

## TAFE negotiations and you: engagement imperative

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TAFE members' engagement in Federation's bargaining campaign will strengthen the union's power in protecting and improving salaries and working conditions.

Here's what you need to know.

### What

The salaries and working conditions of TAFE employees are set out in legally enforceable documents known as Enterprise Agreements. The majority of TAFE employees — including teachers, coordinators, counsellors, educational support officers and assessors — are covered by the TAFE Commission of NSW Teachers and Related Employees Enterprise Agreement.

Educators employed in TAFE Children's Centres are covered by the TAFE Commission of NSW Teachers in TAFE Children's Centres Enterprise Agreement, while TAFE managers are covered by the TAFE Commission of NSW Institute Managers Agreement.

### Who

The Enterprise Agreements are negotiated between staff bargaining representatives and the NSW TAFE Commission. Federation, as a bargaining representative, negotiates on behalf of members, representing their united, collective voice.

Finalised Enterprise Agreements are registered with the Fair Work Commission, the federal industrial relations body.

### When

The nominal expiry date of the TAFE Commission of NSW Teachers and Related Employees Enterprise Agreement is 3 February 2020, but it will continue to operate until it is either replaced by a new Agreement or formally terminated by the Fair Work Commission.

### How

The negotiation process attempts to reach settlement between the position of the parties (the employer, Federation and any other staff bargaining representatives). The union will always seek to improve the salaries and working conditions of its members.

There is no formal requirement for the parties to the Agreement to make concessions, or reach a consensus, on the terms that are to be included in the new Agreement. However, if any party fails to bargain (negotiate) in good faith, another party may apply to the Fair Work Commission to seek an order to resolve disputes.

If consensus on a new Agreement is reached, it is then put to a vote by all of the employees who will be covered by the Agreement.



In the case where agreement is not reached through negotiations, the employer has the option to have its proposal voted on by employees without the support of the union. In this case, normally the union will strongly advise its members to reject the employer's offer by voting no.

In either case, the employer must provide employees with access to a copy of the proposed Enterprise Agreement and any other material incorporated in the proposed Agreement.

### ***Enterprise Agreement ballot***

In a vote to accept or reject a new Agreement, employees are asked to either vote yes to accept, or no to reject. There is no minimum quorum of responses to make the vote valid.

If the proposed Agreement is accepted by the vote of employees, an application is made to the Fair Work Commission for formal approval. If the employee vote rejects the proposed Agreement, all bargaining representatives must again return to the table and resume bargaining.

### ***Protected action ballot***

If the bargaining representatives are unable to come to a consensus, the union has the option to apply to the Fair Work Commission for a protected action ballot order (PABO) to allow union members to take industrial action.

Industrial action is an essential tool available to employees to help raise their concerns if a dispute arises during negotiations with the employer. But industrial action is used sparingly, responsibly and is effectively a last resort.

Under Fair Work legislation, protected industrial action can only be taken while in a bargaining period and not at any other time. There are significant fines for unprotected industrial action for both the union and individuals.

Only union members who are covered by the Agreement are eligible to vote in the ballot. For this reason, it is important to keep your details up to date with Federation and the employer. It is also illegal for individuals who are not members of the relevant union to take industrial action at any time.

### ***Approval of Agreements***

In order to approve an Enterprise Agreement, the Fair Work Commission must first be satisfied that it meets all conditions required by the Fair Work Act, including that the Agreement passes a better off overall test (BOOT), that the Agreement is more beneficial to employees than the relevant modern Award.

The Fair Work Commission can and will reject agreements that do not meet their requirements. Member engagement in the preparation for and negotiation of a new Enterprise Agreement is vital. To find out more, including how to best support the negotiations, members should contact their TAFE Organiser.