

QUEENSLAND INDEPENDENT EDUCATION UNION
INDEPENDENT EDUCATION UNION OF AUSTRALIA –
QUEENSLAND & NORTHERN TERRITORY BRANCH



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Tuesday, 9 March 2010

Prpcccas05tb:nm

Professional Rates of Pay Campaign



**CATHOLIC SECTOR
PROTECTED ACTION CO-CURRICULAR BANS
CHAPTER BRIEFING No. 4
[RELIGIOUS INSTITUTE AND CHRISTIAN BROTHERS' SCHOOLS]**

**Catholic Employers Get it Wrong – Yet Again
Employers Don't Understand the Law – Again
Employers Still Trying to Frustrate Negotiations**

Dear Colleagues

Catholic employing authorities have yet again got it wrong on a legal matter.

A document circulated in Christian Brothers' schools only at this stage attempts to claim that the ban on participation in co-curricular activity means employees' involvement in co-curricular activity now has a different status.

Yet again a Catholic employer has got it wrong.

Co-Curricular Duties – Well Defined

Co-curricular duties are prescribed to be "honorary and voluntary" by the legally enforceable instruments, both industrially and at common law. The most recent formal Certified Agreement contained the following:

4.3.3 For the purposes of this provision, the Parties agree that Clause 2 (11) of the Teachers' Award - (Non-Governmental) Schools shall be considered as co-curricular activities.

4.3.4 Co-Curricular activities thus defined shall continue to be performed on an honorary and voluntary basis.

The common law Deed signed between QIEU and the Trustees of the Christian Brothers Queensland in 2006 contained a similar provision. Notwithstanding the introduction of the new federal industrial system, both of these instruments continue to have legal force.

Neither the content of the Certified Agreement nor the content of the Deed is amended by employees taking protected industrial action.

The statement in the Christian Brothers' briefing that co-curricular duties are now "an integral part of each teacher's employment" is completely untrue. The statement that "refusal to undertake co-curricular ... duties is a breach of the teacher's employment contract" is totally false.

The notice is yet another attempt by a Catholic employing authority to use fear and intimidation to prevent employees exercising their legitimate right to take protected industrial action in support of legitimate wage parity claims.

It is no coincidence that this latest threat comes just days after the employers lost their attempt to frustrate your protected industrial action through Fair Work Australia.

Protection Under the *Fair Work Act*

Your Union will not allow members to be placed in a position where you are vulnerable to legal consequences. To embark on a campaign designed to influence your employer's bargaining attitude by banning or limiting co-curricular duties would be deemed to constitute industrial action under the *Fair Work Act*, notwithstanding the honorary and voluntary nature of those duties.

The definition of industrial action contained in the *Fair Work Act 2009* contains the following:

“the performance of work by an employee in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by an employee, the result of which is a restriction or limitation on, or a delay in, the performance of the work;”

Consequently, appropriate steps were taken to make such bans protected industrial action and ensure that members were protected in taking that action.

Threats by the Christian Brothers' employer or any other employer are inflammatory mischief and deserve to be condemned.

Chapter Action

Chapters are requested to convene a meeting this week to provide a report to members on these recent developments.

Chapters are also asked to consider the attached resolution in light of the delay by employers to reconvene negotiations and calling on them to table a revised offer which substantially addresses the claim for interstate benchmark Catholic professional rates of pay. Employers have advised late this morning that they are prepared to meet on Tuesday, 16 March 2010.

Solidarity Day of Action

Chapters within the Catholic Sector not taking the current protected action bans have been asked to convene a meeting on Thursday, 11 March 2010 as part of a sector-wide Solidarity Day of Action.

Many members remain frustrated that they cannot participate in protected action and are immensely appreciative of those Chapters and members who are taking action in support of our shared claim for interstate benchmark Catholic professional rates of pay.

Network Meeting – Wednesday, 10 March 2010

A network meeting of Religious Institute Schools has been scheduled for Wednesday, 10 March at 4:30 pm.

Separate notices have been issued.

We have significant decisions to make in the next phase of our campaign and Chapter representation is essential.

Kind regards



TERRY BURKE
SECRETARY

Attachment – Faxback



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CATHOLIC SECTOR PROTECTED ACTION BANS CHAPTER FAXBACK

The Chapter at _____ notes the delay of Catholic employing authorities in returning to negotiations and now calls upon employing authorities to table a revised wage offer which substantially addresses the claim for interstate benchmark Catholic professional rates of pay.

CARRIED / NOT CARRIED

PLEASE FAX BACK TO

TERRY BURKE, SECRETARY, IEUA-QNT

ON FAX NUMBER (07) 3839 7021

by Monday, 15 March 2010