannuation purposes.
Part 5 – Hours, Place of Work and Travelling

23. Hours

23.1. Underlying principles of ACARA’s Hours of Work Framework

23.1.1. ACARA’s Hours of Work Framework comprises four key parts:

23.1.1.1. The number of hours employees are required to work;

23.1.1.2. When employees are required to work these hours;

23.1.1.3. The management of these hours; and

23.1.1.4. The means by which excess hours of work are recognised.

23.1.2. ACARA’s hours of work framework is designed to manage the peaks and troughs in workloads which arise from ACARA’s deadline and stakeholder driven governance framework.

23.1.3. Where possible, both managers and employees will seek to manage workloads to ensure that ACARA’s work requirements can be completed within employees’ ordinary hours.

23.1.4. ACARA’s hours of work framework places a premium on WHS, and the long term wellbeing of ACARA’s employees. In an instance where the clauses in this Agreement are unclear, they should be interpreted in such a way as to best protect the safety and wellbeing of employees.

23.1.5. ACARA does not encourage employees to work excessive hours and where instances of excess hours of work are identified, ACARA will use its reasonable endeavours to address the circumstances under which they arose.

23.1.6. ACARA’s hours of work framework will be reviewed by ACARA and the CPSU within 12 months from the date of signing this Agreement.

23.2. Shared responsibilities under ACARA’s Hours of Work Framework

23.2.1. Employees and managers agree to embrace the principles set out in clause 23.1 of this Agreement above and acknowledge that both parties have responsibilities under this Agreement.

23.2.2. The responsibilities of employees are as follows:

23.2.2.1. Employees may refuse to work additional and/or excess hours where it would cause unreasonable or excessive hardship to the employee;

23.2.2.2. Employees will take an unpaid rest break of between 0.5 hours and 2.0 hours for every 5 hours worked;
23.2.2.3. Employees will work no more than 10 hours per day unless directed to work excess hours; and

23.2.2.4. Employees will ensure they manage debit and credit hours within the contracted hours system in line with the best practice guidelines (set out in ACARA’s Hours of Work Policy) and use best endeavours to reduce this to zero within the expending quarter.

23.2.3. The responsibilities of managers are as follows:

23.2.3.1. Managers will safeguard employees against additional and excess hours and actively manage these hours;

23.2.3.2. Managers will ensure employees manage debit and credit hours within the contracted hours system in line with the best practice guidelines and use best endeavours to reduce this to zero within the expending quarter;

23.2.3.3. Managers will, where possible, schedule meetings within core hours; and

23.2.3.4. Managers will, where possible, give reasonable notice to employees about the requirement to work additional and/or excess hours and be mindful of the personal responsibilities of employees. In determining whether hours of work are reasonable or unreasonable, the principles set out in s 62 of the Act and clause 11.33 of this Agreement will be observed.

23.2.4. The responsibilities of ACARA’s Human Resources unit are as follows:

23.2.4.1. Human Resources will audit the contracted hours system at the end of each expending quarter to include both the accrual and acquittal of all hours worked;

23.2.4.2. Human Resources will audit the time off in lieu system at the end of each financial year quarter; and

23.2.4.3. The audits and any identified issues will be provided to the WHS Committee.

23.3. General conditions of ACARA’s Hours of Work Framework

23.3.1. Ordinary hours
23.3.1.1. Ordinary hours for full-time employees are 70 hours per fortnight. Part-time employees will have their ordinary hours per fortnight and pattern of hours set out in a written agreement. Casual employees do not have ordinary hours.

23.3.1.2. There are 7 ordinary hours in a standard working day.

23.3.1.3. ACARA’s employee remuneration includes compensation for additional and excess hours and employees are not entitled to any further remuneration for work outside ordinary hours, except where required by clause 23.3.5 of this Agreement.

23.3.2. Standard working day

23.3.2.1. A standard working day is 9.00am – 5.00pm Monday to Friday, except where a public holiday occurs. This spread of hours includes a 1 hour unpaid rest break.

23.3.3. Work on a public holiday

23.3.3.1. Where an employee is directed to work on public holiday, each hour counts as 2.5 hours towards the employee’s ordinary hours.

23.3.4. Rest between working days

23.3.4.1. Employees should not commence work on any day without having at least 10 hours (plus reasonable travelling time) minimum break from the previous day’s work, without specific approval from the CEO.

23.3.5. Recall to duty

23.3.5.1. Where an employee is directed by the CEO to attend work for emergency duty, a minimum of 3 hours will be paid to the employee by ACARA, on a 1:1 basis. This will be paid as additional salary and taxed accordingly.

23.4. ACARA’s Contracted Hours System

23.4.1. The contracted hours system applies to the following employees, subject to clause 23.4.2 of this Agreement:

23.4.1.1. An employee in the Associate stream classifications A1 – A4;
23.4.1.2. An employee in the Professional stream classifications P1 – P4;

23.4.1.3. An employee in the Management 1 stream; and

23.4.1.4. An employee in the Management 2 stream.

23.4.2. Incumbents in specified roles within ACARA are excluded from the contracted hours system due to the inherent requirements of those roles. The principles for determining excluded roles from time to time are set out in ACARA’s Hours of Work Policy.

23.4.3. Employees and their managers are required to manage the ordinary hours over a 2 week period and ensure (with the exception of off-site meetings and subject to clauses 23.4.6 – 23.4.8 of this Agreement) the employee is present at their nominated business premises within core hours.

23.4.4. Employees can work as few as 4 hours in a day and should not work more than 10 hours in a day.

23.4.5. Any balance of time accrued within the accrual quarter will be cleared to zero each expending quarter or the time will be lost.

23.4.6. In the event of exceptional circumstances where the employee’s General Manager or their nominee deems it unlikely that the balance of time accrued can be cleared to zero in the expending quarter, that General Manager or their nominee can authorise the use of core hours to acquit these credits. Where an employee’s employment is terminated by ACARA, this authorisation will be granted.

23.4.7. For reasons of work health and safety, the employee’s General Manager or their nominee may direct the use of credits during core hours.

23.4.8. For reasons of work health and safety, employees may request the use of credits during core hours and such request will not be unreasonably refused.

23.4.9. Where there is demonstrably insufficient work managers may direct employees not to work additional hours.

23.4.10. Where an employee’s manager reasonably believes that the employee is misusing the contracted hours system, they may revert that employee to a standard working day for a specified period.
23.4.11. Implementation of the contracted hours system will be managed in accordance with ACARA’s Hours of Work Policy.

23.4.12. Employees are not eligible to use the contracted hours system unless their hours are recorded on ACARA’s approved time tracking instrument.

23.5. ACARA’s Time Off in Lieu System

23.5.1. ACARA does not support long hours being worked on a regular basis. There are peak times within the organisation when long working hours will occur due to the nature of ACARA’s work. ACARA offers time off in lieu (TOIL) as a way of managing these peak times.

23.5.2. The TOIL system applies to the following employees:

23.5.2.1. An employee in the Associate stream classifications A1 – A4; and

23.5.2.2. An employee in the Professional stream classifications P1 – P3.

23.5.3. Outside of the contracted hours system and in exceptional circumstances where an employee is directed to work excess hours for the satisfactory performance of assigned tasks and the business needs of ACARA an employee will use the TOIL system.

23.5.4. Where an employee is directed to work more than 10 hours in a day Monday to Friday, subject to clause 23.5.5 of this Agreement, TOIL will accrue on a 1:1 basis and a meal allowance is payable as set out in Table C of Schedule 1 of this Agreement.

23.5.5. Where an employee is directed to work any time between midnight Friday and midnight Sunday, TOIL will accrue on a 1:1.5 basis. A meal allowance as set out in Table C of Schedule 1 of this Agreement is payable where the hours worked are 5 or more on a consecutive basis.

23.5.6. Where the CEO directs an employee to resume or continue work without having had a minimum break pursuant to clause 23.3.4 of this Agreement, TOIL will accrue on a 1:2 basis for the hours worked until the employee has had a minimum break.

23.5.7. Where an employee is directed to work on public holiday and these hours are excess hours, TOIL will accrue on a 1:2.5 basis.

23.5.8. TOIL can be used to take time off during core hours.
23.5.9. TOIL will not be accrued and granted unless it is substantiated by ACARA’s approved time tracking instrument and with the approval of the employee’s General Manager.

23.5.10. To ensure that employees are not working unreasonable hours for a sustained period of time TOIL accrual is capped at 5 days (35 hours) per quarter capped at 15 days (105 hours) per calendar year.

23.5.11. Subject to clause 23.5.9 of this Agreement, where an employee’s employment is terminated by ACARA, requests for TOIL leave made prior to the final day of employment will be approved. TOIL will be managed in accordance with ACARA’s Hours of Work Policy.

24. Place of Work

24.1. Roles at ACARA are by default located in the Sydney office. However, from time to time a role may be identified as located in another ACARA work location, for example, the Perth office to meet ACARA’s business needs. This is referred to as the business premises.

24.2. Employees must be in attendance at the business premises set out in the schedule of their employment contract during core hours.

24.3. Working remotely at ACARA’s initiative

24.3.1. Where ACARA makes a decision to relocate a role and that relocation is to a business premises more than 110km radius from the employee’s existing business premises, the employee is eligible to request a redundancy package pursuant to the terms of clause 33.3 and Schedule 2 of this Agreement.

24.3.2. Alternatively, if the employee accepts the relocated position, the employee is eligible for relocation assistance in accordance with ACARA’s Relocation Policy.

24.4. Working remotely at an employee’s initiative

24.4.1. From time to time, an employee and their manager in consultation with the employee’s General Manager and the Senior Manager, Human Resources may agree to a request by an employee to work remotely on a regular, temporary or intermittent basis.

24.4.2. A request made by an employee must be in writing and set out the details of the change and the reasons for the change.

24.4.3. The manager will respond in writing to the request.
24.4.4. Acceptance may be conditional on satisfying any WHS or operational grounds set out in the manager’s response.

24.4.5. If refused, the grounds for refusal will be included in the manager’s response.

24.5. General conditions for working remotely

24.5.1. ACARA’s Working Remotely Policy contains a working remotely agreement which must be executed. The agreement incorporates certification by relevant authorities regarding security and WHS aspects of the arrangement, which must be satisfied.

24.5.2. While working remotely, employees will comply with all policies and procedures as well as the WHS legislation.

24.5.3. The agreement will be reviewed regularly, at least every 6 months. The review will take into account the personal circumstances of the employee and ACARA operational requirements.

24.5.4. Working remotely is at the sole discretion of ACARA and is subject to change in meeting ACARA’s operational requirements.

24.5.5. Working remotely arrangements will not be considered for probationary employees, except in circumstances where the employee was engaged by ACARA in the first instance to work remotely.

25. Travelling

25.1. Travel and accommodation at ACARA is booked through staff at the Sydney Office authorised to book travel, and all travel must be authorised by the employee’s manager in accordance with ACARA’s Travel Policy.

25.2. Where possible, accommodation will be booked to include breakfast.

25.3. Where an employee undertakes domestic travel for official ACARA business for a period of 10 consecutive hours or more, ACARA provides reimbursement of meal expenses as set out in Table C of Schedule 1 of this Agreement.

25.4. Reimbursement claims for employees undertaking international travel should be directed to the Chief Operating Officer in the first instance.

25.5. Where an employee travels on official ACARA business, these hours count as time worked and are recognised in accordance with clauses 23.3 – 23.5 of this Agreement. Provided that 1 hour is deducted from the balance as travelling time to and from the point of departure and that where an employee chooses to travel
outside of the contracted hours system or between midnight Friday and midnight Sunday, travel hours count towards ordinary hours on a 1:1 basis only.
Part 6 – Leave of Absence

26. Leave

26.1. Employees are entitled to various forms of paid and unpaid leave as determined by the NES in the Act and other relevant legislation.

26.2. The following clauses do not apply to casual employees (unless required by law):

26.2.1. Clause 26.4 – Annual leave

26.2.2. Clause 26.5 – Personal/carers’ leave

26.2.3. Clause 26.7 – Parental leave

26.2.4. Clause 26.8 – Special maternity leave

26.2.5. Clause 26.9 - Long service leave

26.2.6. Clause 26.11 – Further studies leave

26.2.7. Clause 26.12 – Jury service leave

26.2.8. Clause 26.13 – Special leave


26.2.10. Clause 26.15 – Public holiday leave

26.3. Where an employee’s leave is cancelled by their manager without reasonable notice, or they are recalled to work from annual leave, further studies leave, public holiday leave, special leave or discretionary leave, reasonable travel costs, travelling time, incidental costs and another unavoidable costs arising from the recall to duty will be reimbursed where they are not recoverable under insurance or from another source and all unused leave will be re-credited or recompensed through an equivalent form of leave.

26.4. Annual leave

26.4.1. Full-time employees are entitled to 20 working days paid annual leave for each completed year of service. Part-time employees are entitled to pro-rata paid leave.

26.4.2. Annual leave accrues on a pro-rata basis and is cumulative.

26.4.3. Employees must submit an annual leave application to ACARA signed by the employee and authorised by the employee’s manager before any leave payment is made.

26.4.4. The employee’s manager has sole discretion to approve or decline an application for leave provided that ACARA must not unreasonably refuse to agree to a request by an employee to take paid annual leave.

26.4.5. Employees may take annual leave at either full pay or half pay.
26.4.6. ACARA is committed to work life balance for its employees and encourages employees to access their leave entitlements within a reasonable time. Should an employee accrue more than 40 days annual leave ACARA may require that employee to take paid annual leave (but not specify the actual days to be taken as leave) by giving the employee notice of at least 4 weeks.

26.4.7. While ACARA encourages employees to use their annual leave for rest and respite, cashing out annual leave is permitted in circumstances where the employee retains at least 4 weeks accrued annual leave, the 'cash-out' is mutually agreed and there is an agreement in writing between ACARA and the employee.

26.4.8. Annual leave may be taken in advance of accrual up to 5 days following written approval by the employee’s General Manager.

26.4.9. Upon termination of employment for any reason ACARA will pay the employee any accrued annual leave.

26.4.10. Annual leave does not include public holidays.

26.4.11. Employees who become sick during annual leave will be credited personal leave on production of a medical certificate.

26.5. Personal/carers’ leave

26.5.1. Employees are entitled to 10 days (5 days up front) paid personal/carers’ leave in the first year of employment and 15 per year thereafter.

26.5.2. Part-time employees are entitled to paid personal/carers’ leave on a pro-rata basis.

26.5.3. Personal/carers’ leave accrues on a progressive basis (with the exception of 5 days up front upon commencement of employment) and is cumulative.

26.5.4. The process for accessing personal/carers’ leave is set out in ACARA’s Leave Policy.

26.5.5. Unused personal/carers’ leave is not paid out on termination of employment.

26.5.6. Where the employee’s employment ends and the employee has taken leave in advance of such leave accruing, the value of the leave that has been taken but not accrued will be treated as an overpayment of entitlements and equivalent monies deducted from the employee’s final termination pay.
26.5.7. Paid personal/carers’ leave can be used when the employee is genuinely unfit for work due to personal illness or injury or a member of their immediate family or household requires care or support due to illness, injury or an unexpected emergency.

26.5.8. A medical certificate or other reasonable evidence is required for any absence of 3 or more consecutive working days or any 1 day absence either side of a public holiday on personal/carers’ leave.

26.5.9. Personal/carers’ leave may be taken in advance of accrual following approval by the employee’s General Manager.

26.5.10. Personal/career’s leave does not include public holidays.

26.5.11. An employee who has exceeded their paid entitlement may take up to 2 days unpaid personal/carers’ leave for each occasion that they have a personal illness or injury, or are required to care for or provide support to a member of their immediate family or household who has an illness or injury or there is an unexpected emergency.

26.6. Compassionate leave

26.6.1. Employees are entitled to 3 days compassionate leave upon each occasion where a member of their immediate family or household sustains a life threatening illness or injury, or passes away. An employee’s manager may grant additional leave at their discretion.

26.7. Parental leave

26.7.1. ACARA is committed to maintaining a healthy balance between work and family life.

26.7.2. ACARA therefore offers a parental leave entitlement designed to support new parents.

26.7.3. Parental leave is a general term encompassing maternity, paternity, adoption and foster carers’ leave.

26.7.4. The provisions of this clause regarding unpaid and paid parental leave are in addition to entitlements under the Paid Parental Leave Act 2010 (Cth).

26.7.5. Unpaid leave

26.7.5.1. Employees are entitled to unpaid parental and adoption leave in accordance with the Act.

26.7.5.2. Eligible employees may take up to 104 weeks of unpaid leave in accordance with the Act.
26.7.6. Paid leave

26.7.6.1. If an employee is the primary care giver for a child and has less than 12 months service with ACARA, that employee will be entitled to 1 week paid parental leave for each completed month of service upon the birth or adoption of the child. The leave may be taken at full pay for the period accrued or at half pay over twice the period accrued.

26.7.6.2. An employee who is the primary care giver for the child and who has 12 months or more service will be entitled to 18 weeks paid parental leave upon the birth or adoption of the child. The leave may be taken at full pay for 18 weeks or half pay for 36 weeks.

26.7.6.3. An employee who is not the primary care giver (but who is a supporting partner) will be entitled to 6 weeks paid leave upon the birth or adoption of the child. There is no minimum qualifying period. The leave may be taken at full pay for 6 weeks or half pay for 12 weeks.

26.7.7. Employees who are expecting a child or planning to adopt will give their manager notice in writing at least 10 weeks before the expected due date or the anticipated date of an adoption.

26.7.8. An employee intending to take parental leave will then apply for leave at least 4 weeks before the intended leave where it is reasonably practicable to do so. ACARA may request details of whether the employee will be the primary care giver, the intended period of the leave, and details of any parental leave the employee’s supporting partner intends to take.

26.7.9. An employee returning to work from parental leave is entitled to return to their role prior to the leave commencing. Where that role no longer exists, the employee will be consulted and placed in a role at the same level and remuneration as appropriate to their skills and experience.

26.7.10. An employee returning to work from parental leave and who is the primary caregiver of the child may elect to work on a part-time basis until the child has reached school age. The part-time hours and days will be
agreed by the employee and manager taking into account the personal
needs and circumstances of the employee and the operational
requirements of ACARA.

26.7.11. An employee returning to work from maternity leave will also be
supported through the provision of paid lactation breaks.

26.8. Special maternity leave
26.8.1. Special maternity leave is available to employees where:

26.8.1.1. the employee is not fit for work due to a pregnancy
related illness; or

26.8.1.2. the pregnancy of the employee ends within 28 weeks of
the expected date of birth, other than by the birth of a
living child.

26.8.2. Special maternity leave is available to all employees (including casual
employees that would be eligible for parental leave under the Act).

26.8.3. Subject to clause 26.8.4, an employee is entitled to a period of unpaid
special maternity leave for the duration certified by a registered medical
practitioner as necessary.

26.8.4. If a pregnancy ends within 20 weeks of the expected date of birth of the
child, the employee may be entitled to paid maternity leave in
accordance with clause 26.7.6 of this Agreement.

26.8.5. An employee must provide their General Manager with notice that they
are taking special maternity leave. The notice must be given as soon as
practicable (which may be after the leave has started) and should include
the period, or expected period, of the leave. Having considered the
requirements of this clause, that General Manager in consultation with
the Senior Manager, Human Resources will approve an employee’s
application to access special maternity leave.

26.8.6. Special maternity leave does not break continuity of service.

26.8.7. Special maternity leave is in addition to other types of leave in this
Agreement.

26.9. Long service leave
26.9.1. Long service leave will accrue and be available to eligible employees in
accordance with the Long Service Leave (Commonwealth Employees) Act
1976 (Cth).
26.9.2. As a guide, employees may accrue 3 months paid long service leave (LSL) after 10 years of continuous service. Thereafter, employees accrue 9 days of leave for each year of continuous service.

26.9.3. An employee taking LSL must do so for a minimum of 7 consecutive calendar days with the granting of such leave subject to operational requirements.

26.9.4. Periods of LSL cannot be broken with any other leave.

26.9.5. Employees should take accrued LSL as soon as practicable at a time mutually agreed between the manager and employee.

26.9.6. Except where required by law, LSL will not be paid out on termination of employment.

26.10. Community service leave

26.10.1. Unpaid community service leave is provided to employees in accordance with the NES of the Act.

26.11. Further studies leave

26.11.1. At the discretion of the employee’s General Manager and in consultation with the Senior Manager, Human Resources further studies leave may be granted where the following criteria are met:

26.11.1.1. The course is an accredited course of study at a certificate, diploma or degree level provided by an educational institution or registered training organisation; and

26.11.1.2. The course is directly relevant to the work of the employee at ACARA; or

26.11.1.3. The course, while not being directly relevant to the work of the employee, is related to the work of ACARA and is important to the career development of the employee; and

26.11.1.4. The employee is appraised as at least ‘achieved expectations’ in the performance and recognition program. Further detail is set out in ACARA’s MyCareer Handbook.

26.11.2. Subject to operational requirements, an employee may be granted paid leave as follows:
26.11.3. Study leave

26.11.3.1. Paid study leave to a maximum of 4 hours per week for travel to and attendance at mandatory supervised study activities which are not available outside the standard working day capped at 14 days per calendar year and 7 days per semester;

26.11.3.2. Permission to attend supervised study activities (e.g. practical work), with fluctuating weekly attendance requirements, or compulsory full-time segments or part-time or correspondence courses on an on-duty basis to the extent of the total of any paid study leave not taken in clause 26.11.3.1 of this Agreement within the limit of 4 hours per week;

26.11.3.3. Leave on a make-up basis, annual leave or leave without pay for supervised study activities.

26.11.4. Examination and major project leave

26.11.4.1. Paid study leave up to 4 days per calendar capped at 2 days per semester year to prepare for and attend compulsory examinations, or for an employee completing an accredited course through the submission of major project work, leave for the purposes of finalising such project work.

26.11.5. Employee’s work performance

26.11.5.1. Upon commencement of employment, all employees are eligible to apply for further studies leave. Thereafter, ongoing further studies leave during the period of study is conditional upon the employee being rated as at least ‘achieved expectations’ in the ACARA’s performance and recognition program.

26.11.5.2. It is the responsibility of the employee’s manager and General Manager to review ongoing further studies leave and consider the employee’s academic results and work performance as documented in the performance and recognition program.
   26.12.1. Where an employee is required for jury duty they will be paid the gap
            between any jury fee and their base salary for the duration of the duty.

26.13. Special leave
   26.13.1. ACARA will provide all employees with up to 2 days paid special leave in
            each calendar year. Special leave does not accrue year on year and is not
            cumulative.
   26.13.2. Special leave is provided to employees at the discretion of their manager.
            Provision of special leave will be considered for:
            26.13.2.1. Cultural or ceremonial or religious reasons;
            26.13.2.2. Moving house or relocation;
            26.13.2.3. Community volunteering participation;
            26.13.2.4. Where paid carers'/personal leave has been exceeded
            but where an employee meets the threshold for paid
            leave in accordance with clause 26.5 of the Agreement; or
            26.13.2.5. Attendance at the employee’s graduation ceremony for
            study undertaken and completed.
   26.13.3. Special leave will not be unreasonably refused.

   26.14.1. An employee’s General Manager in consultation with the Senior
            Manager, Human Resources may provide further paid or unpaid leave to
            employees in exceptional circumstances.
   26.14.2. In granting discretionary leave the following will be considered:
            26.14.2.1. The operational requirements of ACARA; and
            26.14.2.2. The welfare of the employee.
   26.14.3. Discretionary leave is capped at 4 weeks of paid leave and 52 weeks of
            unpaid leave. This may be extended by the same amount by agreement.
   26.14.4. Circumstances under which discretionary leave may be granted are set
            out in ACARA’s Leave Policy.

26.15. Public holiday leave
   26.15.1. ACARA will observe public holidays each year in accordance with the Act
            and employees will be paid their base salary as if the employee ordinarily
            worked on that day.

27. Unauthorised Absences
27.1. When an employee is absent from work without approval, reasonable efforts will be made to contact the employee and to establish the reason for the unauthorised absence.

27.2. When an employee is absent from work without approval, all salary and other benefits provided under this Agreement will cease to be available until the employee resumes work or is granted leave.

27.3. When the employee is absent from work without approval for 3 consecutive working days, action on the grounds of non-performance of duties (abandonment of employment) may commence which may result in the employee’s employment being terminated.
Part 7 – Agreement Compliance and Union Related Matters

28. Posting of Agreement

A copy of this Agreement will be posted on the ACARA intranet site.

29. Workplace Delegates Rights

29.1. The role of workplace delegates and other elected union representatives is to be respected and facilitated.

29.2. ACARA, workplace delegates and other elected union representatives will deal with each other in good faith by following the same principles as good faith bargaining requirements set out in s 228 of the Act.

29.3. In discharging their representative roles at the workplace level, the rights of workplace delegates include but are not limited to:

29.3.1. The right to be treated fairly and to perform their role as workplace delegates without any discrimination in their employment;

29.3.2. Recognition by ACARA that endorsed workplace delegates speak on behalf of their members in the workplace;

29.3.3. Reasonable paid time during normal business hours to prepare for and participate in collective bargaining on behalf of those whom they represent;

29.3.4. Reasonable paid time during normal business hours to provide information and seek feedback from employees in the workplace on workplace relations matters at ACARA;

29.3.5. Reasonable paid time during normal business hours to participate in the operation of the union;

29.3.6. Reasonable paid leave to work with the union;

29.3.7. The right to email employees in the workplace to provide information and seek feedback, subject to individual employees exercising a right to ‘opt out’ of such communications;

29.3.8. Undertaking their role and having union representation on any of ACARA’s workplace relations consultative committees;

29.3.9. Reasonable access to ACARA facilities (including telephone, facsimile, photocopying, internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a workplace delegate and consulting with members.
and other interested employees and the union, subject to ACARA’s policies;

29.3.10. The right to place union information on a notice board in a prominent location in the workplace;

29.3.11. The right to address new employees about the benefits of union membership at the time they enter employment;

29.3.12. The right to consultation and access to relevant information about the workplace and ACARA’s business; and

29.3.13. Reasonable paid time during normal business hours to represent the interests of members to ACARA and industrial tribunals.

29.4. In discharging any roles that may involve undertaking union business, the rights of workplace delegates include but are not limited to:

29.4.1. Reasonable paid time during normal business hours to consult with other workplace delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace;

29.4.2. Reasonable access to appropriate training in workplace relations matters including attendance at courses conducted by an approved training provider and/or the union that are designed to provide skills and competencies that will assist the workplace delegate to contribute to the prompt resolution of disputes and/or grievances in the workplace; and

29.4.3. Reasonable paid time to represent union members at ACARA at relevant union forums.

29.5. In exercising their rights, workplace delegates and unions will consider operational issues, ACARA policies, procedures and guidelines and the likely effect on the efficient operation of ACARA’s business and the provision of services by the Commonwealth.

29.6. The granting of leave pursuant to this clause will be subject to ACARA being able to make adequate staffing arrangements amongst current employees during the period of such leave. ACARA will not use this subclause to avoid an obligation under this clause.

29.7. Leave of absence granted pursuant to this clause will count as service for all purposes of this Agreement.

29.8. Each employee on leave in accordance with this clause will be paid their base salary and superannuation which otherwise would have been payable.
29.9. All expenses such as travel, accommodation and meals associated with or incurred by the employee attending a training course as provided in this clause will be the responsibility of the employee or the union.

29.10. An employee will be required to satisfy ACARA of their attendance at the course to qualify for payment of leave.

29.11. An employee granted leave pursuant to this clause will, upon request, inform ACARA of the nature of the course attended and their observations on it.

29.12. For the avoidance of doubt, elected union representatives include employees elected to represent union members in representative forums including, for example, CPSU Section Secretaries, Governing Councillors and Section Councillors.

29.13. In addition to the rights of workplace delegates and elected union representatives set out above, the Senior Manager, Human Resources will consider requests from unions for ‘all staff’ emails and seek to facilitate those requests where possible.

29.14. Nothing in this clause authorises a workplace delegate or other elected union representative to prejudice non-union members in their employment or authorises ACARA to discriminate against non-union members.

30. Rights of Entry or Access of Union Officials

30.1. An official of the CPSU may enter ACARA’s premises, at any time, for any purpose connected to this Agreement, including:

30.1.1. Consultation with persons covered by this Agreement about their rights and obligations under this Agreement;

30.1.2. Consultation with persons covered by this Agreement about the operation of this Agreement;

30.1.3. To deal with disputes arising under clause 12 of this Agreement;

30.1.4. To consult with employees about the negotiation of a replacement agreement;

30.1.5. To participate in induction meetings for new employees of ACARA; and

30.1.6. For any other person connected to the work of the employees covered by this Agreement, or the relationship between the CPSU and ACARA.

30.2. However, nothing in this clause provides the CPSU with a right to enter premises contrary to ss 481 or 484 of Part 3-4 of the Act (see also s 194(f) or (g) of the Act).
Part 8 – Career Development

31. Advancement

31.1. ACARA is committed to career development and opportunity for employee progression.


31.3. Employees have the opportunity for advancement and promotion in accordance with the provisions of the performance and recognition program.

31.4. As part of this process, employees will have an annual performance review.

31.5. A capability framework and system of ongoing performance review is set out in ACARA’s MyCareer Handbook.

31.6. Pay progression at ACARA is based on 2 components; a cost of living adjustment, as set out in clause 10.1 of this Agreement, and a merit adjustment that depends on the employee’s appraisal rating in that year through the performance and recognition program.

31.7. Merit adjustments under this Agreement will be granted as follows in each year:

31.7.1. Eligible employees engaged on an increment within the Step Pay Zone of a classification, will progress 1 increment if they are appraised as ‘achieved expectations’;

31.7.2. Eligible employees engaged on the top increment within the Step Pay Zone of a classification, will receive a 1% adjustment to their base salary if they are appraised as ‘achieved expectations’;

31.7.3. Eligible employees engaged on an increment within the Step Pay Zone of a classification, will progress 2 increments if they are appraised as ‘exceeded expectations’;

31.7.4. Eligible employees engaged on the top increment within the Step Pay Zone of a classification, will receive a 2% adjustment to their base salary if they are appraised as ‘exceeded expectations’;

31.7.5. Eligible employees engaged within the Continuous Pay Zone of a classification, will receive a 1% adjustment to their base salary if they are appraised as ‘achieved expectations’;

31.7.6. Eligible employees engaged within the Continuous Pay Zone of a classification, will receive a 2% adjustment to their base salary plus reimbursement of expenses relating to the employee’s health and
wellbeing to the value as set out in Table C of Schedule 1 of this Agreement if they are appraised as 'exceeded expectations'; and

31.7.7. Eligible employees at the top pay point of their salary range (within either the Step Pay Zone or the Continuous Pay Zone) will receive the applicable merit adjustment (for either an appraisal rating of 'achieved expectations' or 'exceeded expectations') as a one-off cash payment.

31.8. ACARA’s classifications and salary ranges are set out in Tables A and B of Schedule 1 of this Agreement.

31.9. Merit adjustments under this Agreement will be paid as follows in each year:

31.9.1. FY2012/13

31.9.1.1. On 1 October 2012, all employees will receive a merit adjustment to their base salary based on an 'achieved expectations' rating;

31.9.2. FY2013/14

31.9.2.1. On 1 October 2013 and back-paid to 1 July 2013, eligible employees will receive a merit adjustment to their base salary;

31.9.3. FY2014/15

31.9.3.1. On 1 October 2014 and back-paid to 1 July 2014, eligible employees will receive a merit adjustment to their base salary; and

31.9.4. FY2015/16

31.9.4.1. On 1 October 2015 and back-paid to 1 July 2015, eligible employees will receive a merit adjustment to their base salary.

31.10. In this clause, an eligible employee has performed duties in ACARA at their classification level for a period of 3 continuous months or more (excluding unpaid leave service) in that year's performance and recognition program.
Part 9 – Leaving ACARA

32. Managing performance

32.1. ACARA strives to create a high performance culture. There are times however where employees may be underperforming.

32.2. Where this occurs, ACARA will work with the employee to genuinely try to improve performance. However when this process is not successful, ACARA may terminate the employment of the employee in accordance with the common law principles of procedural fairness and natural justice.

32.3. ACARA manages unsatisfactory performance in 3 stages, with each being regarded as more serious than the last.

32.4. Performance counselling

32.4.1. Where an employee is underperforming (work performance and/or behaviour), a manager will informally counsel that employee and file note the discussion. Human Resources is not involved at this stage.

32.4.2. The manager will work with the employee to improve performance informally before moving to formal performance counselling if performance does not improve. At this stage, a verbal warning may be given and file noted by the employee’s manager.

32.4.3. If performance does not improve, Human Resources will become involved. The employee’s manager in consultation with the Senior Manager, Human Resources will initiate a face to face meeting with the employee.

32.4.4. The employee will be given at least 24 hours’ notice of the meeting and be told the nature and purpose of the meeting.

32.4.5. The employee will be advised of their entitlement to have a support person present or be represented by a union (including a workplace delegate).

32.4.6. During the meeting the employee will be advised that if their performance does not improve their employment may be terminated.

32.4.7. The employee will be given the opportunity to respond.

32.4.8. Both the manager and employee will examine the issue and look at ways that performance can be improved. The manager must be well informed of the employee’s position description and ACARA’s performance and
recognition program process of performance review as outlined in ACARA's *MyCareer* Handbook.

32.4.9. Minutes of the meeting will be kept by Human Resources and circulated to the employee’s manager/s involved.

32.4.10. At this meeting a PIP will be developed. An appropriate timeframe for improvement will be included in the plan, generally 1 month.

32.4.11. After the time frame has been reached, a second meeting will be convened in the same manner outlined in clauses 32.4.3 – 32.4.9 of this Agreement.

32.4.12. If performance has improved to a satisfactory level i.e. the employee has met all the requirements set out in the PIP, the process will end. If it has not, a formal written warning will be issued.

32.4.13. If a formal written warning is issued the process set out in clauses 32.4.3 – 32.4.9 of this Agreement will apply again for a second period of performance counselling, of at least 1 month.

32.4.14. If performance has not improved then the employee’s General Manager will decide in consultation with the Senior Manager, Human Resources to either:

32.4.14.1. Issue a final warning; or

32.4.14.2. Terminate employment (in accordance with clause 33.4 of this Agreement) due to unsatisfactory performance; or

32.4.14.3. Reduce the employee’s classification (where the employee’s General Manager is satisfied that sufficient duties exist at that level); or

32.4.14.4. Reassign the employee to alternative duties at their substantive classification (where the employee’s General Manager is satisfied that the alternative role is appropriate).

32.5. Misconduct

32.5.1. Misconduct refers to actions that damage or have the potential to damage the ACARA workplace, organisation or employees.

32.5.2. Misconduct may include but is not limited to:

32.5.2.1. Serious negligence;

32.5.2.2. Behaviour that endangers others;
32.5.2.3. Deliberately failing to comply with a lawful and reasonable direction;

32.5.2.4. Conduct involving dishonesty;

32.5.2.5. Harassment of staff or stakeholders;

32.5.2.6. Unlawful discrimination or vilification;

32.5.2.7. Bullying;

32.5.2.8. Criminal activity;

32.5.2.9. Breach of ACARA’s Information Communication, Technology, Security and Usage Policy; and/or

32.5.2.10. Breaches of intellectual property and/or confidentiality obligations.

32.5.3. Any issue of misconduct should be referred to the employee’s General Manager and the Senior Manager, Human Resources.

32.5.4. Professional and ethical expectations at ACARA are outlined in ACARA’s Code of Conduct which is a term of employment for all persons working for ACARA.

32.5.5. When an issue of misconduct arises ACARA will provide the employee with a written copy of the misconduct being alleged.

32.5.6. The employee’s General Manager will appoint either the Senior Manager, Human Resources or an external consultant to investigate the allegation.

32.5.7. During the investigation the employee will have the opportunity to respond to the allegation. The employee may have a support person or be represented by a union (including a workplace delegate) during the process.

32.5.8. At the conclusion of the investigation the person who conducted the investigation will, in consultation with the Senior Manager, Human Resources and taking into account the employee’s response to the allegation, make a recommendation to the employee’s General Manager who will:

32.5.8.1. Dismiss the allegation;

32.5.8.2. Take no action;

32.5.8.3. Provide counselling;

32.5.8.4. Reprimand the employee and place a record on the employee’s file;
32.5.8.5. Suspend the employee;
32.5.8.6. Dismiss the employee in accordance with clause 33.4 of this Agreement; and/or
32.5.8.7. If the misconduct warrants summary dismissal, for example, an employee who has, in the course of their employment, engaged in theft, fraud or assault, the employee may be dismissed without going through the process outlined above and no notice, or payment in lieu of notice, may be provided.

33. Termination of employment

33.1. Termination may occur by:
33.1.1. Resignation;
33.1.2. Dismissal, including on the grounds of redundancy; or
33.1.3. Expiry of contract.

33.2. Resignation
33.2.1. Resignation should be in writing and a notice period of at least 4 weeks must be given.
33.2.2. If an employee fails to give proper notice ACARA may withhold payment of salary to a maximum amount of the notice period.
33.2.3. ACARA may choose to pay out an employee’s notice period at its discretion.

33.3. Redundancy
33.3.1. An employee may be identified for redundancy if:
33.3.1.1. There is a greater number of employees at their classification than is necessary for the efficient and economical working of ACARA;
33.3.1.2. Their position is not required because of changes in the operational requirements of ACARA;
33.3.1.3. Their services cannot be effectively used because of technological, structural or other organisational change; or
33.3.1.4. Subject to clause 24.3.1 of this Agreement, they are not willing to be re-assigned to another business premises when their usual duties are transferred.
33.3.2. ACARA will advise any employee who is likely to be made redundant. Discussions will be held with the employee to consider redeployment and any other options.

33.3.3. All decisions resulting in a position or positions being made redundant and the termination of employment for reasons of redundancy will be determined by the employee’s General Manager in consultation with the Senior Manager, Human Resources and affected staff, and with the approval of the Chief Operating Officer and the CEO.

33.3.4. The consultation set out in clauses 33.3.2 and 33.3.3 of this Agreement will take place over a period of no less than 3 weeks and in accordance with the process set out in clauses 35.1 – 35.4 of this Agreement.

33.3.5. An eligible termination payment may be made up of the following components:

33.3.5.1. Payment in lieu of notice;
33.3.5.2. Severance payment;
33.3.5.3. Annual leave entitlement;
33.3.5.4. Long service leave entitlement; and
33.3.5.5. Any outstanding salary as of the final day of employment with ACARA.

33.3.6. Notice period and severance payment entitlements when an employee is made redundant are set out in Schedule 2 of this Agreement.

33.3.7. If a series of redundancies meets the test for major change as outlined in clause 35.5 of this Agreement then that clause will be followed.

33.4. Dismissal

33.4.1. Dismissal for unsatisfactory performance or behaviour must be in accordance with clause 32.4 of this Agreement and will be determined by the employee’s General Manager in consultation with the Senior Manager, Human Resources.

33.4.2. Dismissal for misconduct must be in accordance with clause 32.5 of this Agreement and will be determined by the employee’s General Manager in consultation with the Senior Manager, Human Resources.

33.4.3. A decision to dismiss an employee during a probationary period may be made at any time during the period and signed off by the employee’s
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<th>Expiry of Contract</th>
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<td>If an employee’s contract is not renewed their employment ends. The giving of notice is not required and the employee will receive any outstanding entitlement to annual leave and (where eligible) long service leave.</td>
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Part 10 – Individual Flexibility Arrangements

34. Individual Flexibility Arrangements

34.1. ACARA and an employee covered by this Agreement may agree to make an individual flexibility arrangement ('IFA') to vary the effect of terms of this Agreement if the arrangement deals with 1 or more of the following matters:

34.1.1. Base salary, and
34.1.2. Employer contributed superannuation.

34.2. ACARA operates to a total remuneration package ('TRP') system. An employee may elect to vary the mix of their TRP in the following way:

34.2.1. Upon request, the employee may increase their base salary and proportionately reduce their employer contributed superannuation, or vice versa. Provided that under any such arrangement the employee's base salary is no less than the National Minimum Wage that applies from time to time, and that the employer contributed superannuation is no less than the SGC rate that applies from time to time.

Note: An IFA made under this term is not a salary sacrifice arrangement and employees are encouraged to seek independent financial advice prior to entering into an IFA.

34.3. ACARA must ensure that the terms of the IFA:

34.3.1. Are about permitted matters under s 172 of the Act;
34.3.2. Are not unlawful terms under s 194 of the Act; and
34.3.3. Result in the employee being better off overall than they would be if no IFA was made.

34.4. ACARA must ensure that the IFA:

34.4.1. Is in writing;
34.4.2. Includes the name of ACARA and the employee; and
34.4.3. Is signed by ACARA and employee (and if the employee is under 18 years of age, signed by a parent or guardian of the employee).

34.5. ACARA must ensure that the IFA includes details of:

34.5.1. The proportion of TRP redirected towards base salary and employer contributed superannuation in this way;
34.5.2. How the employee will be better off overall in relation to the terms and conditions of their employment as a result of the IFA; and
34.5.3. States the day on which the IFA commences, and, where applicable, when the IFA ceases.

34.6. ACARA must give the employee a copy of the IFA within 14 days after it is agreed to.

34.7. ACARA or the employee may terminate the IFA:

34.7.1. By giving no more than 28 days written notice to the other party to the IFA; or

34.7.2. If ACARA and the employee agree in writing – at any time.

34.8. ACARA is responsible for ensuring that all of the requirements of clause 34.3 in this Agreement are met.

34.9. An employee may enter into or amend an IFA at any time, however any administrative charges incurred by ACARA under this clause will be reimbursed by the employee. This does not apply to the first IFA made in any financial year.

34.10. ACARA will report on the use of IFAs on a regular basis to the Executive and CPSU. At a minimum these reports will be provided to the Executive. That information will include the following:

34.10.1. The number of IFAs per classification stream and band.

34.11. The information in clause 34.10 of this Agreement will be presented in a way that does not identify individuals.
Part 11 - Consultation

35. Consultation

35.1. ACARA is committed to consulting directly with employees and, where they choose, their representatives, about workplace matters that affect them, genuinely seeking their contribution to the decision making process and providing feedback on that contribution.

35.2. Consultation includes the sharing of information and providing a genuine opportunity for employees and their representatives to put their views to the appropriate decision maker and for those views to be properly considered and responded to before a decision is made.

35.3. ACARA will act in good faith in relation to the consultation processes as provided by this clause and clause 33.3.4 of this Agreement.

35.4. 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.

35.5. Major change

35.5.1. Where ACARA is genuinely considering introducing a major change to production, program, organisation, structure, or technology in relation to its enterprise, and the change is likely to have a significant effect on employees, ACARA will consult with the CPSU and any relevant employees.

35.5.2. As soon as practicable ACARA will discuss with the CPSU and relevant employees the introduction of the change and the effect the change is likely to have on the employees. ACARA will discuss measures to avert or mitigate the adverse effect of the change on the employees.

35.5.3. For the purposes of the discussion, ACARA will provide in writing to the CPSU and the relevant employees:

35.5.3.1. All relevant information about the change including the nature of the change proposed;

35.5.3.2. Information about the expected effects of the change on the employees; and

35.5.3.3. Any other matters likely to affect the employees.

35.5.4. However, ACARA is not required to disclose confidential or commercially sensitive information.
35.5.5. ACARA will give prompt and genuine consideration to matters raised about the change by the relevant employees.

35.5.6. As soon as a final decision has been made, ACARA will notify the CPSU and the relevant employees, in writing, including the outcome/effects of the decision and how their feedback was considered.

35.5.7. In this clause the change is likely to have a ‘significant effect’ on employees if it results in:

- 35.5.7.1. The termination of the employment of a number of employees;
- 35.5.7.2. Change to the composition, operation or size of ACARA’s workforce or to the skills required of employees;
- 35.5.7.3. The elimination or diminution of job opportunities (including opportunities for promotion or tenure);
- 35.5.7.4. The alteration of standard working hours or ordinary hours;
- The need to retrain employees;
- 35.5.7.5. The need to relocate employees to another workplace;
- 35.5.7.6. The restructuring of jobs; and/or
- 35.5.7.7. Changes to the legal or operational structure of ACARA or its business.

35.5.8. While the change is being considered, the parties will respect the status quo. However, ACARA may direct an employee to perform different duties or work at a different location, on full pay, if it is reasonable to do so to protect the safety, health or welfare of employees.

35.5.9. In this clause, ‘relevant employees’ means the employees who may be affected by the change.

35.5.10. In this clause at least 10 per cent of ACARA employees must be directly affected to constitute a major change.
Part 12 – Execution of Agreement

36. Execution of Agreement

36.1. This Agreement will be approved by Fair Work Australia in accordance with s 186 of the Act.

Signed for and on behalf of the Community and Public Sector Union - Bargaining Representative

[Signature]

(CPSU Deputy National President)

Level 5, 191-199 Thomas Street, Haymarket NSW 2049

(Dated 09 July 2012)

Witness

Tom Fischer

Signed for and on behalf of Australian, Curriculum, Assessment and Reporting Authority

[Signature]

(Aiding Chief Executive Officer)

Level 10, 255 Pitt Street, Sydney NSW 2000

(Dated 6 July 2012)

Witness
Schedule 1 – Table A - Career progression and classification structure

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Fig. 1 ACARA career progression and classification structure with the focus of career progression from left to right.

*Note: This is a schematic representation only.*
## Schedule 1 - Table B - Salary ranges

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### Merit progression

- **for continuous (blue) zone**
- **for step (red) zone**

### Base Salary

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| A1.2 | 40087 | 40689 | 41279 | 41279 | 42496 | 42496 | 43750 | 43750 | 45041 | 45041 | 47380 | 45041 | 45041 | 45041 | 45041 |
| A1.X | 63000 | 63945 | 63945 | 64872 | 64872 | 66786 | 66786 | 68756 | 68756 | 70784 | 68756 | 68756 | 68756 | 68756 | 68756 |
| A2 | A2.1 | 56012 | 56852 | 56852 | 57676 | 57676 | 59378 | 59378 | 61129 | 61129 | 62933 | 61129 | 61129 | 61129 | 61129 |
| A2.2 | 54170 | 54982 | 54982 | 55780 | 55780 | 57425 | 57425 | 59119 | 59119 | 60863 | 59119 | 59119 | 59119 | 59119 | 59119 |
| A2.3 | 52389 | 53174 | 53174 | 53946 | 53946 | 55537 | 55537 | 57175 | 57175 | 58862 | 57175 | 57175 | 57175 | 57175 | 57175 |
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### Australian Curriculum, Assessment and Reporting Authority Enterprise Agreement 2012-2015

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### Notes:
- From 1 October 2012, A2.1, A3.1,A4.1, P2.1, P3.1 will no longer be available.
- From 1 October 2012, A1.1 and P1.1 will only be available for specific hiring needs such as targeted programs requiring special entry level salary arrangements (represented by grey font).
- The next merit progression adjustment for those employees in bands A2, A3, A4, P2 and P3 currently on the top increment of their respective step zone (e.g., A2.5 or P3.7) will be 1% for an 'Achieved' rating and 2% for an 'Exceeds' rating.
- Employees on the maximum pay point of their respective band (e.g., A1.5, P2.X or M1.X) will receive their merit progression adjustment via a one-off cash payment.

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Schedule 1 – Table C – Allowances and reimbursements

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<th>Clause</th>
<th>Item</th>
<th>Type</th>
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<td>Lunch</td>
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<td>Allowance</td>
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<td>31.7.6 (Advancement)</td>
<td>Health and Wellbeing</td>
<td>Reimbursement</td>
<td>$250.00&lt;sup&gt;3&lt;/sup&gt;</td>
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<sup>1</sup> Indexed each financial year in accordance with the ABS Catalogue 6401.0, Dec Qtr – Dec Qtr, Table 7 CPI Group Sub-Group and Expenditure Class Weighted Average of Eight Capital Cities, Food and Non-Alcoholic Beverages, Meals Out and Take Away Foods.

<sup>2</sup> Flat rate over the life of the Agreement.

<sup>3</sup> Indexed each year based on the base salary movements in clause 10.1 of this Agreement and rounded to the nearest dollar.
Schedule 2 – Redundancy entitlements – notice period and severance payment

Notice period
4 weeks; or
5 weeks if the employee is over 45 years old with at least 2 years continuous service with ACARA.

Severance payment
2 weeks’ for each year of continuous service or part thereof with ACARA, capped at 48 weeks.
This is paid at the employee’s base salary immediately prior to the redundancy taking place, subject to the requirements of the NES.
Where the NES is more generous than this provision, the NES will apply (see table below). Superannuation is payable.

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