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Professional Rates of Pay Campaign



**CATHOLIC SECTOR AUTHORISED PROTECTED ACTION
CHAPTER BRIEFING No. 6**

**Catholic Employers Change Ground Rules – Again
Questions now raised on Industrial Rights
Further Action in Authorised Protected Action Schools**

Colleagues

Catholic employing authorities have yet again changed the ground rules underpinning the negotiation of a collective agreement.

Yesterday Catholic employing authorities filed two applications to Fair Work Australia (FWA) for authorisation to enable Diocesan employing authorities to bargain as a single entity and for Religious Institute schools to bargain as a single entity.

The Authorisations are expected within the week.

These Authorisations, to employers, may raise significant questions regarding the status of the protected action ballots underway.

Teacher members in authorised protected action schools will take further stopwork action of two 30 minute stoppages next Wednesday, 11 November 2009 to receive a report back on developments and plan the next stage of the campaign.

Background

The Fair Work Act contains a provision which allows a group of employers with common interests and common operations to seek a Single Interest Employer Authorisation. A Fact Sheet (#12) is attached for your information.

As a first step a group of employers seek a declaration of single interest from the federal minister. If the declaration is issued then it can be submitted to FWA and FWA will determine if a Single Interest Employer Authorisation (SIEA) is issued.

If a SIEA is issued then the group of employers can bargain as one entity and employees then are part of negotiations with all of the employers covered by the SIEA.

Employees have all their industrial rights, including the right to undertake protected action, maintained under a SIEA.

Employing Authorities with Further Ballots Ordered

Protected industrial action for teachers was not authorised in five employing authorities in the ballots declared in early October (Brisbane, Rockhampton and Townsville Dioceses, Iona College and St Patrick's College, Townsville).

While the majority of members in these employing authorities voted in favour of protected industrial action, the action was not authorised because not at least 50% of those issued with ballots returned the ballot.

Orders were subsequently issued by FWA for a further ballot to be conducted by the Australian Electoral Commission.

The actions of the employers seeking the SIEA pose a real question over the status of the ballots ordered at a time where each employing authority was a single entity and before an SIEA is authorised.

As a union we will not put our members in the situation where they might act without legal protection.

Accordingly, we have made application to FWA for the Orders for the further ballots in the respective employing authorities to be rescinded.

If FWA agrees to this application then the ballots to be conducted over the next few weeks would not go ahead. No protected action in these employing authorities could occur this year.

A further decision will need to be made regarding an application for Orders for further protected action ballots to be conducted at the beginning of the 2010 school year.

Employing Authorities with Protected Industrial Action Authorisations

Teacher members in 18 employing authorities were authorised to undertake protected industrial action by the ballots in October.

The meetings on the full day's action on Wednesday, 28 October 2009 authorised a report back stoppage. The holding of a stoppage requires seven days' notice to employers.

That notice was provided so that a decision could then be made on the holding of a report back on Wednesday, 11 November 2009.

The decision by employers to seek the Single Interest Employer Authorisation necessitates the holding of report back meetings to enable a report back to members.

Employers have received notice of two 30 minute stoppages. The first stoppage commences at the commencement of the scheduled lunch break. The second 30 minute stoppage commences 30 minutes after the commencement of the scheduled lunch break.

Chapters will need to determine arrangements for the two stoppages especially in consideration of staff involvement in student exams and the like.

The stopwork meetings will consider a number of resolutions regarding further actions.

Members taking these actions should be aware that some non-payment of wages is likely.

An employer must not pay an employee for the duration of the protected industrial action.

Where the action is partially in the employee's own time and partially in the employer's time, the employer should not pay the employee for that part of the duration of the action which is in the employer's time.

Because the employee would not have been paid for time which is their own time, then that part of the duration of the action which occurs in the employee's time should be disregarded by the employer.

Therefore, regarding the two actions on Wednesday, 11 November 2009, the employee is not paid for that part of the second action which extends beyond the unpaid lunch break.

Negotiations with Employers

Employing authorities have declined to meet in negotiations until FWA has issued the Single Interest Employer Authorisation (SIEA). Employee representatives have indicated their preparedness to meet at any time.

Employers must negotiate on professional rates of pay which both attract and retain high quality teachers in our schools. Significant increases are necessary for both graduate and experienced teacher rates.

Other Developments

Members in Lutheran schools last week voted to endorse a range of protected industrial action in Lutheran schools in support of benchmark professional rates of pay.

Over 60% of teacher members in the systemic authority voted with 91% endorsing action. Action was also endorsed by school officers and services staff in a separate ballot.

One of three single site Lutheran schools endorsed action with 92% voting and 100% endorsing action.

The arbitration hearing in the public sector commenced this week with a total of 23 days scheduled. The Queensland Teachers' Union (QIU) member political campaign continues against the Queensland government's position on professional rates of pay with some sign the pressure is starting to be felt right up to the Premier's level.

QIU members have appreciated the support of QIEU members in their various campaign activities.

Next Steps

The employer actions in seeking Single Interest Employer Authorisations has again changed the ground rules for negotiations and thence placed employees' industrial rights under question.

Appropriate steps have and will be taken in response to these employer actions to ensure members have their industrial rights maintained.

Members in schools without authorisation for protected action should schedule Chapter meetings to brief members on these developments.

Chapters taking the two 30 minute protected industrial actions on Wednesday, 11 November 2009 will have an opportunity to be briefed on these developments as well as to consider future actions.

Kind regards



TERRY BURKE
SECRETARY

Attach.