



Australian Education Union

Submission

to the

Australian Industrial Relations Commission

Workplace Relations Act 1996

In the Matters of:

**AM2008/79 – Health and Welfare Services (remainder) – Social and
Community Services**

**AM2008/80 – Health and Welfare Services (remainder) – Supported
Employment Services**

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1. The Australian Education Union files these submissions in accordance with the timetable established by the Commission pursuant to the Award Modernisation Request under section 576C(4) of the *Workplace Relations Act 1996* issued by the Minister for Employment and Workplace Relations.
2. The submissions are made in respect of two of the matters the Commission is dealing with in Stage 4 of the the Award Modernisation process:
 - AM2008/79 – Health and Welfare Services (remainder) – Social and Community Services, and
 - AM2008/80 – Health and Community Services (remainder) – Supported Employment Services
3. The interest of the AEU in these matters is in respect of those persons who are:
 - i) Employed to teach and/or supervise teaching in or by registered non-residential services including day training centres, adult units, open employment agencies, supported employment and/or sheltered employment settings;
 - ii) Employed to teach and/or supervise teaching in early intervention programs for the disabled and who are employed in Victoria and responsible for the instruction and/or training of disabled persons;
 - iii) Employed in Victoria to teach and/or supervise teaching of people with social, physical, sensory educational and intellectual disabilities.
4. The AEU submits that the *Disability Service Award (Victoria) 1999* [AP778738] is relevant to considerations of the Commission in creating a modern award to cover employees who are currently covered by *Disability Services Award (Victoria)* [‘the Award’].
5. The Award has been subject to Structural Efficiency, Minimum Rates Adjustment and Award Simplification forensic exercises by the Commission.
6. The Award comprises 4 parts.
7. Part 1 of the Award regulates the wages and working conditions of those employees employed as Instructors or Program Directors in Adult Training and Support Services or Day Services to provide instruction and/or manage programs of instruction for persons with a disability. Such programs of instruction may involve formal courses of vocational education and training but comprise more generally and largely more frequently programs of personal and attendant care and living or social skills acquisition.

8. The employees in this sector of the industry may have a variety of qualification requirements ranging from formal trade through further vocational education and training at certificate and diploma level to university degree level. A formal teaching degree is not a prerequisite for employment.
9. Parts 2 and 4 of the Award regulate the wages and working conditions of those employees employed as Supervisors or Employment Officers in sheltered or supported employment services (also known as Disability Enterprises or Business Services) to provide support for persons with a disability while they are at work in the various business operations of the employer.
10. The employees covered by these parts of the Award generally have a trade qualification and/or other qualifications (including training qualifications) and experience relevant to the employer's business operations. Such business operations are diverse including packaging, laundry, hospitality, horticultural, business services and light manufacturing.
11. Part 3 of the Award regulates the wages and working conditions of those employees employed in 'early intervention' programs as teachers assistants, teachers and supervisors of pre-school age children with a range of disabilities. The teacher classifications require formal teacher qualifications and further specialist education qualifications. These employees are employed in a range of work locations including hospital settings, community-based health and welfare centres, local government settings and organisations established for the intellectual, vision, hearing and motor function-impaired.
12. Because of the overlap or interaction of the coverage of this part of the Award with the awards which regulate the wages and working conditions more generally of teachers as an occupations and particularly those dealing with pre-school age children, the AEU has made submissions with respect to these issues which it has filed in matters AM2008/70 – Educational Services – preSchool Teachers and AM2008/77 Health and Welfare Services (remainder) – Children's Services.
13. It is the AEU submission in the latter matters referred to above that all teachers wherever located should be covered by the relevant Modern Award covering the work of teachers. Thus Part 3 of the Award should be considered by the Commissions as part of its deliberations in those matters.
14. It is becoming increasingly common for employers covered by Parts 1, 2 and 4 of the Award to have business operations which span the three Parts and even expand further to cover residential and other community services.

15. It is also part of government policy objectives at state and federal level and also part of the evolving policy objective of the Disability sector itself that service delivery comprise institutional, community and individual or family based arrangements.
16. A consequence of this is that there are increasingly diverse and complex working environments for employees with increasingly diverse tasks, duties and working arrangements. This leads to an inevitable blurring of occupational boundaries and job roles.
17. In view of the above mentioned factors, the primary submission of the AEU is that apart from where an occupational award is relevant, such as in teaching functions, employees who are to date covered by the *Disability Services Award (Victoria)* should be covered by a broadly-based or general industry award in which employment officer, instructor and supervisory classifications for education and training functions can be located.
18. The AEU submits that in the modern era to which Modern Awards will pertain it is no longer justifiable or tenable on social equity grounds to distinguish award coverage on the basis, or part basis, of possession of a disability. The use of mechanisms such as the Supported Wage System – which is to be a model clause to be inserted generally into all Modern Awards – and Supported Wage Assessment tools such as those used to assess work value considerations for employees with disabilities employed in supported employment work environments can be accommodated by or integrated into such an award.
19. In other words, as a matter of principle workers in an industry should be covered by the same award irrespective of their status of having a disability attribute or otherwise.
20. Although the wage rates in the various Parts of the Award are not high, they are higher than some of the awards under consideration by the Commission. Care will need to be exercised to ensure employees are not disadvantaged in this regard by the making of a Modern Award.
21. Further there are Annual Leave arrangements for employees in Part 2 and 4 of the Award which are in excess of the those provided in the NES. The AEU submits these can be accommodated through a re-draft to conform to the NES but provide an additional 2 weeks Leave to compensate for the nature of the work environment in which the employees work or, alternatively, through the use of transitional provisions when those arrangements have been finalised by the Commission.

22. Consistent with the submissions made in paragraphs 17 and 18 above, the AEU does not provide unequivocal support for the creation of a separate award for the supported employment services sector of the industry. The rapidly evolving nature of the business operations of the employers, the policy objectives of government at all levels and the overlap of classifications of employees with the broader disability services sector of social and community services risks problems of overlap. The only way to resolve such risks would be to remove from any award covering supported employment those classifications covering employment, education, training and welfare delivery and supervisory functions.