

**FAIR WORK COMMISSION**

*Fair Work Act 2009*

Sec 185 application for approval of an enterprise agreement

**Early Learning Association Australia**

**ATTACHMENT 1 TO THE APPLICATION**





## Attention employers: Immediate action required

Dear Employer

Early Learning Association Australia (ELAA) has been communicating with you regarding the need to re-negotiate the Victorian Early Childhood Teachers and Assistants Agreement 2009 (VECTAA), given its nominal expiry date of January 2013.

An application for a declaration of single interest under section 248 of the Fair Work Act 2009 (the Act) is currently in the process of being filed with the Minister for Workplace Relations. This will allow the nearly 900 community-managed kindergarten sites who will be represented in these negotiations by ELAA to bargain together to cover early childhood teachers and assistants.

ELAA has received a log of claims from the AEU and United Voice, the two unions representing the employees in these negotiations, and has provided its response. ELAA has indicated its intention to commence negotiations on a new agreement on behalf of the employers it represents, to the Unions on 28 February 2013.

You are receiving this communication because you have appointed ELAA to be your bargaining agent in the negotiation of a new enterprise agreement to replace VECTAA.

This communication outlines a **critical step that you MUST follow**, to fulfil the requirements of sec 173(1) the Fair Work Act 2009. The Act requires employers to provide a notice to each employee who will be covered by the agreement, of their right to be represented by a bargaining representative.

To meet the requirement of the Act, ELAA advises you to do the following:

1. give the enclosed *Notice of Employee Representational Rights (Attachment: 1)* to employees who will be covered by the proposed agreement no later than **Thursday, 14 March 2013**. The notice may be delivered by any of the following means:
  - o personally, or
  - o mail to the employee's mailing address, or
  - o email to the employee's work email address or other email address nominated by the employee for receiving communication from the employer, or
  - o by displaying this notice in a conspicuous location at the workplace that is known by and readily accessible to the employee, e.g., on a staff noticeboard.
2. Notify ELAA **immediately** after you have distributed the *Notice of Employee Representational Rights* by faxing to (03) 9486 4226, or scanning and emailing the attached **staff details form** (Attachment:2) and **the declaration** (Attachment:3), to: [elaa@elaa.org.au](mailto:elaa@elaa.org.au).

ELAA will update you on progress with the negotiations throughout the process through mail, e-newsletter, and the ELAA website. Alternatively, you may call ELAA on 9489 3500 and ask to speak to Laura Mondon, or David Haesler if you have specific queries in relation to the negotiations.

Yours sincerely

Emma King  
Chief Executive Officer

## Schedule 2.1 Notice of employee representational rights

Section 174 (6) *Fair Work Act 2009*, Regulation 2.05 *Fair Work Regulations 2009*

**(Service Name)** gives notice that it is bargaining in relation to an enterprise agreement to replace VECTAA 2009, which is proposed to cover teachers and assistants who deliver an educational program to children at the service.

### **What is an enterprise agreement?**

An enterprise agreement is an agreement between an employer and its employees that will be covered by the agreement that sets the wages and conditions of those employees for a period of up to 4 years. To come into operation, the agreement must be supported by a majority of the employees who cast a vote to approve the agreement and it must be approved by an independent authority, the Fair Work Commission.

### **If you are an employee who would be covered by the proposed agreement:**

You have the right to appoint a bargaining representative to represent you in bargaining for the agreement or in a matter before Fair Work Commission about bargaining for the agreement.

You can do this by notifying the person in writing that you appoint that person as your bargaining representative. You can also appoint yourself as a bargaining representative. In either case you must give a copy of the appointment to your employer.

If you are a member of a union that is entitled to represent your industrial interests in relation to the work to be performed under the agreement, your union will be your bargaining representative for the agreement unless you appoint another person as your representative or you revoke the union's status as your representative.

*If the employee is covered by an individual agreement, include the following paragraph in the notice:*

### **If you are an employee covered by an individual agreement:**

If you are currently covered by an Australian Workplace Agreement (AWA), individual transitional employment agreement (ITEA) or a preserved individual State agreement, you may appoint a bargaining representative for the enterprise agreement if:

- the nominal expiry date of your existing agreement has passed; or
- a conditional termination of your existing agreement has been made (this is an agreement made between you and your employer providing that if the enterprise agreement is approved, it will apply to you and your individual agreement will terminate).

### **Questions?**

If you have any questions about this notice or about enterprise bargaining, please speak to either your employer, bargaining representative, go to [www.fairwork.gov.au](http://www.fairwork.gov.au), or contact the Fair Work Commission Infoline on 1300 799 675.

## Enterprise Agreement for Early Childhood Teachers and Assistants 2013

### STAFF DETAILS FORM

*Please fill in the details of this form including the names of all staff employed as an early childhood/ kindergarten teacher or assistant by your organisation. If you manage more than one site please use a separate form for each site.*

#### EMPLOYER DETAILS:

..... Full name of the kindergarten/cluster management organisation
If managing multiple sites, name of site .....
..... Address of employer organisation
..... Contact person's name
..... Contact person's position (eg. president)
..... Contact person's phone number

*STAFF DETAILS: (Please fill one form for each site that you manage/operate)*

Name of Employee (Block letters)	Classification – Teacher, Assistant, Activity Group Leader, PSFO, Advisor	List Current Employment Status Ongoing, Unpaid Leave (eg Maternity Leave, Leave Without Pay), Relief, Replacement, Paid Leave (eg Long Service Leave)

(Photocopy this page if necessary)

**Please return this form along with the declaration (Attachment: 3), to Early Learning Association Australia (ELAA) by Thursday, 28 March 2013.**

Mail : PO Box 1246 Collingwood VIC 3065  
 email : [elaa@elaa.org.au](mailto:elaa@elaa.org.au)  
 Fax : (03) 9486 4226

## Enterprise Agreement for Early Childhood Teachers and Assistants 2013

### EMPLOYER DECLARATION

This is to confirm that (**Service Name**) has provided the Notice of Employee Representational Rights under sec 173(1) of the Fair Work Act 2009, to all employees who are proposed to be covered by the new enterprise agreement for early childhood/kindergarten teachers and assistants, which will replace VECTAA 2009. This notice was provided to the employees no later than Thursday, 14 March 2013 by (please tick):

- handing to each employee
- placing on notice board
- other \_\_\_\_\_ (please provide details)

Signature: \_\_\_\_\_

Name of signatory: \_\_\_\_\_

Position in organisation: \_\_\_\_\_

Date: \_\_\_\_\_

*(Important note: The signatory must be a member of the committee of management if the employer is an independent kindergarten or the CEO or their nominee, if a cluster manager)*

**Please return this form along with the staff details form (Attachment: 2), to Early Learning Association Australia (ELAA) by Thursday, 28 March 2013.**

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**Email : elaa@elaa.org.au**  
**Fax : (03) 9486 4226**