

# ACER Enterprise Agreement 2012 – 2015

*Fairwork Australia Agreement Number: AE899580*

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## **Part A: Agreement formalities**

### **1 Title**

The title of this Agreement is the: **Australian Council for Educational Research Limited Enterprise Agreement 2012-2015**

### **2 Operation of agreement**

This Agreement shall come into force seven (7) days after it is approved by Fair Work Australia. The nominal expiry date for the Enterprise Agreement is 8th October 2015.

### **3 Definitions**

“AACC” shall mean the ACER Advisory and Consultative Committee

“ACER” shall mean Australian Council for Educational Research Limited.

“Agreement” shall mean the Australian Council for Educational Research Limited Enterprise Agreement 2012-2015.

“Bargaining Representative” shall mean a person who is nominated to represent a staff member during the bargaining for the agreement or in a matter before Fair Work Australia about bargaining for the agreement.

“Casual Staff” shall mean a casual employee who is engaged by the hour on the basis that each engagement is a separate and distinct period of service.

“CEO” means the Chief Executive Officer.

“Colleague” shall mean a person employed by ACER and nominated by the staff member which may be an ACER union representative.

"Eligible Casual Employee" shall have the meaning described in [Schedule 2](#) of this Agreement.

"FWA" means Fair Work Australia.

"NES" means the National Employment Standards as outlined in [Divisions 3-12](#) of Chapter 2, Part 2.2 of the Fair Work Act 2009.

“PIP” means Performance Improvement Plan.

“Senior Management Staff” are those appointed by the CEO as a Divisional Head, Research Program Director or Head of an equivalent business unit.

“Staff members” shall mean all ACER staff members employed in Australia other than the Senior Management Staff.

“Union” shall mean The Community and Public Sector Union (CPSU).

## **4 Application**

This Agreement is made under [section 172\(2\)\(a\)](#) of the *Fair Work Act 2009* and shall cover in its terms:

- (a) ACER;
- (b) all staff members of ACER employed to work in Australia other than Senior Management Staff; and
- (c) an employee organisation who makes application to Fair Work Australia under [section 183\(1\)](#) of the *Fair Work Act 2009* to be covered by this Agreement.

## **5 Access to Agreement**

Copies of this Agreement shall be kept in an easily accessible place in each ACER building and will be available for inspection at any time by persons covered by the Agreement, including on the ACER Intranet.

## **6 Entire Agreement**

This Agreement will regulate the conditions of employment of the staff members covered by the Agreement to the exclusion of all other awards and industrial agreements.

## **7 Savings Provision and Relationship with Other Awards and Agreements**

Any entitlement in the nature of an accrued entitlement which has accrued to an individual's benefit under a previous agreement will not be adversely affected by the making of this Agreement. No staff member will, on aggregate, have his or her overall pay and conditions reduced as a result of the making of this Agreement.

## **8 Individual Flexibility Agreement**

ACER and a staff member covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- (a) the agreement deals with one or more of the following matters:
  - (i) arrangements about when work is performed;
  - (ii) overtime rates;
  - (iii) penalty rates;
  - (iv) allowances; and
  - (v) leave issues (such as is Public Holidays; Flexible Leave and Religious and Ceremonial Leave).
- (b) the arrangement meets the genuine needs of the ACER and the staff member in relation to 1 or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is genuinely agreed to by the employer and the staff member.

ACER must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under [section 172](#) of the *Fair Work Act 2009*; and
- (b) are not unlawful terms under [section 194](#) of the *Fair Work Act 2009*; and
- (c) result in the staff member being better off overall than the staff member would be if no arrangement was made.

ACER must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of ACER and the staff member; and
- (c) is signed by ACER and the staff member and if the staff member is under 18 years of age, signed by a parent or guardian of the staff member; and
- (d) includes details of:
  - (i) the terms of the Agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the staff member will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (iv) states the day on which the arrangement commences.

ACER must give the staff member a copy of the individual flexibility arrangement within 14 days after it is agreed to.

ACER or the staff member may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if ACER and the staff member agree in writing-- at any time.

## **9 No Extra Claims**

The persons covered by this Agreement in accordance with [section 53](#) of the *Fair Work Act 2009* agree not to pursue any further claims in relation to the terms and conditions of staff members covered by this Agreement while this Agreement remains in operation.

## **10 Disputes and Grievances**

10.1 If a dispute relates to:

- (a) a matter arising under the agreement; or
- (b) a matter pertaining to the application of the agreement; or
- (c) the National Employment Standards;

this term sets out procedures to settle the dispute.

10.2 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the staff member or staff members and relevant supervisors and/or management.

10.3 A staff member who is a party to the dispute may appoint a representative for the purposes of the procedures in this term, including a CPSU representative or an Employer's organisation.

10.4 If the dispute is not resolved, either party can inform the CEO or delegate, in writing of the existence of a dispute, and provide a written report regarding the nature and

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substance of the dispute and the staff members who are party to it. In this instance the CEO or delegate, will determine whether to refer the dispute to:

- (a) an Independent Investigator; OR
- (b) a Disputes Committee that will be convened by the CEO or delegate, within five working days of the CEO or delegate, receiving the written report, unless agreed otherwise. The Disputes Committee will consist of three nominees of the CEO or delegate, (other than the CEO) one of whom will be appointed as chair, and three members of staff nominated by the staff members who are party to the dispute. Alternatively, the staff members may nominate a CPSU official, as one of their nominated members of the committee. The chair will have a casting, as well as a deliberative, vote.

The Disputes Committee will attempt to resolve the matter within five working days of its first meeting. Any resolution will be in the form of a written agreement, subject, if necessary, to ratification by each party.

Until the procedures described have been exhausted:

- (a) work will continue in accordance with usual practice unless the staff member has a reasonable concern about an imminent risk to his or her health and safety; and
- (b) industrial action will not be taken by either party at any stage of the above process.

For the purpose of this clause, “usual practice” means the state of affairs that existed immediately prior to the change that gave rise to the dispute.

Should the dispute not be resolved by the processes referred to in this clause, the matter may be referred by either party to a mutually agreed person who is independent from ACER, its staff members and the union covered by the Agreement, or FWA, who may settle the dispute.

### 10.5 Fair Work Australia may deal with the dispute in 2 stages:

- (a) Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- (b) if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
  - (i) arbitrate the dispute; and
  - (ii) make a determination that is binding on the parties.

*Note:* If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the *Fair Work Act 2009*. A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of [Div 3 of Part 5.1](#) of the *Fair Work Act 2009*. Therefore, an appeal may be made against the decision.

### 10.6 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

## 11 Implementation of Change

- 11.1 Where ACER has formulated a proposal to introduce a major change likely to have a significant effect on ACER's staff members, such as to production, program, organisation, structure, work practices or technology in relation to its enterprise, ACER must notify the relevant staff members and ACER CPSU Branch section committee of the proposal to introduce the major change as soon as practicable.
- 11.2 In this term, a major change is likely to have a significant effect on staff members if it results in:
- (a) the termination of the employment of staff members; or
  - (b) major change to the composition, operation or size of ACER's workforce or to the skills required of staff members; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain staff members; or
  - (f) the need to relocate staff members to another workplace; or
  - (g) the substantive restructuring of jobs.
- 11.3 As soon as practicable after formulating a proposal, ACER must:
- (a) discuss with the affected staff members:
    - (i) the introduction of the change; and
    - (ii) the effect the change is likely to have on the staff members; and
    - (iii) measures ACER is taking to avert or mitigate the adverse effect of the change on the staff members; and
  - (b) for the purposes of the discussion- provide, in writing, to the affected staff members and the ACER CPSU Branch section committee:
    - (i) all relevant information about the change including the nature of the change proposed; and
    - (ii) information about the expected effects of the change on the staff members; and
    - (iii) any other matters related to the change likely to affect the staff members; and
    - (iv) Provision of the material "in writing" under this clause includes the provision of the material via email and/or posting in a prominent place on the ACER Intranet.
- 11.4 However, ACER is not required to disclose confidential or commercially sensitive information to the affected staff members.
- 11.5 ACER must give prompt and genuine consideration to matters raised about the major change by the affected staff members and the ACER CPSU Branch section

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committee and where appropriate provide training for the employees to assist them to integrate successfully into the new structure.

11.6 In accordance with this clause, the affected staff members and the ACER CPSU Branch section committee may submit alternative proposals which will meet the indicated rationale and benefits of the proposal. Such alternative proposals must be submitted in a timely manner so as not to lead to an unreasonable delay in the introduction of any contemplated change. If such a proposal is made, ACER must give considered reasons to the affected staff members and the ACER CPSU Branch section committee if ACER does not accept its proposals.

11.7 Any dispute concerning the Parties obligations under this clause shall be dealt with in accordance with [clause 10](#).

### **12 ACER Advisory and Consultative Committee (AACC)**

The AACC provides a wide advisory and consultative mechanism within ACER. Any matter regarding the operation of ACER may be raised for consideration by AACC other than the detail of matters directly pertaining to the circumstances of an individual staff member, unless with the express prior approval of that staff member in writing to the chair of AACC, and any dispute pertaining to the interpretation and application of the Agreement.

Detailed information about AACC membership, elections and processes associated with the operation of the Committee are incorporated in ACER policies.

The Committee is composed of elected staff representatives, representatives nominated by the CEO and a Union Branch member appointed by the ACER CPSU convenor.

### **13 ACER Staff Policy**

ACER policies and procedures regarding staffing matters that are not part of this Agreement are kept on the [ACER Intranet policy site](#) and may be revised from time to time by the CEO. Prior to determining such revisions the CEO will obtain the advice of the Divisional Heads who will ensure that the matter has been considered by the [ACER Advisory and Consultative Committee \(AACC\)](#). The AACC will consult with staff regarding the matter under consideration. If AACC has provided advice to Divisional Heads on the matter under consideration, such advice will be tabled for the information of the CEO. The ACER policies are not part of this Agreement.



## Part B: Employment

This Part B does not apply to casual staff members.

### 14 Staff Appointments

#### 14.1 Types of employment contracts

Full time and fractional employment contracts of the following types may be offered and used by ACER under this Agreement:

- a. A “**Continuing Appointment**”, under grandfather arrangement in past ACER Enterprise Agreements; or
- b. A “**Fixed Term Contract**”. Multiple term contracts may be offered on the following basis;
  - (i) the first contract will be offered for a period of two years;
  - (ii) If subsequent contracts are offered it will be for a term of three years;
  - (iii) staff members with eight years of continuous service will, upon their next offer of employment, be offered a contract of at least five years, unless a shorter term is requested by the staff member.

In exceptional circumstances, should ACER wish to reduce the contract term period offered in [clause 14.1\(b\)](#), the staff member may be represented in consultations by a workplace representative of their choice, including the union, but may not be legally represented by a practising barrister or lawyer.

- c. A “**Limited Term Contract**” of less than two years where the project work is supported by contingent funding as in work in a new area, a pilot or trial project and it is not known if it will be required on an ongoing basis. Where a subsequent contract is to be offered, the appointment will be made under [clause 14 \(b\) \(i\)](#);
- d. A “**Fixed Term Project Contract**” of less than two years where the work is for a specified project where it is known at the time of offer that the work will not be required beyond the term of the contract; or
- e. A “**Leave Replacement Contract**” where staff are appointed to specifically replace existing staff who are on paid or unpaid leave, including, but not limited to, parental leave; annual leave; personal leave; long service leave.

Staff employment contracts will indicate which of the above clauses the employee is appointed under.

- 14.2 The parties agree to review [clause 14.1](#) (Types of Employment Contracts) when the next enterprise agreement is negotiated.

#### 14.3 Expiry of contract

The CEO or delegate is the only person authorised by the Board of ACER to approve appointments and make representations about future employment beyond a current appointment. If a further contract of employment is to be offered the CEO or delegate will

approve this and ask the Director, Human Resources or delegate to write to make such an offer prior to the end of an appointment period.

Staff members appointed on a term contract under clause [14.1 \(b\) and \(c\)](#) will have their contracts reviewed by a Contract Review Committee appointed under [clause 14.4](#).

Staff members who are appointed on fixed term contracts under clause [14.1 \(b\) and \(c\)](#) are given the following minimum periods of notice of the decision about a further offer:

- (a) For two year or less contracts - three months prior to the expiry of the contract.
- (b) For three year contracts - four months prior to the expiry of the contract.
- (c) For five year contracts - six months prior to the expiry of the contract.

Staff members appointed under [clause 14.1 \(d\) and \(e\)](#) do not require a review of their arrangement and their contract will end on the contracted date. Further notice of contract end will not be required as these contracts have a clear end date and further contracts are not normally offered.

#### **14.4 Contract Review Committee**

The Contract Review Committee will consist of at least a Divisional Head or delegate as Chair, and one or two staff members senior to the position being reviewed who are familiar with the work of the staff member.

The Committee will consider:

- (a) the skills and expertise required by ACER;
- (b) continued requirement for the work;
- (c) the skills, expertise and accomplishments of the staff member.

The Committee may seek information from the staff member's direct supervisors and may seek information from other relevant staff members. Staff members may submit, or be requested to submit, relevant material or information to the Contract Review Committee. A staff member may request that an ACER Human Resources officer or a Diversity Contact Officer participate in the contract renewal process.

The Chair of the Committee will make a recommendation to the CEO or Delegate regarding any offer of a further term of employment in accordance with [clause 14.1 \(b\) and \(c\)](#). The decision to offer or not to offer a further term of employment will be a matter solely for the CEO or their delegate. The Committee may meet as a virtual Committee.

The procedures about notification of renewal of contract will be detailed in ACER Policies.

#### **14.5 Service Payment**

A staff member who, after at least five years continuous service is not offered a further term of employment, will receive a payment of two weeks per year of service, calculated at their average service fraction, upon ceasing employment with ACER, unless terminated under the provisions of [clause 21](#) relating to Misconduct.

#### **14.6 Approval of Positions**

The creation, variation and filling of all positions, other than casual positions, are at the discretion of the CEO.

#### **14.7 Probation**

New Staff members will be subject to a period of probation of not less than one month and not exceeding three months, determined by the Director Human Resources in conjunction with the relevant Divisional Head or delegate, in advance of the commencement of the staff member with ACER.

A probation period may be extended where additional time is required to further assess suitability for confirmation of employment provided that the total period of such probation does not exceed the 6 months minimum employment period specified in section [383](#) of the *Fair Work Act 2009*.

### **15 Remuneration and Allowances**

#### **15.1 Basis of assignment to salary scales**

All Staff members are to be assigned to a position with an accompanying position description. Each position has an associated job size which determines the salary scale to which a staff member is assigned. Salary scales are set out in [Schedule 1](#).

#### **15.2 Determination of job size**

Job size is determined by the CEO having regard to the principles in [Schedule 1](#). The CEO's decision is to be made following advice from a Position Evaluation Committee (PEC).

#### **15.3 Position Evaluation Committee**

The Position Evaluation Committee (PEC) comprises:

- (a) three members representing staff, one of whom shall be a staff member from the ACER CPSU Branch section committee; and
- (b) three members appointed by the CEO, one of whom shall chair the PEC.

The PEC will provide advice regarding position size to the CEO. Such advice will be informed by the result of position sizing using the software product "JOBSCORE" supplied by the National Remuneration Centre. The PEC will determine the procedures it employs in reaching such evaluation decisions. The PEC may consult with the relevant supervisor or other staff members with knowledge of the requirements of the position.

#### **15.4 Notification of job size and market loadings**

The Director, Human Resources will notify members of the PEC regarding a position size that has been determined and whether a labour market salary loading has been applied.

#### **15.5 Incremental Progression**

Staff members are entitled to automatic annual progression within the salary range of the level of their appointment until the top salary point is reached, unless the CEO decides to withhold an annual increment following a judgement that a staff member's performance during the year has been unsatisfactory as provided in [clause 20](#).

The date of annual increment for Staff members is the anniversary of their date of commencement with ACER, except for Staff members who are advanced. In this case the increment should occur on the anniversary of their advancement date.

#### **15.6 Staff Advancement**

In the case that a staff member's position description is judged to no longer be an adequate description of the staff member's current role or of ACER's requirements, a proposal may be made to the CEO to advancement the staff member to an alternative, more senior position.

A proposal for advancement to a more senior position may be made at any time by the relevant Divisional Head or staff member. Such a proposal must be in writing and be accompanied by a proposed position description. It may be accompanied by a copy of the most recent Annual Performance Review and other relevant material.

If the CEO approves advancement to a position that does not have an established job size, then the CEO may authorize the PEC to size that position.

If a staff member's current salary is beyond the top of their new scale then their salary will be maintained.

***General staff***

The proposed position may be a previously established position and so have an existing position description and job size, or may be a newly proposed position without an established job size. The proposal should make clear the basis for the proposed change with respect to the current or anticipated needs of ACER.

***Jobsize 400 and lower***

Each proposal for advancement to a more senior position is considered by the relevant Divisional Head who makes a recommendation to the CEO.

***Above Jobsize 400***

Each proposal for advancement to a more senior position is considered by an ad hoc committee comprising at least two members of Senior Management staff nominated by the CEO, and a Human Resources representative. This committee makes a recommendation to the CEO.

In the case of research staff, advancement is to one of the generic research positions referred to in [Schedule 1](#).

***Research Officer 1 & 2 and Research Fellow 1 & 2***

Each proposal for advancement to Research Officer 1 & 2 and Research Fellow 1 & 2 is considered by the relevant Divisional Head who makes a recommendation to the CEO.

***Senior Research Fellow 1 & 2 and Principal Research Fellow***

Each proposal for advancement to Senior Research Fellow 1 & 2 and Principal Research Fellow is considered by an ad hoc committee comprising at least two members of Senior Management staff nominated by the CEO, and a Human Resources representative. This committee makes a recommendation to the CEO.

***Feed back when advancement not approved***

In the case that the CEO decides not to advance an applicant to a more senior position, the CEO will ensure that the relevant Divisional Head or delegate will, shortly after the decision is made, meet with the staff member and the staff member's supervisor to review, and where appropriate revise, the staff member's annual objectives in the light of this decision.

**15.7 Salary Loading**

The CEO may determine that a salary loading will be paid to take into account labour market conditions, or particular duties that are not provided for by the payment of a higher duties allowance.

**15.8 Higher Duties Allowance**

ACER recognises the need to provide a Higher Duties Allowance for members of staff who are requested to perform the duties of certain key positions when the incumbents of those

positions are absent from ACER for at least ten consecutive working days and not more than twelve months.

The payment of a Higher Duties Allowance is at the discretion of the Divisional Head. Should the Higher Duties Allowance be approved, the staff member will be advised whether full or partial responsibilities of the higher position are to be performed, and the amount and anticipated duration of the Higher Duties Allowance. If the organisation's requirement for the performance of work at a higher level is for one year or more, then the CEO will offer a Notice of Variation to Appointment at an appropriate salary level for the duration of the period of work at the higher level:

- (a) Where a staff member performs the full duties of the higher office, she/he is paid an allowance equal to the difference between the relieving person's actual salary and the minimum salary of the higher position.
- (b) Where a staff member performs a portion of the duties of a higher office, she/he is paid an allowance determined through an assessment, by the CEO of the amount of additional responsibility accepted.
- (c) If the duties of the higher position are shared between two or more persons, the total allowance payable does not exceed the difference between the most senior reliever's salary and the minimum salary of the higher position.
- (d) Where a staff member is offered a Higher Duties Allowance, the allowance is payable from the date she/he commenced performing the higher duties.
- (e) A staff member shall not be penalised in any way for a refusal to perform higher duties.

While it is ACER's preference to support the development and advancement of its staff, the CEO retains the discretion to appoint a person from outside to perform the duties of any staff position which has become temporarily vacant.

### **15.9 Provisions for staff members entitled to overtime**

#### ***Entitlement to approved overtime***

Payment for overtime is only made to staff members who occupy positions with a job size of up to and including 400 points.

A relevant Divisional Head or delegate must authorise the working of overtime in advance. Overtime penalties will apply where a staff member is required to work more than 36 hours 40 minutes per week Monday to Friday or in excess of 7 hours 20 minutes per day Monday to Friday.

Except in an emergency or where reasonable notice has been given, a staff member may refuse to work overtime where this would impose personal or family hardship or interfere with the staff member's personal commitments.

Approved overtime is paid at the following rates:

Weekdays	time and a half for the first three hours and double time thereafter;
Saturdays	time and a half up to 12 noon (or the first three hours whichever occurs first) and double time thereafter;
Sundays	double time;
Public Holidays	double time.

***Variation to hours for staff members entitled to overtime***

For staff members entitled to overtime under the provisions of this clause, any on-going request for regular variation to ordinary hours of attendance must be approved by the appropriate Divisional Head or delegate.

***Entitlement to approved time off in lieu of overtime***

With the approval of the appropriate Divisional Head or delegate, staff members eligible for overtime payment may elect to be given time off in lieu of overtime worked calculated at ordinary time.

***Entitlement to childcare expense reimbursement***

Where a staff member who is entitled to overtime under provisions of this clause is:

- (a) required by ACER to work outside their ordinary hours of work; and
  - (b) provided with less than 24 hours' notice of the requirement to perform such overtime.
- the staff member will be reimbursed for reasonable childcare expenses incurred.

Evidence of expenditure incurred by the staff member must be provided to ACER as soon as possible after the working of such overtime.

**15.10 Provisions for staff members not entitled to overtime**

Staff members not entitled to overtime under the provisions of [clause 15.9](#) are entitled to manage their working hours in a flexible manner that fulfils their professional responsibility to meet work obligations and in order to avoid working in excess of a standard working fortnight.

Staff members must liaise with their supervisor and with colleagues as appropriate to ensure proper communication regarding their hours of attendance.

A Divisional Head or delegate may authorise in advance a staff member to work agreed hours in excess of a standard working fortnight. A record of such hours will be kept. Staff members are entitled to take time-in-lieu of such excess hours, calculated at ordinary time, at a time that is mutually acceptable to the staff member and the relevant Divisional Head or delegate.

**15.11 Meal Allowances**

No staff members eligible for overtime payment shall be required to work more than five hours continuously without a meal break of at least half an hour. A meal allowance as set out in [Schedule 3](#) shall be paid as follows:

Weekdays	when approved overtime has been worked beyond the ordinary hours of work for at least two hours;
Other	Where approved overtime has been worked for at least five hours.

Other staff members may claim meal allowances at the rate above when, with the approval of the appropriate member of the Senior Management Staff, they work beyond ordinary hours for at least two hours on weekdays and at least five hours on Saturdays, Sundays and Public Holidays.

**15.12 On-call Security**

- (a) Staff members who have agreed, upon the invitation of ACER, to be available to respond as they are able to out of hour's security calls shall be provided a mobile

phone for such business purposes and shall be paid an “on-call” allowance as set out in [Schedule 3](#). Such arrangements may be terminated at the discretion of the CEO.

- (b) If staff members attend an ACER building out of hours in response to a security call then the staff member shall be paid overtime rates at double the normal hourly rate of pay, plus kilometres travelled reimbursed at the rate as set out in [Schedule 3](#). Such hours shall be calculated from the time the staff member commences travelling to ACER until the staff member returns home or to the place from which the staff member was called.

#### **15.13 First Aid Allowance**

A staff member who possesses a current recognised first aid certificate and a continuing ability to undertake first aid responsibilities and who has been appointed as a First Aid Officer will be paid at the rate as set out in [Schedule 3](#) for the duration of the appointment.

A current recognised first aid certificate means one issued by a RTO Registered Training Organisation (RTO) having met the Australian Quality Training Framework (AQTF) Standards, and which has been obtained within the previous 3 years.

#### **15.14 Chief Warden Allowance**

A staff member who has been appointed as a Chief Warden will be paid at the rate as set out in [Schedule 3](#) for the duration of the appointment.

## **16 Staff Development**

### **16.1 Annual Review of Performance**

Staff members other than those appointed for a term of less than twelve months will participate in an annual process to set objectives, review progress against objectives and review performance more generally. Such review should be confidential to the individual, the nominated supervisor, the relevant Divisional Head, HR personnel and the CEO.

New staff members may meet with their supervisor as soon as practicable after commencement in order to establish objectives for the ensuing year.

Any dispute concerning the Parties obligations under this clause shall be dealt with in accordance with [clause 10](#).

### **16.2 Annual Professional Development Review**

At least one meeting will be scheduled during each year between staff members and supervisors, unless otherwise agreed at the initiative of staff members, to discuss the staff member’s professional learning and development.

ACER provides a budget to assist staff to participate in training and professional development, including courses of study that increase the range and level of their expertise and skills, and that contribute to ACER’s objectives.

### **16.3 Studies Assistance**

ACER may grant study assistance to a staff member to assist with courses of study whether or not leading to an award, at the discretion of the CEO.

Assistance with courses of study may be granted where the following criteria are met:

- (a) the course is directly relevant to the work of the staff member at ACER; or

- (b) the course, while not being directly relevant to the work of the staff member, is related to the work of ACER and is important to the career development of the staff member.

The following assistance may be granted for approved courses of study (pro-rata for part-time employee and/or where study load is part-time):

***Study leave***

Fully paid study leave to a maximum of five hours per week for travel to and attendance at mandatory supervised study activities which are not available outside working hours.

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 availed of within the limit of five hours per week.

Fully paid study leave up to five days to attend compulsory examinations.

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

***Fee Support***

Staff members may seek fee support, including HELP, on the following basis:

- (a) Where the course meets criterion (a) above up to full fee support may be granted
- (b) Where the course meets criterion (b) above partial fee support may be granted

The CEO shall determine if fee support will be granted, and the extent of support, on the basis of the above criteria and the availability of funds.

**16.4 Informal Counselling**

Informal counselling may be implemented at any time to outline a process for improving the skill development of a staff member. The aim of informal counselling is to raise areas of required development with the staff member and agree on an approach to address these areas, without the need to commence a formal Performance Improvement process. The focus of this development may not be purely on the development of technical or job related skills.



## Part C: Other conditions of service

Except where expressly stated this Part does not apply to casual staff members.

### 17 Superannuation

ACER makes superannuation contributions to [UniSuper](#), the superannuation fund administered by Unisuper Limited. Contributions will be made to UniSuper as described below.

#### *Defined Benefit Division/Accumulation 2*

Staff members aged less than 65 years in either of the categories below appointed after the 1 July 1984 must join the Defined Benefit Division:

- continuing staff members who hold full-time appointments or fractional appointments of not less than 50% of the equivalent full-time appointment;
- contract staff members who hold full-time appointments or fractional appointments of not less than 50% of the equivalent full-time appointment, and whose contracts of appointment are for periods of more than one year.

Short term contract staff members whose initial appointment for one year or less is renewed by a further contract and whose total appointment will then exceed 12 months must join the Defined Benefit Division from the date of renewal.

Staff members eligible for membership of the Defined Benefit Division will automatically contribute at the standard rate of 7% of salary by automatic deduction from salary, whilst ACER contributes 17% of salary (14% to the defined benefit component and 3% to the accumulation component). Staff members may make an election to reduce the standard rate of member contributions in accordance with the UniSuper Trust Deed.

Staff members have the option to transfer from the Defined Benefit Division to Accumulation 2 within 12 months of joining the Defined Benefit Division. Further details regarding this option will be provided by Unisuper directly to the staff member after joining the Defined Benefit Division.

#### *Accumulation 1*

ACER contributes 9% for full-time and fractional staff members who are not members of the Defined Benefit Division/Accumulation 2, and casual staff who earn more than the superannuation guarantee threshold per month or where this criterion is not met, where gross salary exceeds a statutory threshold in any month.

Staff members may make after-tax voluntary member contributions to their accumulation account.

#### *Before-tax contributions to superannuation*

Staff members may make before tax voluntary (salary sacrifice) contributions to UniSuper.

### 18 Hours of duty and workloads

#### 18.1 General

The standard working fortnight for full time staff members is 73 hours 20 minutes, and pro rata for staff members on fractional appointments.

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Fractional staff members are engaged to work a specified number of hours per fortnight which is less than the ordinary fortnightly hours for a full-time staff member in the same classification. By agreement between the fractional staff member and a member of Senior Management Staff, the staff member may work additional ordinary hours in a fortnight up to the standard full time hours to meet a short term need. Such additional hours will be paid at ordinary rates unless the provision for overtime in [clause 15.9](#) is applicable. Unless otherwise agreed in writing by the relevant member of Senior Management Staff a fractional staff member will work on regular nominated days. A fractional staff member shall be paid pro-rata according to the number of hours worked based on the salary rate prescribed by the Agreement for a full time staff member in the same classification.

The ordinary hours of attendance for full-time staff members are 8.40am to 5.00pm Monday to Friday with one hour taken for lunch between 12.00pm and 2.00pm, although work requirements or the circumstances of staff members may give rise to a different spread of hours being agreed.

### **18.2 Home Based Work**

ACER may consider the possibility that some of a staff member's time may be spent working from home on an ongoing or occasional basis. Occasional requests to work from home need Divisional Head approval, whereas, ongoing requests need CEO approval. Where requests to undertake home based work are refused, ACER will provide the employee with the reasonable business grounds for such a refusal.

Staff members who are approved to work from home are expected to abide by relevant OHS requirements and establish a home office that is ergonomically sound and has appropriate lighting and temperature control.

## **19 Leave**

### **19.1 Annual Leave**

Full time staff members are entitled to twenty working days (146 hours 40 minutes) annual leave for each year of employment. Fractional staff members are entitled to pro-rata annual leave.

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

Full time staff members who have accumulated more than 40 days annual leave entitlement (and pro-rata for fractional staff members) can be directed to take their excess accumulated annual leave entitlement. Staff members may also be directed to take annual leave during periods of any shut downs provided that the staff member has that amount of annual leave credited to them.

Annual leave may be taken at times which are mutually suitable subject to any operational requirements.

A period of Annual leave does not include any public holiday or work day which ACER may take as a holiday.

Staff members who require personal leave during annual leave are re-credited annual leave and placed on personal leave on production of a medical certificate.

A staff member may apply to the Director Human Resources to cash out their annual leave due to financial hardship. In deciding to approve such a request the Director Human Resources will consider the financial circumstances provided, the balance of other leave

entitlements, previous leave patterns and the need for the staff member to retain a balance of 4 weeks annual leave.

### **19.2 Public Holidays**

When an ACER staff member's ordinary hours of work occur on a public holiday, the staff member is entitled to a paid absence for the day or part day that is the public holiday. ACER staff members are entitled to the public holidays in the place where the employee is based for work purposes.

### **19.3 ACER Holidays**

Staff members are granted the week days that are not public holidays between 26 December and 1 January as additional leave.

### **19.4 Personal / Carers' Leave and Compassionate Leave**

#### ***Paid personal / carers' leave***

Full time staff members are entitled to twenty working days (146 hours 40 minutes) personal leave for each year of employment. Fractional staff members are entitled to pro-rata personal leave. No restriction exists on the amount of accrued personal leave which can be taken at any one time.

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

Leave in excess of three consecutive days (22 hours) must be supported by a registered health practitioner's certificate, statutory declaration or other satisfactory evidence.

Deductions will be made from salary for personal leave in excess of the accrued entitlement.

Pay in lieu of unused personal leave cannot be claimed on resignation.

A period of Personal / Carers' leave does not include any public holiday or work day which ACER may take as a holiday.

In circumstances where an immediate family and / or household member is ill, injured or subject to an unexpected emergency staff may elect to take leave from their accrued personal / carer's leave as carer's leave. Fractional staff members are entitled to pro rata carers' leave for absence on days they ordinarily work.

#### ***Compassionate Leave Entitlement***

A staff member is entitled to three days of compassionate leave for each occasion (a permissible occasion) when a member of the staff member's immediate family, a member of the staff member's household, or other person approved by the Director of Human Resources:

- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (b) sustains a personal injury that poses a serious threat to his or her life; or
- (c) dies.

#### ***Taking of Compassionate Leave***

An employee may take compassionate leave for a particular permissible occasion if the leave is taken:

- (a) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury; or
- (b) after the death of the member of the employee's immediate family or household.

An employee may take compassionate leave for a particular permissible occasion as:

- (a) a single continuous three day period; or
- (b) three separate periods of 1 day each; or
- (c) any separate periods adding up to 22 hours to which the employee and his or her employer agree.

If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

***Compassionate Leave Evidence***

Leave in excess of three consecutive days (22 hours) must be supported by a registered health practitioner's certificate, statutory declaration or other satisfactory evidence.

***Payment for Compassionate Leave (other than for casual employees)***

If, in accordance with this Subdivision, an employee, other than a casual employee, takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

***Casual Employees***

For casual employees, compassionate leave is unpaid leave.

**19.5 Long Service Leave**

- (a) This clause is intended to be an exclusive code with respect to Long Service Leave for staff members to whom this agreement applies. It is intended to operate to the complete exclusion of any State or Territory law dealing with long service leave.
- (b) Long service leave is paid at a staff members' ordinary pay. For the purposes of this clause, ordinary pay means the rate of pay that a staff member is entitled to receive at the time he or she takes long service leave.
- (c) Full-time and fractional staff members are entitled to paid long service leave on the completion of seven years of continuous paid employment.

Full-time staff members are entitled to 9.1 weeks (45.5 days) of paid long service leave on completion of seven years of continuous paid employment and thereafter an additional 1.3 weeks (6.5 days) of paid long service leave for each additional year of continuous paid employment.

For full time and fractional staff members, long service leave accrues each fortnight based on the following formula:

6.5 days divided by 365/14 x average service fraction for the fortnight.

- (d) Long service leave must be taken at a time mutually agreeable to the CEO or Delegate and the staff member. Postponement will not result in any loss of entitlement. Applications for long service leave must be recommended by the relevant Divisional Head taking into account the requirements of ACER and approved by the CEO or Delegate at least one month before the leave is taken.
- (e) An entitlement to long service leave in excess of 26 weeks must not be accumulated unless with the written approval of the CEO or Delegate.
- (f) Staff who have accumulated more than 26 weeks long service leave entitlement, and who have not submitted an acceptable plan to reduce their leave entitlement to no more than 26 weeks, may be required by 3 months written notification by the CEO or

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Delegate to take long service leave for a specified period sufficient to return their long service leave entitlement to no more than 26 weeks.

- (g) The staff member will then be treated as being on long service leave for the specified period even if the staff member chooses to attend work contrary to the direction of the CEO or Delegate.
- (h) Employment is considered to be continuous notwithstanding any period of recreation leave, long service leave, special studies leave, paid personal leave or other authorised paid leave. Any periods of leave without pay, such as unpaid maternity leave are excluded in calculating the period of continuous employment. Termination followed by re-employment within two months is not counted as termination of employment but is excluded in calculating the period of continuous employment.
- (i) Where a member of staff has completed seven years or more continuous employment and his/her employment ceases payment is made for all outstanding accrued long service leave entitlement that has not already been taken as calculated in [clause 19.5 \(c\)](#).
- (j) Any member of staff who:
  - (i) resigns because of ill-health; or
  - (ii) is terminated due to redundancy; or
  - (iii) is over the age of 60 years and who either resigns or elects not to accept an offer of a further term of employment in order to retire from the workforcemay at the discretion of ACER be paid pro-rata in lieu of long service leave if service exceeds four and is less than seven completed years.
- (k) In the event of a member of staff dying while employed by ACER, pay equivalent to any entitlement to long service leave is paid to the estate of the staff member.
- (l) The minimum period of absence on long service leave is one day
- (m) Leave is normally taken on ordinary pay, but it may be taken for a longer period on pro-rata rates if such extension, in the opinion of the CEO or Delegate, does not seriously inconvenience ACER.
- (n) The pay of a staff member on long service leave is paid fortnightly during the period of leave, unless otherwise requested by the staff member.
- (o) No member of staff is permitted to engage in any employment for hire or reward whilst long service leave is being taken, unless the approval of the CEO or Delegate has been obtained.
- (p) A period of long service leave does not include any public holiday or work day which ACER may take as a holiday.
- (q) Staff members who require personal leave during long service are re-credited long service leave and placed on personal leave on production of a medical certificate
- (r) A staff member may apply to the Director Human Resources to cash out their long service leave due to financial hardship. In deciding to approve such a request the Director Human Resources will consider the financial circumstances provided, the balance of other leave entitlements, previous leave patterns and the need for the staff member to retain recreation leave.

### **19.6 Pre-natal leave**

A period of Pre-Natal leave does not include any public holiday or work day which ACER may take as a holiday.

***For pregnant staff members:***

In addition to other leave provisions, a staff member who presents a medical certificate from a doctor stating she is pregnant will have access to paid leave as follows:

- 35 hours pre-natal leave to attend medical appointments associated with pregnancy. Each absence must be covered by a certificate from a medical practitioner or midwife. Such absences may be for part of a day.

***For staff members whose partners are pregnant:***

A staff member who has a partner who is pregnant will, upon presentation of a medical certificate providing confirmation of the partner's pregnancy, have access to paid leave as follows:

- 7.5 hours pre-natal leave to attend medical appointments. Each absence must be covered by a certificate from a medical practitioner or midwife. Such absences may be for part of a day.

**19.7 Parental Leave**

Staff members are entitled to parental leave in accordance with the [Fair Work Act 2009](#). Parental leave includes primary carer leave, partner leave and adoption leave, and is available provided the employee has worked a minimum period of 12 consecutive months before the commencement of the parental leave.

A period of parental leave does not include any public holiday or work day which ACER may take as a holiday.

***Primary Carer Leave***

Staff members are entitled to 16 weeks paid primary carers leave or 32 weeks at half pay on the birth of or placement of an adopted child where they are to be the primary care giver.

***Partner Leave***

Staff members are entitled to 3 weeks paid partner leave on the birth or adoption of a child where they are the partner of the primary care giver.

ACER will provide above parental leave provision in addition to the [National Paid Parental Leave Scheme](#) funded by the Federal Government (including 'Dad and Partner Pay' operating from 1 January 2013).

**19.8 Military Service Leave**

For staff members who are members of the Defence Reserve they are entitled to:

- (a) up to 15 days paid leave per annum, non-cumulative, for the purpose of attending naval, army, or airforce service or training; and
- (b) additional reasonable unpaid leave on special request from the Defence Force or if the staff member is able to demonstrate that they must attend for service or training in addition to the days referred to above,

to be taken in accordance with the ACER Leave Policy as varied from time to time.

**19.9 Community Services Leave**

A staff member who engages in an eligible community service activity as defined in [s109 of the Fair Work Act 2009](#) is entitled to paid absence from his or her employment for a period if:

- (a) the period consists of one or more of the following:
  - (iv) time when the employee engages in the activity;

- (v) reasonable travelling time associated with the activity;
  - (vi) reasonable rest time immediately following the activity; and
- (b) unless the activity is jury service—the employee’s absence is reasonable in all the circumstances.

Where practical the staff member must give the relevant Divisional Head or delegate at least 24 hours written notice of such leave and indicate the proposed or likely period of absence on such leave.

***Jury Service***

Staff members who are required to be absent for the purpose of attending jury service during normal working hours will receive their base rate of pay as per [Section 111](#) of the *Fair Work Act 2009*.

**19.10 Leave without Pay**

Staff members may apply for both short-term and long term Leave without Pay (LWOP).

**19.11 Flexible Leave**

All staff members who have attained at least 12 months service with ACER, other than exempt and casual staff, may apply for Flexible Leave which is a reduction in a participating staff member’s service fraction to either 51/52 or 50/52 or 49/52 or 48/52 of the staff member’s ordinary service fraction for the twelve-month period.

Staff members participating in the Flexible Leave scheme will not be disadvantaged with respect to professional development, conference attendance, promotion or other career advancement opportunities.

Staff members who have had Flexible Leave arrangements approved will have any unused Flexible Leave paid back to them at the conclusion of the 12 month period.

**19.12 Workplace training leave**

Staff members are entitled to up to 5 days paid leave for workplace training leave.

Provisions for workplace training leave are not cumulative.

**19.13 Religious, Cultural And Ceremonial Leave**

- (a) Ceremonial leave with pay will be granted to a staff member of Aboriginal or Torres Strait Islander descent for ceremonial purposes connected with the death of a member of the immediate family or extended family or for other ceremonial obligations under Aboriginal and Torres Strait Islander law.
- (b) Up to 5 days Leave will also be granted to staff members whose religious ceremonies occur on days other than those prescribed as public holidays. Such leave will be taken in lieu of public holidays, unless alternative arrangements are approved by the relevant member of the Senior Management Staff.

**19.14 Blood Donation Leave**

Staff members who are absent for the purpose of donating blood during working hours may be granted paid leave for up to 2 hours per occasion, subject to a maximum of four attendances per year.

The absence should be on a day and at a time convenient to ACER.

Notice of intended absence must be given to the relevant Senior Management staff member.

### **19.15 Post Travel Leave**

Where staff members are required to make trips of over 10 hours flight duration, recovery leave of one day off-shore and one day in Australia may be taken.

At the discretion of the CEO upgraded travel arrangements may be provided where the staff member is required to make more than three trips of less than five days duration within a year of over 10 hours flight duration.

For staff members who are required to undertake travel on ACER business outside normal business hours, additional support for unavoidable domestic expenses may be provided at the discretion of the CEO.

These provisions do not apply to conference travel and outside studies programs.

### **19.16 Domestic / family violence leave**

ACER recognises that staff members sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, ACER is committed to providing support to staff that experience domestic violence.

ACER accepts the definition of domestic violence as provided by the Family, Violence Protection Act 2008 (Victoria) and recognises that it includes physical, sexual, financial, verbal or emotional abuse by a family/household member, including behaviour by a family/household member that causes a child to hear, witness, or otherwise be exposed to the effects of this behaviour.

All personal information concerning domestic violence will be kept confidential in line with relevant legislation. No information will be kept on a staff member's personnel file without their express written permission.

No adverse action will be taken against a staff member if their attendance or performance at work suffers as a result of experiencing domestic violence.

A staff member experiencing domestic violence may raise the issue with their immediate supervisor or the Human Resources contact.

A staff member experiencing domestic violence will have access to their personal leave, annual leave or unpaid special leave for medical appointments, legal proceedings and other activities related to domestic violence. This leave may be taken as consecutive or single days or as a fraction of a day.

A staff member who supports a person experiencing domestic violence may take carer's leave to accompany them to court, to hospital, or to mind children while the person being supported does attend these appointments.

A staff member and their immediate family experiencing domestic violence may access the ACER Employee Assistance Program (EAP). Such assistance may be extended beyond the standard three consultations with the approval of the Director Human Resources.

In order to provide support to a staff member experiencing domestic violence and to provide a safe work environment to all employees, ACER may approve any reasonable request from



a staff member experiencing domestic violence aimed at alleviating their situation. These include:

- (a) changes to their span of hours or pattern or hours and/or shift patterns;
- (b) job redesign or changes to duties;
- (c) relocation to suitable employment within the ACER;
- (d) a change to their telephone number or email address to avoid harassing contact; and
- (e) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

Proof of domestic violence may be required where the staff member may benefit from flexible arrangements, relocation, additional leave and/or consideration in respect to performance. This proof can be in the form an agreed document issued by the Police Service, a Court, a Doctor, a Domestic Violence Support Service or Lawyer.

### **19.17 Leave to attend alcohol & drug or problem gambling rehabilitation program**

ACER recognises the need to support employees who may suffer from alcohol, drug or gambling addictions and will support staff in their attempts to seek appropriate treatment.

A staff member experiencing alcohol, drug or gambling addiction problems will have access to their personal leave, annual leave or unpaid special leave for treatment programs, medical appointments and other activities related to the treatment of their addiction. This leave may be taken as consecutive or single days or as a fraction of a day.

A staff member who supports a person experiencing addiction problems may take carer's leave to accompany them to treatment programs, medical appointments and other activities related to the treatment of their addiction, or to mind children while the person being supported attends these appointments.

A staff member and their immediate family experiencing alcohol, drug or gambling addiction problems may access the ACER Employee Assistance Program (EAP). Such assistance may be extended beyond the standard three consultations with the approval of the Director Human Resources.

## **20 Performance improvement and unsatisfactory performance**

ACER recognises that from time to time, individual performance can be affected by lack of role clarity, lack of the particular skills required for a task, insufficient resources or external factors that may impact on the ability or motivation of the staff member to complete particular tasks or roles. ACER's performance improvement process is developmentally focused and first aims to identify the factors that impact on performance and attempt to remedy them.

An employee may seek assistance at any time during the process.

A judgement that a staff member's performance is unsatisfactory can be made at any time during a year. Such a judgement will be made by the Supervisor after consultation with the Supervisor's Manager and will take account of the staff member's Position Description and Annual Review of Performance.

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When performance issues arise, the staff member should be advised that there are three stages of the unsatisfactory performance process, with each being regarded as more serious than the last. Staff members should be advised that failure to rectify the identified issues may result in further action occurring.

The performance improvement and unsatisfactory performance process will be conducted in accordance with the principles of procedural fairness and natural justice.

### ***First Stage – informal***

- (a) This stage is developmentally focused and is aimed at identifying performance issues; identifying and addressing external factors that may impact on performance; providing clear direction regarding where improvement is required; identifying appropriate support through coaching, mentoring or training; a face-to-face meeting with the staff member; and a clear timeframe in which improvement is expected. Such feedback may be about individual tasks, more complex issues and/or behaviours that may be inconsistent with ACER values and leadership behaviours as identified in the ACER Leadership Framework.
- (b) Whilst the informal approach does not have to be fully documented, for more complex performance issues, the staff member and their Supervisor will agree on a written summary of their meeting highlighting the content discussed, the agreements made, the actions to be taken and a specific date when a review of progress will be made.
- (c) The staff member's Supervisor will document in their diary that such a meeting took place (to demonstrate this stage has been completed) but it is not a requirement or desirable that this informal developmental discussion be recorded on the staff member's employment file.
- (d) An employee will be given time to improve commensurate with the performance issue/s and the ability of the employee to respond to the improvements requested.

### ***Second Stage – formal***

- (a) Where the informal stage does not result in satisfactory improvement the Supervisor will commence the formal performance improvement stage. When Stage 2 is commenced the Supervisor will notify the relevant Director of the Division and the Director HR. The Supervisor will brief the relevant Director of the Division and the Director Human Resources on the progress made in the informal performance improvement stage and the reasons for moving to the formal stage. The Director HR will provide direct guidance and coaching to the Supervisor on the process and best practice performance feedback. Focus will remain on attempting to assist the staff member to improve their performance.
- (b) This stage will also involve a face-to-face meeting with the staff member. Both parties have the opportunity to have a support person present (who may represent but not wholly replace the staff member) at the meeting. Both parties can request the presence of the HR Director or delegate to assist the parties with the process and/or mediation if required.
- (c) In this stage the staff member should be clearly advised that, while the aim is to ensure improvement, if their performance or behaviour does not improve, dismissal for underperformance may be the ultimate result.
- (d) During the meeting both parties should investigate the possible reasons for the poor performance. This includes asking the staff member if there are any reasons outside of

the workplace that may be contributing so that a more complete perspective of the situation is obtained.

- (e) At this meeting the Supervisor should:
  - (i) Inform the staff member of their non-performance, referring to any relevant performance criteria in previous discussions/agreements, their Position Description, Annual Performance Review or contract, or specify the behavioural issues that are of concern that need rectifying.
  - (ii) Provide the staff member with a minimum of one week to respond and invite input.
  - (iii) Mutually agree to an ACER Performance Improvement Plan (PIP) which should include an opportunity for the staff member to improve through appropriate training, coaching, and / or support.
  - (iv) Set an appropriate timeframe for the required improvement. This is likely to be a minimum of one month. Factors such as the complexity of the job, the length of time the staff member has been in the position, the experience of the staff member and / or the agreed improvement plan need to be considered when determining an appropriate time frame.
  - (v) Set appropriate review date/s to observe the staff member to keep track of their performance and to ensure a formal review of progress is undertaken. It is suggested that these meetings be conducted weekly.
- (f) After each meeting both parties will agree to a written summary of what occurred using the ACER Performance Improvement Plan (PIP) and provide a copy to the staff member and the Director HR.
- (g) If agreement cannot be reached between the parties on the content of the written summary, this will be noted on the employees' PIP.

### ***Third and Final Stage***

Where the unsatisfactory performance or behaviour has not improved to the required standard after the first two stages, the Director HR and the relevant Divisional Director will advise the CEO.

The CEO will consider the circumstances of the performance issues; the requirements for the position the staff member occupies; any mitigating circumstances; and will decide on what remedial action the organisation needs to take. Such action may include referral of the individual for more intense remedial training; restructure of the individual's position (including demotion of level if such restructure leads to a lower job score); or dismissal for underperformance. The staff member will be provided the opportunity to provide the CEO with any information they believe is relevant to the CEO's determination. If the CEO determines that dismissal is required the process outlined in the [Termination clause 22](#) of this agreement will be followed.

## **21 Misconduct**

Misconduct refers to actions that damage or has the potential to damage the ACER workplace, organisation or reputation that is beyond issues arising from unsatisfactory performance. Misconduct may include, but is not limited to:

- (a) serious negligence;
- (b) behaviour which endangers others;

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- (c) deliberately failing to comply with a lawful and reasonable direction;
- (d) drunkenness or drug taking;
- (e) conduct involving dishonesty;
- (f) harassment of staff members or the public;
- (g) unlawful discrimination;
- (h) racial or religious vilification;
- (i) bullying or victimisation;
- (j) criminal activity;
- (k) prohibited activities under the ACER Electronic Communication and Information Systems policy; and
- (l) breaches of intellectual property and confidential information obligations.

When an issue of misconduct is referred to the CEO, a written statement setting out the alleged misconduct must be completed by the relevant Divisional Head and a copy provided to the staff member and the nominated supervisor. A written statement may be provided by the staff member, and if such a statement is prepared a copy must be provided to the CEO, relevant Divisional Head and nominated supervisor and Human Resources.

The CEO will appoint the Director Human Resources or an Independent External Investigator to meet with the staff member in order to hear the response of the staff member to the allegations. The staff member may be supported by a workplace representative of the staff member's choice, including the Union who may contribute to the discussions, but who may not wholly substitute for the staff member for the duration of the hearing. A record of the discussion will be made available to the staff member.

The Director Human Resources or Independent External Investigator will make a recommendation to the CEO who will:

- (a) dismiss the allegation
- (b) take no action;
- (c) provide opportunity for counselling and/ or provide opportunity for advice regarding other rehabilitation
- (d) reprimand the staff member and place a record of the reprimand on the staff member's personnel file;
- (e) change the duties and pay of the staff member;
- (f) suspend the staff member; or
- (g) dismiss the staff member under [clause 22](#) of this Agreement.

In the event that the CEO decides to dismiss the staff member, the CEO will prepare a written statement setting out the alleged misconduct and any other relevant documentation. A copy of all documentation, except for legal opinion, will be provided to the staff member.

In the circumstance that a staff member is found guilty in Victoria of an offence that is punishable, either on indictment or on summary conviction by imprisonment for a term of twelve months or more, or is found guilty elsewhere than in Victoria of an offence that if it were committed in Victoria would be so punishable, the CEO will consider the matter under the provisions of this clause. The CEO may impose on that staff member any one or more of the above actions available to them under this clause as if that staff member had, in accordance with this clause, been dealt with for misconduct.

## 22 Termination of employment

Termination of employment may occur in the following ways:

### 22.1 Resignation

If a staff member resigns they should give written notice of their pending resignation to the Director Human Resources and provide the following period of notice:

Staff members period of continuous service with ACER	Period of Notice
Not more than one year	at least one week
More than one year but not more than three years	at least two weeks
More than three years but not more than five years	at least three weeks
More than five years	at least four weeks

If a staff member fails to give the required notice ACER has the right to withhold monies due to the staff member to a maximum amount equal to the staff member's rate of pay for the period of notice.

### 22.2 Redundancy

Redundancy provisions apply only to staff members appointed on continuing appointments.

*Definition:*

*Redundancy means a situation where the position occupied by a staff member is identified as surplus to the needs of ACER.*

If ACER decides a role is redundant they are required to give the period of notice as outlined above in [clause 22.1](#).

Except that each period of notice required to be given by ACER shall be increased by one week in the case that staff members are:

- (a) **over 45 years old;** and
- (b) have **completed at least two years of continuous service** with ACER

ACER will fund up to \$2,000 to provide Career Transition services to a staff member whose role is deemed as redundant.

### **Redundancy Pay**

A staff member whose employment is being terminated under this clause receives the following severance pay in respect of a continuous period of service as follows:

Redundancy Pay Period		
	Staff member's period of continuous service with ACER on termination	Redundancy Pay Period
1	At least 1 year but less than 2 years	4 weeks
2	At least 2 year but less than 3 years	6 weeks
3	At least 3 year but less than 4 years	7 weeks

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4	At least 4 year but less than 5 years	8 weeks
5	At least 5 year but less than 6 years	10 weeks
6	At least 6 year but less than 7 years	11 weeks
7	At least 7 year but less than 8 years	13 weeks
8	At least 8 year but less than 9 years	14 weeks
9	At least 9 year but less than 10 years	16 weeks

- (a) Up to 10 years service as per the table above from the NES
- (b) At least 10 years and less than 15 years service, two weeks for each year of service; and
- (c) More than 15 years service, three weeks per year of service
- (d) provided that the severance payments shall not exceed 78 weeks.

Termination by redundancy is determined by the CEO on the advice of the Divisional Head and Director, Human Resources.

### 22.3 Dismissal

#### *Dismissal for misconduct / where guilty of a serious offence*

Dismissal for misconduct is determined by the CEO on the advice of the Divisional Head and Director, Human Resources under the provisions of [clause 21](#) and takes immediate effect. The staff member on whom the dismissal notice is served may be suspended with pay for the period to termination based on the notice periods outlined above.

In the case of dismissal for misconduct not more than two weeks notice shall be given. In the case of dismissal for unsatisfactory service the period of notice is equivalent to that required of the staff member upon resignation. In lieu of giving notice as set out above ACER may pay the staff member an amount equal to the staff member's rate of pay for the period of notice.

#### *Dismissal for unsatisfactory service*

Dismissal for unsatisfactory service is determined by the CEO on the recommendation of the Divisional Head and Director, Human Resources

A recommendation to dismiss for unsatisfactory service is effected only after following the process outlined in [clause 20](#).

#### *Dismissal for unsatisfactory service during a probation period*

The CEO has sole discretion in the decision whether a staff member's employment will be terminated during or at the end of a probation period. In the case where the CEO decides to terminate the employment of the staff member during or at the expiry of a period of probation notice of termination or pay in lieu will be given as set out in [clause 22.1](#). The staff member may elect salary in lieu of notice.

### 22.4 Expiry of Contract

If a staff member's contract reaches its expiry date and is not renewed they will receive a payment equating to any accrued and unused Annual Leave and Long Service Leave (if eligible), they are entitled to.

## **23 Accident Compensation**

A staff member who is absent from duty as a result of sustaining an injury in respect of which the Staff member is entitled to weekly payments of compensation under the relevant State legislation will receive make-up pay equal to the pay the Staff member would receive for paid leave less the amount of the weekly payments of compensation. (“Make-up Pay”).

Make-up pay ceases when:

- (a) the Staff member is paid a disability benefit under the provisions of UniSuper
- (b) the Staff member has been absent from work for a continuous period of 52 weeks or an aggregate period of 261 working days (including any public holiday a staff member, but for that public holiday, would be required to work) or an aggregate of 1983 hours; or
- (c) the Staff member’s employment is lawfully terminated.

## **24 Facilities for authorised CPSU representatives**

An authorised representative of the CPSU shall be released by his or her employer from normal duties for such periods of time as may be reasonably necessary to enable him or her to carry out his or her representative functions provided that such time release does not unreasonably impact upon the work of ACER.

Written material authorised by the CPSU in relation to matters concerning this Agreement may be posted on a noticeboard within each ACER building in a location to which CPSU members have convenient access, and on an electronic noticeboard located on the ACER Intranet. ACER reserves the right to require the removal of any notice or material that is considered by ACER to be defamatory, and/or may bring ACER into disrepute, or that may lead to ACER being in breach of its obligations under State or Commonwealth legislation.

CPSU SPSF Victorian Branch Council members nominated by the branch Secretary of the union will be entitled to a half day per month to attend Branch council meetings. Time release will include reasonable time to travel to such meetings.

Additional paid leave will be granted to CPSU SPSF Victorian Branch Council members nominated by the Branch Secretary to attend the Federal Executive and Federal Council meetings of the union and the Australian Council of Trade Unions triennial conference.

No more than two Staff may access such paid leave and time-release provisions.

## Schedule 1: Salary Scales

### Salary scales

Salary scales will increase as follows:

- On approval by Fair Work Australia, 3.0 per cent (with back pay to 8 October 2012).
- 8 October 2013, a further 3.5 per cent.
- 8 October 2014, a further 3.5 per cent.

The procedure for determining job size is contained in [clause 15.1](#) and [clause 15.2](#).

A scale is established for each job size using the following principles:

- job sizes will be set in increments of 10 points on the scale generated by the National Remuneration Centre's JOBScore;
- the salary scale for each job size will be centred on the ACER salary policy line at the level that corresponds with the job size;
- each scale will have a range set at  $\pm 5$  per cent from the mid-point defined by the salary policy line;
- each scale will have five equal steps, with Step 3 at the mid-point on the salary policy line, Step 1 set at 5 per cent below Step 3, Step 2 at 2.5 per cent below Step 3, Step 4 at 2.5 per cent above and Step 5 at 5 per cent above.



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<b>Salary Scales effective 8 October 2012</b>					
<b>Job Size</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
100	38,734	39,753	40,772	41,793	42,813
110	40,243	41,303	42,359	43,420	44,479
120	41,752	42,851	43,948	45,047	46,147
130	43,259	44,398	45,537	46,673	47,813
140	44,766	45,946	47,123	48,301	49,483
150	46,277	47,492	48,711	49,931	51,146
160	47,784	49,043	50,299	51,557	52,814
170	49,292	50,591	51,889	53,186	54,480
180	50,802	52,138	53,474	54,813	56,150
190	52,309	53,687	55,063	56,440	57,818
200	53,818	55,235	56,649	58,068	59,484
210	55,327	56,782	58,237	59,693	61,148
220	56,834	58,331	59,827	61,320	62,820
230	58,343	59,880	61,414	62,950	64,485
240	59,851	61,426	63,002	64,578	66,153
250	61,359	62,976	64,587	66,203	67,820
260	62,867	64,523	66,176	67,831	69,486
270	64,376	66,072	67,767	69,459	71,153
280	65,887	67,617	69,351	71,088	72,818
290	67,394	69,168	70,941	72,714	74,488
300	68,901	70,716	72,528	74,341	76,156
310	70,411	72,263	74,117	75,968	77,822
320	71,918	73,812	75,701	77,596	79,488
330	73,426	75,360	77,291	79,226	81,155
340	74,936	76,906	78,879	80,851	82,825
350	76,444	78,454	80,466	82,479	84,491
360	77,952	80,003	82,055	84,104	86,157
370	79,461	81,551	83,642	85,734	87,825
380	80,969	83,098	85,230	87,363	89,491
390	82,478	84,647	86,820	88,987	91,158
400	83,987	86,196	88,405	90,617	92,826
410	85,492	87,744	89,994	92,243	94,495
420	87,001	89,291	91,577	93,871	96,160
430	88,511	90,841	93,169	95,498	97,827
440	90,019	92,387	94,757	97,126	99,494
450	91,527	93,935	96,343	98,753	101,162
460	93,037	95,483	97,931	100,379	102,830
470	94,544	97,030	99,518	102,008	104,497
480	96,052	98,580	101,106	103,634	106,161
490	97,563	100,127	102,695	105,263	107,830

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<b>500</b>	99,070	101,677	104,283	106,891	109,496
<b>510</b>	100,576	103,225	105,871	108,517	111,164
<b>520</b>	102,087	104,773	107,456	110,144	112,831
<b>530</b>	103,593	106,321	109,047	111,773	114,501
<b>540</b>	105,102	107,867	110,634	113,402	116,165
<b>550</b>	106,611	109,416	112,221	115,026	117,833
<b>560</b>	108,119	110,964	113,809	116,655	119,501
<b>570</b>	109,629	112,513	115,398	118,282	121,167
<b>580</b>	111,136	114,060	116,986	119,910	122,835
<b>590</b>	112,644	115,609	118,573	121,536	124,502
<b>600</b>	114,153	117,155	120,160	123,165	126,166
<b>610</b>	115,661	118,706	121,749	124,791	127,836
<b>620</b>	117,168	120,254	123,333	126,420	129,503
<b>630</b>	118,679	121,800	124,925	128,048	131,170
<b>640</b>	120,185	123,350	126,512	129,674	132,838
<b>650</b>	121,694	124,897	128,098	131,304	134,503
<b>660</b>	123,203	126,446	129,686	132,929	136,170
<b>670</b>	124,711	127,994	131,276	134,558	137,839
<b>680</b>	126,221	129,543	132,865	136,183	139,507
<b>690</b>	127,729	131,089	134,450	137,812	141,174
<b>700</b>	129,235	132,636	136,037	139,440	142,839
<b>710</b>	130,744	134,185	137,623	141,066	144,504
<b>720</b>	132,253	135,734	139,210	142,691	146,171

<b>Research Salary Scales effective 8 October 2012</b>						
	<b>Job Size</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>RO 1</b>	<b>240</b>	59,851	61,426	63,002	64,578	66,153
<b>RO 2</b>	<b>290</b>	67,394	69,168	70,941	72,714	74,488
<b>RF 1</b>	<b>380</b>	80,969	83,098	85,230	87,363	89,491
<b>RF 2</b>	<b>460</b>	93,037	95,483	97,931	100,379	102,830
<b>SRF 1</b>	<b>540</b>	105,102	107,867	110,634	113,402	116,165
<b>SRF 2</b>	<b>630</b>	118,679	121,800	124,925	128,048	131,170
<b>PRF 1</b>	<b>720</b>	132,253	135,734	139,210	142,691	146,171

## Schedule 2: Casual staff

The following provisions apply in respect of casual employees:

1. The minimum period of work that a casual may be employed in one day is 4 consecutive hours, except by agreement between the staff member and ACER.
2. Casual employees are engaged with no guarantee or expectation of work beyond the period of their current employment.
3. Casual employees are not entitled to leave provisions but a loading in lieu is included in casual hourly rates of pay.
4. Eligible Casual employees are entitled to the Pre-Natal Leave and Parental Leave provisions in the relevant [Pre-Natal leave](#) and [Parental Leave](#) clauses.
  - 4.1 An Eligible Casual Employee is defined as a casual staff member:
    - (i) (who has been engaged by ACER on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
    - (ii) who, but for an expected birth or an expected placement of a child, would have a reasonable expectation of continuing engagement by ACER on a regular and systematic basis.
  - 4.2 A casual employee is also an Eligible Casual Employee if:
    - (i) the employee was engaged by ACER on a regular and systematic basis for a sequence of periods during a period (the first period) of less than 12 months; and
    - (ii) at the end of the first period of employment, the employee ceased, on the employer's initiative, to be so engaged by the employer; and
    - (iii) ACER later again engaged the employee on a regular and systematic basis for a further sequence of periods during a period (the second period) that started no more than 3 months after the end of the first period of employment; and
    - (iv) the combined length of the first period of employment and the second period of employment is at least 12 months; and
    - (v) the employee, but for an expected birth or an expected placement of a child, would have reasonable expectation of continuing engagement by the employer on a regular and systematic basis.
5. Casual staff who are requested to work more than 36 hours 40 minutes per calendar week commencing Thursday are entitled to be paid overtime at the rate of time and a half for the first three hours and double time thereafter. Casual staff must not be requested to work hours that will incur overtime rates without the approval of the relevant member of Senior Management staff.
6. A casual employee who has been employed on an average of 30 hours or more per week for 12 months, shall be offered a term contract appointment of not less than one year. The employee will be under no obligation to accept the offer and may continue to be employed on a casual basis.
7. ACER contributes 9% to the Award Plus Plan of the superannuation scheme operated by Unisuper Ltd. for casual staff who earn more than the superannuation guarantee threshold per month or where this criterion is not met, where gross salary exceeds a statutory threshold in any month.

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8. Although casual staff are engaged by the hour, ACER normally informs casual employees in advance of the hours required and the expected duration of a particular period of work.
9. As ACER project durations are estimated prior to being undertaken, on occasions ACER may need to alter the proposed requirements during such a period of work so that fewer hours or shorter duration are required. In these instances ACER should:
  - (i) immediately inform the employee; and
  - (ii) make every effort to find suitable alternative work for the employee within ACER for the unexpired portion of the employed period.

If such alternative work is not available, the casual employee is entitled to be paid to their agreed finishing time on the day of the notice of change, or be paid for 4 hours work, whichever is the greater.

10. If the person responsible for the employment of the casual employee is of the view that an employee's performance is not adequate for the particular task, then ACER should:
  - (i) immediately inform the employee; and
  - (ii) request that the casual employee cease their employment.

In this instance the casual employee is entitled to be paid to their agreed finishing time on the day of the notice of change or termination, or be paid for 4 hours work, whichever is the greater.

11. A casual employee who notifies ACER in writing that they are unavailable for work for up to one year because of the birth of their child shall not be disadvantaged with regard to offers of future casual employment.

**Casual hourly rate of pay effective 8 October 2012**

Except for Casual Marking staff (see below) casual staff shall be paid at the rate of pay relevant to the Jobsize of the position they are engaged for.

The hourly rate will be calculated by dividing the annual salary for the base (Step 3) of the relevant Jobscore scale by 26 then 73.33 and adding a loading of 33.3%. The 33% loading is provided in lieu of paid annual, personal, compassionate and long service leave

Grade	Job size	Base annual salary	Casual hourly rate (including 33% loading)
Grade 1	100	\$40,772	\$28.52
Grade 2	120	\$43,948	\$30.74
Grade 3	130	\$45,537	\$31.85
Grade 4	140	\$47,123	\$32.96

**Junior rates**

Casual hourly rates for casual staff members under the age of 18 years are paid at the following proportion of the rates above:

17 years	80%
16 years	70%
15 years or under	60%

**Marking of essays and other responses to assessment tasks**

Rates of payment for marking of essays and other responses to assessment tasks are determined project by project on the basis of the complexity and nature of the work involved and are paid on the basis of either work completed or time spent. The nature of the work and the rate offered is made explicit prior to commencement.

### Schedule 3: Allowances and Loadings

1. The “On-call” Security allowance referred to in [clause 15.12 \(a\)](#) is as follows:

8 October 2012	8 October 2013	8 October 2014
\$96.61 per week	\$99.99 per week	\$103.49 per week

2. The Travel Reimbursement referred to in [clause 15.12 \(b\)](#) is as follows:

For the period to 7 October 2013	75 cents per kilometre	Adjusted on 8th October in each subsequent year by the current Australian Tax office rate
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3. The Meal allowance referred to in [clause 15.11](#) is as follows:

8 October 2012	8 October 2013	8 October 2014
\$22.25	\$23.03	\$23.83

4. The First Aid allowance referred to in [clause 15.13](#) is as follows:

8 October 2012	8 October 2013	8 October 2014
\$22.28 per fortnight	\$23.06 per fortnight	\$23.87 per fortnight

5. The Chief Warden allowance referred to in [clause 15.14](#) is as follows:

8 October 2012	8 October 2013	8 October 2014
\$22.28 per fortnight	\$23.06 per fortnight	\$23.87 per fortnight

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<p>SIGNED for and on behalf of the AUSTRALIAN COUNCIL FOR EDUCATIONAL RESEARCH LIMITED, ABN 19 004 398 145, of 19 Prospect Hill Road, Camberwell, Victoria 3124 by its authorised officer</p> <p><b>GEOFFEREY N MASTERS</b> <b>Chief Executive Officer</b></p>	<p>..... <i>(signature)</i></p> <p>Date: 14 January 2013</p>
<p>SIGNED for and on behalf of the COMMUNITY AND PUBLIC SECTOR UNION, of 6 Palmer Parade, Cremorne, Victoria, 3121 by its authorised officer</p> <p><b>KAREN BATT</b> <b>Victorian Branch Secretary</b></p>	<p>..... <i>(signature)</i></p> <p>Date: January 2013</p>