



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Technical and Further Education Commission T/A TAFE NSW
(AG2019/5179)

TAFE COMMISSION OF NSW TAFE MANAGERS ENTERPRISE AGREEMENT 2019

Educational services

COMMISSIONER JOHNS

SYDNEY, 10 FEBRUARY 2020

Application for approval of the TAFE Commission of NSW TAFE Managers Enterprise Agreement 2019.

[1] An application has been made for approval of an enterprise agreement known as the *TAFE Commission of NSW TAFE Managers Enterprise Agreement 2019 (the Agreement)*. The application was made pursuant to s.185 of the *Fair Work Act 2009 (Cth) (the Act)*. It has been made by Technical and Further Education Commission T/A TAFE NSW. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in **Annexure A**. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the Agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The CPSU, the Community and Public Sector Union and the Australian Education Union being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers these organisations.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 17 February 2020. The nominal expiry date of the Agreement is 31 December 2021.





COMMISSIONER

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- b. With respect to clause 11.1 in the Agreement – Salary – the clause will be taken to read as follows:

11.1 Salaries for TAFE Managers under this Agreement are as provided for in Schedule 1, Salaries, of Part A. A part time employee will be paid on a pro rata basis by reference to the time worked.

Date signed:	5 February 2020
For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act]	Julian Oliveux Head of Workplace Relations
Signature:	
Witness name:	James Canavan
Witness signature:	

TAFE Commission of NSW TAFE Managers Enterprise Agreement 2019

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

TAFE COMMISSION OF NSW TAFE MANAGERS ENTERPRISE AGREEMENT 2019

Clause No.	Subject Matter
1.	Title
2.	Coverage
3.	Date and Period of Operation
4.	Dictionary
5.	Categories of Employment
6.	Dispute Resolution Procedures
7.	Deduction of Union Membership Fees
8.	No Further Claims
9.	Flexibility Term
10.	Consultation
11.	Salary
12.	Superannuation
13.	Hours of Work
14.	Lactation Break
15.	Capability Development
16.	Appointment
17.	Management of Performance and Conduct
18.	Promotional Review
19.	Deferred Salary Scheme
20.	Leave
21.	Leave for Matters Arising from Domestic Violence
22.	Qualification Requirements
23.	Industrial Rights
24.	Special Fitness and Hard to Fill

Part A

MONETARY RATES

Schedule 1 - Salaries

1. Title

- 1.1 This Agreement is titled the TAFE Commission of NSW TAFE Managers Enterprise Agreement 2019.

2. Coverage

- 2.1 This Agreement covers:

- (a) TAFE NSW;
- (b) Employees employed by the Technical and Further Education Commission in the classifications listed in the table in Schedule 1 of Part A of this Agreement;
- (c) The Australian Education Union New South Wales Teachers Federation (NSWTF) Branch;
- (d) CPSU, the Community and Public Sector Union (SPSF Group – New South Wales Branch).

3. Date and Period of Operation

- 3.1 This Agreement shall come into operation on the seventh day after approval by the Fair Work Commission (the Commencement Date).
- 3.2 The nominal expiry date of this Agreement is 31 December 2021.
- 3.3 The Employer will commence the bargaining for a new enterprise agreement to replace this Agreement at least three months prior to the nominal expiry date in Clause 3.2.
- 3.4 This Agreement operates to the exclusion of any Modern Award, Enterprise Agreement, Transitional Instrument or unregistered agreement that could otherwise apply.
- 3.5 No term of this Agreement will operate to exclude the National Employment Standards or any provision of the National Employment Standards. Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- 3.6 This Agreement must be read in conjunction with TAFE NSW policies, procedures and guidelines, including those referred to in this Agreement. These policies, procedures and guidelines do not form part of this Agreement. In the event of any inconsistency, the Agreement will prevail.

4. Dictionary

- 4.1 "Act" means the Technical and Further Education Commission Act 1990.

- 4.2 "Agreement" means the TAFE Commission of NSW TAFE Managers Enterprise Agreement 2019.
- 4.3 "De Facto Partner" has the same meaning as the definition provided in Part 1-2, Division 2, the Dictionary of the *Fair Work Act 2009*.
- 4.4 "Domestic Violence" means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.
- 4.5 "Employee" means a person employed in a classification covered by this Agreement.
- 4.6 "Employer" means the Technical and Further Education Commission.
- 4.7 "General Manager" means a person employed as such.
- 4.8 "Household" is defined as one or more persons usually resident in the same private dwelling.
- 4.9 "Managing Director" means the Managing Director of TAFE NSW.
- 4.10 "People and Safety Business Partner" means a person employed as such.
- 4.11 "Region" means any grouping of TAFE NSW Campuses or places where TAFE NSW provides education, training, administrative and other services from time to time as specified by the Managing Director.
- 4.12 "TAFE", "TAFE Commission" or "TAFE NSW" means the Technical and Further Education Commission, that is, the TAFE Commission.
- 4.13 "TAFE Manager" means all persons permanently or temporarily employed as educational leaders and administrative Managers in TAFE NSW within the classification of TAFE Manager as provided for in this Agreement. TAFE Managers have supervisory responsibility for administrative and/or educational programs and/or Employees.
- 4.14 "Unions" means The Australian Education Union New South Wales Teachers Federation (NSWTF) Branch and the CPSU, the Community and Public Sector Union (SPSF Group – New South Wales Branch), having regard to their respective coverage.
- 4.15 "Western Division Employee" means Employees in the Central and Western Divisions of the State as described in the second schedule to the *Crown Lands Consolidation Act 1913* (NSW).

5. Categories of Employment

- 5.1 Employees covered by this Agreement may be ongoing permanent or temporary Employees, and may be employed on a full-time or part-time basis.
- 5.2 Temporary employees may be employed for a specified term, maximum term or other ascertainable period, or specified task or project.

- 5.2.1 A specified term contract may be offered to temporary employees for periods typically between 2 and 5 years, or for a lesser period for projects, tasks or a contracted program.

6. Dispute Resolution Procedures

- 6.1 The TAFE Commission and its Employees have an interest in the proper application of this Agreement and in minimising and settling disputes about matters in this Agreement in a timely manner.
- 6.2 Where a dispute arises in relation to:
- 6.2.1 a matter under this Agreement; or
 - 6.2.2 the National Employment Standards;
- it will be dealt with in accordance with the procedures set out in this clause.
- 6.3 An Employer or Employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 6.4 In the first instance Employee(s) or their appointed representative(s), must notify the appropriate representative of management of the dispute in writing ('the dispute notification'). An appropriate representative of management may be the relevant line manager or if the Employee believes the line manager is not appropriate the Employee may ask the People and Safety Business Partner to refer the matter to another officer.
- 6.5 The dispute notification must be in writing and include details of the dispute. The dispute notification should also make reference to clause(s) of the Agreement or the National Employment Standard(s) in relation to which the dispute has arisen and indicate the resolution(s) sought. A copy of the dispute notification will be sent to the People and Safety Business Partner. The Employee(s), Employee representative(s) if one has been appointed, and management representative(s) will meet within five working days, unless otherwise agreed, in an effort to resolve the dispute.
- 6.6 Where after the completion of subclause 6.5 the dispute remains unresolved, the matter may be referred in writing to the next level of management. A meeting must be held within five working days of the dispute being referred in a further effort to resolve the dispute, unless otherwise agreed.
- 6.7 Where a dispute is not resolved following the steps in sub-clauses 6.5 and 6.6, the matter may be referred by either party to the dispute to the Fair Work Commission for resolution by mediation and/or conciliation and, if necessary arbitration.
- 6.8 If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act.
- 6.9 The parties agree to be bound by and implement any decision of the Fair Work Commission subject to either party exercising a right of appeal against the decision of the Fair Work Commission to the Full Bench.

6.10 Until the dispute resolution procedures referred to at subclauses 6.1 to 6.9 have been exhausted:

6.10.1 work shall continue in the normal manner;

6.10.2 no industrial action shall be taken by a party to the dispute in respect of the matter that is the subject of the dispute;

6.10.3 the parties to the dispute shall not take any other action likely to exacerbate the dispute.

7. Deduction of Union Membership Fees

7.1 The Union shall provide the Employer with a schedule setting out Union fortnightly membership fees payable by members of the Union in accordance with the Union's rules.

7.2 The Union shall advise the Employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Union fortnightly membership fees payable shall be provided to the Employer at least one month in advance of the variation taking effect.

7.3 Subject to subclauses 7.1 and 7.2 above, the Employer shall deduct fortnightly membership fees from the pay of any Employee who is a member of the Union in accordance with the Union's rules, provided that the Employee has authorised the Employer to make such deductions.

7.4 Monies so deducted from Employees' pay shall be forwarded regularly to the Union together with all necessary information to enable the Union to reconcile and credit subscriptions to Employees' Union membership accounts.

7.5 Unless other arrangements are agreed to by the Employer and the Union, all Union membership fees shall be deducted on a fortnightly basis.

7.6 Where an Employee has already authorised the deduction of Union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the Employee to make a fresh authorisation in order for such deductions to continue.

8. No Further Claims

8.1 The parties agree that, during the term of this Agreement, there will be no extra wage claims, claims for improved conditions of employment or demands made with respect to the employees covered by the Agreement and, further, that no proceedings, claims or demands concerning wages or conditions of employment with respect to those employees will be instituted before the Fair Work Commission or any other industrial tribunal.

8.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing Agreement provisions.

9. Flexibility

9.1 The Employer and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

9.1.1 the Agreement deals with 1 or more of the following matters:

- (a) Salary Packaging – an Employee may elect a salary packaging arrangement in accordance with Clause 11.2 of this Agreement;
- (b) Hours of Work – an Employee may elect to vary arrangements about when work is performed in accordance with Clause 13 of this Agreement;
- (c) Deferred Salary Scheme – an Employee may elect to defer their salary in accordance with Clause 19 of this Agreement.

9.1.2 the arrangement meets the genuine needs of the Employer and Employee in relation to 1 or more of the matters mentioned in 9.1.1; and

9.1.3 the arrangement is genuinely agreed to by the Employer and Employee.

9.2 The Employer 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 Employee being better off overall than the Employee would be if no arrangement was made.

9.3 The Employer must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of the Employer and Employee; and
- (c) is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

(e) states the day on which the arrangement commences.

9.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

9.5 The Employer or Employee 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 the Employer and Employee agree in writing at any time.

10. Consultation

10.1 Consultation term. This term applies if the Employer:

10.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on Employees; or

10.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

10.2 Major change

10.2.1 For a major change referred to in paragraph 10.1.1, subclauses 10.3 to 10.8 apply.

10.2.2 For a change referred to in paragraph 10.1.2:

(a) the employer must notify the relevant Employees of the proposed change; and

(b) subclauses 10.10 to 10.15 apply.

10.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

10.4 If:

(a) a relevant Employee appoints, or relevant Employees appoint, a representative, including a Union representative, for the purposes of consultation; and

(b) the Employee or Employees advise the Employer of the identity of the representative; the Employer must recognise the representative and allow them the same rights to consultation and access to documentation as conferred on an Employee under this clause.

10.5 As soon as practicable after making its decision, the Employer must:

- (a) discuss with the relevant Employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Employees; and
 - (iii) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
- (b) for the purposes of the discussion — provide, in writing, to the relevant Employees:
 - (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 Employees; and
 - (iii) any other matters likely to affect the Employees.

10.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

10.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.

10.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in sub-clauses 10.2, 10.3 and 10.5 are taken not to apply.

10.9 In this term, a major change is likely to have a significant effect on Employees if it results in:

- (a) the termination of the employment of Employees; or
- (b) major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain Employees; or
- (f) the need to relocate Employees to another workplace; or
- (g) the restructuring of jobs; or
- (h) Change to the regular roster or ordinary hours of work of Employees.

10.10 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

- 10.11 If:
- 10.11.1 a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - 10.11.2 the Employee or Employees advise the Employer of the identity of the representative;
- the Employer must recognise the representative.
- 10.12 As soon as practicable after proposing to introduce the change, the Employer must:
- 10.12.1 discuss with the relevant Employees the introduction of the change; and
 - 10.12.2 for the purposes of the discussion—provide to the relevant Employees:
 - (a) all relevant information about the change, including the nature of the change; and
 - (b) information about what the Employer reasonably believes will be the effects of the change on the Employees; and
 - (c) information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
 - 10.12.3 invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 10.13 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 10.14 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 10.15 In this term, relevant Employees means the Employees who may be affected by the major change.
- 10.16 Positions which have been affected by workplace change and which are occupied by permanent Employees will be managed in accordance with the NSW Government's Managing Excess Employees Policy, as amended from time to time.

11. Salary

- 11.1 Salaries for TAFE Managers under this Agreement are as provided for in Schedule 1, Salaries, of Part A.
- 11.2 Salary Packaging

For the purposes of this clause "salary" means the salary or rates of pay prescribed for the Employee's classification by Schedule 1 of this Agreement and any allowances paid to an Employee which form part of the Employee's salary for superannuation purposes.

- 11.2.1 An Employee may, by agreement with the Employer, enter into a salary packaging arrangement, including salary sacrifice to superannuation, where they may convert up to 100% of their salary to:
- (a) a motor vehicle (whether on a business/private split in accordance with subclause 11.3 or a novated lease under the Employer's salary packaging scheme) and;
 - (b) the full range of benefits under the Employer's salary packaging scheme, provided that no TAFE Manager may package more than one motor vehicle at any given time whether on a business/private split in accordance with subclause 11.3 or a novated lease under the Employer's salary packaging scheme.
- 11.2.2 Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of salary available to be packaged. Such payroll deductions may include but are not limited to, compulsory superannuation payments, HECS payments, child support payments, judgment debtor/garnishee orders, union fees, health fund premiums.
- 11.2.3 The terms and conditions of the salary packaging arrangement, including the duration as agreed between the Employee and Employer, will be provided in a separate written agreement, in accordance with the Employer's salary packaging guidelines. Such agreement must be made prior to the period of service to which the earnings relate.
- 11.2.4 Salary packaging must be cost neutral for the Employer. Employees must reimburse the Employer in full for the amount of:
- (a) any fringe benefits tax liability arising from a salary packaging arrangement; and
 - (b) any administrative fees.
- 11.2.5 Where the Employee makes an election to salary package the following payments made by the Employer in relation to an Employee shall be calculated by reference to the annual salary which the Employee would have been entitled to receive but for the salary packaging arrangement:
- (a) Superannuation Guarantee Contributions;
 - (b) any salary-related payment including but not limited to allowances and workers compensation payments; and
 - (c) payments made in relation to accrued leave paid on termination of the Employee's employment or on the death of the Employee.
- 11.3 The motor vehicle benefit provided for in sub clause 11.2.1 provides the TAFE Manager with access to the use of a motor vehicle on a business/private basis in accordance with relevant TAFE NSW policy.

12. Superannuation

- 12.1 The rate of superannuation payable to employees covered by this agreement will increase from 9.5% to 10% with effect from the first full pay period commencing on or after 1 January 2021.

13. Hours of Work

- 13.1 A flexible and adaptive approach in relation to working hours and working arrangements will be adopted which recognises the professionalism of TAFE Managers and allows that:
- 13.1.1 standard working hours shall not exceed an average of 38 hours per week over a 12 month period. The reasonable pattern of attendance shall be agreed between an individual TAFE Manager and their line manager;
 - 13.1.2 TAFE Managers shall not be directed to work more than 38 hours in any one week;

14. Lactation Breaks

- 14.1 This clause applies to Employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Agreement.
- 14.2 A full time Employee or a part time Employee working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.
- 14.3 A part time Employee working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.
- 14.4 A flexible approach to lactation breaks can be taken by mutual agreement between an Employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the Employee.
- 14.5 The Employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.
- 14.6 Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and Employee will take place to attempt to identify reasonable alternative arrangements for the Employee's lactation needs.
- 14.7 Employees experiencing difficulties in effecting the transition from home-based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian

Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.

- 14.8 Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise Personal Leave in accordance with subclause 20.3, Personal Leave of this Agreement, or access to clause 12, Hours of Work of this Agreement, where applicable.

15. Capability Development

- 15.1 The Employer confirms a commitment to capability development for TAFE Managers. TAFE Managers recognise their obligation to maintain and update their professional skills for the benefit of TAFE NSW students and Employees.
- 15.2 The Employer will continue to participate in initiatives to identify competencies for TAFE Managers in consultation with relevant industry parties.
- 15.3 The Employer is committed to providing access to and support for capability and leadership / management development.
- 15.4 Where the Employee requires professional development, the Employer will meet the compulsory fees involved. Where the capability development opportunity is voluntary the Employer may, at its discretion, refund all or part of the compulsory fees incurred by the TAFE Managers approved to undertake approved training and professional development programs.
- 15.5 Consistent with the above commitments, while there is no minimum time per annum to be allocated to capability development, General Managers should ensure that all TAFE Managers undertake training and capability development related to their current and medium term development needs as identified in their performance agreement. This does not preclude access to other development opportunities provided by the Employer.

16. Appointment

- 16.1 The filling of vacant positions of TAFE Manager will be by way of a competitive selection process based on merit, subject to the provisions of the TAFE NSW Recruitment and Staff Selection policy.
- 16.2 A person who is not already a permanent Employee of TAFE NSW who is appointed to a TAFE Manager's position shall be appointed for a minimum probationary period of six months.

17. Management of Performance and Conduct

- 17.1 TAFE NSW will provide a framework for performance, development and conduct which will apply to all Employees employed in classifications under this Agreement.

18. Promotional Review

18.1 TAFE Managers whose application for a promotion is unsuccessful have a right to request a review where such appointment would involve a salary increase for the applicant.

19. Deferred Salary Scheme

19.1 TAFE Managers may seek to join the Employer's deferred salary scheme.

19.2 Successful applicants may defer twenty per cent of their salary for the first four years and be paid the deferred salary in the fifth year.

19.3 The deferred salary scheme does not apply to temporary TAFE Managers.

19.4 TAFE Managers employed on a specified term contract may apply to join the Employer's deferred salary scheme subject to approval from the General Manager and provided that the remaining contracted period would allow effective operation of the salary deferral scheme.

20. Leave

20.1 Annual leave

20.1.1 Annual leave shall accrue at the rate of four weeks per annum and be taken in accordance with TAFE NSW Policy. Employees working part-time shall accrue paid annual leave on a pro-rata basis.

20.1.2 Western Division Employees accrue additional annual leave in accordance with TAFE NSW Policy.

20.2 Extended leave - Extended leave shall be in accordance with Section 22 of the Act.

20.3 Personal Leave

20.3.1 Employees accrue Personal Leave at the rate of fifteen working days per calendar year i.e. 1 January to 31 December. The full annual entitlement is available from 1 January each year (not accrued on a monthly basis). The unused component of the annual entitlement is fully cumulative.

20.3.3 Where a TAFE Manager requires Personal Leave in addition to the entitlements provided in sub clause 20.3.1 above in cases of long-term illness, they may apply to the Employer for special sick leave. Such requests will be considered by the Employer on a case-by-case basis.

20.4 Community Service Leave

20.4.1 The General Manager or nominee will grant paid Community Service Leave to a TAFE Manager in accordance with the National Employment

Standards and the TAFE NSW Policy - Special Leave, for periods when an Employee is:

- (a) performing jury service; or
- (b) acting as an Emergency Volunteer.

20.5 Family and Community Service Leave

20.5.1 The General Manager or nominee may grant Family and Community Service Leave for the following purposes:

- (a) for reasons related to the family responsibilities of the TAFE Manager; or
- (b) for reasons related to the performance of community service by the TAFE Manager; or
- (c) for reasons of pressing necessity.

20.5.2 Quantum - The amount of Family and Community Service Leave available to a TAFE Manager shall be either:

- (a) 2.5 days during the first year of service and five days in any period of two years after the first year; or
- (b) after two years of continuous service, one day of Family and Community Service Leave for each completed year of service less the total amount of family and community service leave previously granted to an TAFE Manager; whichever is the greater period.

20.5.3 Where such leave is exhausted, personal leave in accordance with subclause 20.6.1 may be used.

20.5.4 Family and Community Service Leave is provided in addition to the entitlements under Personal/Carer's Leave and the TAFE NSW Special Leave policy, which provides for paid leave for Jury service and for emergency service volunteers subject to the conditions outlined in the policy.

20.6 Personal/Carer's Leave -

20.6.1 Use of Personal Leave - A TAFE Manager may use the available Personal Leave from the current year plus any accumulated Personal Leave to provide care or support for persons set out below who require care and support because of an illness, injury or unexpected emergency affecting the person. Such illness, injury or unexpected emergency shall be supported, if required, by a medical certificate or statutory declaration that the illness, injury or unexpected emergency is such as to require the care or support by another person for a specified period. The choice of medical certificate or statutory declaration is the TAFE Manager's. Neither the medical certificate nor statutory declaration is required to reveal the exact nature of the illness, or injury. Wherever practicable, prior notice of the intention to take leave should be given by the TAFE Manager.

The entitlement to use Personal Leave in accordance with this subclause is subject to the person concerned being:

- (a) a spouse of the TAFE Manager; or
- (b) a De Facto Partner of the TAFE Manager; or
- (c) a child or an adult (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the TAFE Manager or spouse or de facto partner of the TAFE Manager; or
- (d) a member of the TAFE Manager's Household.

20.6.2 Use of Other Leave - To care for an ill or injured family member, a TAFE Manager may also use leave without pay if paid personal carer's leave has been exhausted with the consent of the General Manager.

20.7 Compassionate Leave

20.7.1 A TAFE Manager shall be entitled to up to two days paid Compassionate Leave on each occasion where a person prescribed in subclause 20.6.1 above, contracts, develops or sustains an illness or injury that poses a serious threat to his or her life or dies.

20.7.2 The TAFE Manager must notify the General Manager or nominee as soon as practicable of the intention to take compassionate leave and shall, if required by the General Manager or nominee, provide to the satisfaction of the General Manager or nominee proof of the relevant death, illness or injury.

20.7.3 Compassionate leave may be taken in conjunction with other leave available under this clause. In determining such a request the General Manager or nominee shall give consideration to the circumstances of the General Manager and the reasonable operational requirements of TAFE NSW.

21. Leave for Matters Arising from Domestic Violence

21.1 The definition of domestic violence is found in clause 4.4, of clause 4 Dictionary, of this Agreement.

21.2 TAFE NSW employees are entitled to access 10 days of paid domestic and family violence leave per calendar year. This leave may be accessed without the need to exhaust other leave entitlements first.

21.3 Temporary and part-time employees will be entitled to paid leave on a pro rata basis. Any temporary or part-time employee who is entitled to less than five days of paid leave per annum will be granted unpaid leave to ensure they are able to access a minimum of five days leave each calendar year.

21.4 Domestic and family violence leave is able to taken in part-days, single days, or consecutive days.

- 21.5 Domestic and family violence leave under this clause is non-cumulative and does not accrue year to year.
- 21.7 The Employer will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the police force, a court, a doctor, a domestic violence support service or lawyer.
- 21.8 Personal information concerning domestic violence will be kept confidential by the Employer. Any documentation sighted by the Employer will be returned to the Employee, unless the Employee requests otherwise.
- 21.9 The Employer and Employee should discuss how to address the Employee's safety and support needs at work. The Employer and Employee may, if necessary, develop a plan to eliminate or minimise risks in the workplace related to family and domestic violence. Where appropriate TAFE NSW will facilitate flexible working arrangements, subject to operational requirements, including changes to working times and changes to work location, telephone number and email address.

22. Qualification Requirements

- 22.1 Qualifications for positions shall accurately reflect the requirements of the position and conform to equal employment opportunity principles. Any artificial barriers to promotion should be removed.
- 22.2 The qualification requirements of positions shall be reviewed by the Employer from time to time in consultation with the Unions.

23. Industrial Rights

23.1 Union Representatives

- 23.1.1 an accredited Union representative at the place in which he/she is employed shall, upon notification thereof to his/her Employer, be recognised as an accredited Union representative.
- 23.1.2 an accredited Union representative shall be allowed the necessary time during working hours to interview the Employer or his/her representative on matters affecting Employees.
- 23.1.3 an accredited Union representative shall be allowed a reasonable period of time during working hours to interview a duly accredited Union official.

23.2 Consultative and Other Committee Work

- 23.2.1 Where a TAFE Manager is required by the Employer, nominated by the Union or otherwise selected by other Employees to participate in work-based consultative or like committees, the Employer shall provide such Employees with paid leave to attend to such matters.

- 23.2.2 In addition, where such committees unanimously agree to undertake a particular project consistent with its terms of reference, the Employer shall provide sufficient paid time to enable the Employee to undertake the project.

24. Special Fitness and Hard to Fill

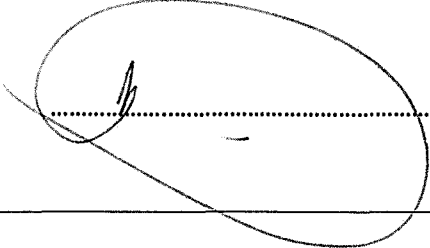
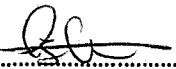
- 24.1 A position will be regarded as "hard to fill" when it has been advertised once throughout TAFE NSW and twice on <https://iworkfor.nsw.gov.au> or its successor and no appointment has been made.
- 24.2 When a position has been identified as "hard to fill" in accordance with subclause 24.1 of this clause, the Employer will review the position in order to ensure that the current position description and accountabilities appropriately reflect the nature of the position. Where appropriate, job redesign will follow and the new position will be advertised in the normal manner.
- 23.3 Where job redesign has not been deemed to be appropriate, the Employer or nominee may offer an allowance of up to ten per cent of the maximum salary of the position when it is next advertised.
- 23.4 The allowance will be paid to the selected applicant for as long as they remain in the advertised position.

PART A

MONETARY RATES

Schedule 1 - Salaries

TAFE Managers	Salary from the first pay period to commence on or after 1.1.2020	Salary from the first pay period to commence on or after 1.1.2021
Increase	2.5%	2.04%
	\$	\$
Level 1	144,917	147,873
Level 2	155,855	159,035
Level 3	164,059	167,406
Level 4	174,996	178,566
Level 5	185,933	189,726
Level 6	197,431	201,459

Signed on behalf of the Technical and Further Education Commission ABN: 89 755 348 137 
Name: Kerry Penton
Position: A/Managing Director Technical and Further Education Commission, T/A TAFE NSW
Address: Level 2, Building A, 19 Mary Ann St, Ultimo NSW 2007
In the presence of: 
Witness Name: Tshintia Morris
Position: Administration Assistant to Managing Director

Signed on behalf of a bargaining representative for employees who will be covered by this Agreement: the Australian Education Union, New South Wales Teachers Federation (NSWTF)
Branch ABN: 86 600 150 697



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JOHN DIXON

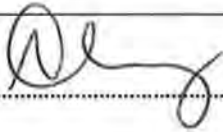
Name:

GENERAL SECRETARY

Position:

Address: 22-33 Mary Street, Surry Hills NSW 2010

In the presence of:



.....

SAMUEL CLAY

Witness Name:

Position:

DEPUTY SECRETARY (RESEARCH, INDUSTRIAL &
PROFESSIONAL SUPPORT)

IN THE FAIR WORK COMMISSION*Fair Work Act 2009 (Cth) ("FW Act")***Matter number:****AG2019/5179****Employer:****Technical and Further Education
Commission (Employer)****Application:****Section 185 – Application for approval of a
single enterprise agreement, namely the
TAFE Commission of NSW TAFE Managers
Enterprise Agreement 2019 (Agreement)****Authorised representative:****Julian Oliveux
Head of Workplace Relations****Undertaking-Section 190**


For and on behalf of the Employer I, Julian Oliveux:

1. declare that I have:
 - a. authority to give this undertaking on behalf of the Employer,
2. understand that each undertaking is to be taken to be a term of the Agreement,
3. give the following undertaking/s with respect to the Agreement:
 - a. With respect to clause 5.1 of the Agreement – Categories of Employment – the clause will be taken to read as follows:

5.1 Employees covered by this Agreement may be ongoing permanent or temporary Employees, and may be employed on a full-time or part-time basis. A part-time employee is an employee employed for less than the normal ordinary hours specified for a full-time employee and will be rostered for a minimum of two consecutive hours on a day.

- b. With respect to clause 11.1 in the Agreement – Salary – the clause will be taken to read as follows:

11.1 Salaries for TAFE Managers under this Agreement are as provided for in Schedule 1, Salaries, of Part A. A part time employee will be paid on a pro rata basis by reference to the time worked.

Date signed:	5 February 2020
For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act]	Julian Oliveux Head of Workplace Relations
Signature:	
Witness name:	James Canavan
Witness signature:	