



Briefing Note: Update on implementation of the Teacher Aide Pay Equity Settlement

To:	Hon Chris Hipkins, Minister of Education		
Date:	18 September 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1241449
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Messaging seen by Communications team:	Yes	Round Robin:	No

Purpose of Report

The purpose of this paper is for you to:

- **Note** that the New Zealand Principals' Federation (NZPF) has raised concerns, via bulletins issued to its members and directly with the NZEI Te Riu Roa (NZEI) and the Ministry, that some principals have acted early to translate teacher aides to new grades and in advance of operational guidance being issued, and that principals are now concerned that these decisions will not be funded under the settlement

Noted

- **Note** that we acted quickly understand how many schools, kura and teacher aides were impacted by these issues and to support NZPF and its members to understand how the settlement should be implemented

Noted

- **Note** that subsequent to a second bulletin being issued by NZPF, we have hosted a meeting between NZEI, NZPF and the New Zealand School Trustees Association (NZSTA) to hear concerns and jointly agree a way forward

Noted

- **Note** that we will continue to work closely with the NZEI, NZPF, and NZSTA to address concerns and support principals and employers to implement the Settlement

Noted

- **Note** that it is anticipated that the recent NZPF communications may have increased uncertainty around how the settlement outcomes should be implemented, delaying schools and kura in offering

the conditions of the Settlement to non-union employees, and that this will have a flow on effect to the number of teacher aides who will be paid according to the new pay rates in November

Noted

- **Note** that, in some circumstances schools may incur costs that arise from changes to teacher aides pay regrading which they will need to fund from their operational funding rather than the Settlement agreement, and that to date the Ministry has heard from about 100 schools in relation to regrading of teacher aides and received about 65 applications for additional funding

Noted


- **Agree** that this Briefing will be proactively released.

Agree


Disagree

Summary

- Since June the NZEI, the Ministry and NZSTA have been supporting schools and kura to implement the Settlement.
- NZPF has contacted the NZEI and the Ministry with concerns that its member principals have raised about how the Settlement has been communicated. We have been working with the NZEI, NZPF and NZSTA to understand and resolve these concerns. These discussions have informed the actions that we are taking to support schools to implement the Settlement.
- As part of this, the parties agreed a statement that would be provided to all schools and kura. This was released on 16 September and is attached as Annex A.
- NZPF has reported that its members have felt under considerable pressure to regrade teacher aide employees since early June and before detailed operational guidance was issued to schools and kura on 11th August and 8th September. NZPF is concerned that, as a result, schools may have reached agreements with their employees which exceed the provisions of the Settlement and may not be funded. Note: summary guidance on the settlement has been available via the Ministry's website since 29 June (immediately after ratification of the settlement) and we are aware some schools have sought and acted on this advice
- In partnership with NZSTA, we are making tailored support available to the schools and kura who are concerned that they may be in this position, while continuing to improve the support which is available for all schools and kura to implement the Settlement.
- However, it is likely that the lack of consistency in messaging around the Settlement outcomes will delay the benefits of the Settlement reaching some teacher aides as schools take time to consider how the Settlement should be implemented.


Pauline Cleaver
Acting Deputy Secretary
Early Learning and Student Achievement

18/09/2020


Hon Chris Hipkins
Minister of Education

28/9/20

Background

1. On 2 March Cabinet noted the detailed Settlement, including that:
 - a. on February 12th, the Ministry of Education (the Ministry) and NZEI successfully concluded negotiations and reached a proposed agreement for the Settlement of the teacher aide pay equity claim. Settling the claim will successfully correct a systemic pay inequity for teacher aides by ensuring that they are being remunerated equitably and free of sex-based undervaluation
 - b. the Settlement achieved agreed pay equity wage rates detailed in a work matrix that groups the work of teacher aides into four grades, amongst other changes to the conditions of employment for teacher aides which were required to achieve a fair settlement of the claim
 - c. there will be a point-to-point translation of teacher aides from the then existing pay steps to the equivalent skills and responsibility steps on the new pay matrix
 - d. the Ministry will promulgate model Individual Employment Agreements (IEAs) containing the pay equity provisions, and will provide guidance and encouragement to Boards on best practice to follow to have non-union teacher aides transfer onto these IEAs
 - e. the Ministry will work with NZEI, NZSTA and other stakeholders to implement proactive communications and change management. This will include supporting information, guidance and tools, for boards of trustees, principals and teacher aides.

[CAB-20-MIN-0059 refers]
2. Cabinet also noted that one of the key implementation risk areas for implementation of the Settlement included changes to school employment practices for teacher aides, informed by the revised matrix of teacher aide responsibilities.
3. At that time Cabinet was advised that Boards will be funded for costs associated with the Settlement.

Communications regarding the Settlement

4. Completion of the Settlement was delayed by the measures required to control the transmission of COVID-19, and the final Settlement agreement was not concluded by the parties until May 2020.
5. In early June, NZEI undertook a large scale series of communication events to advise both union and non-union teacher aides of the proposed settlement and seek its endorsement. At the same time the NZEI also undertook a series of webinars for school principals to explain the Settlement outcomes.
6. The Settlement was endorsed on June 22nd and the subsequent variation to the *Support Staff in Schools' Collective Agreement* was confirmed on June 29th.
7. The NZEI, the Ministry and NZSTA have progressively provided information to support schools and kura to implement the agreement. Our guidance has been delivered in three stages:

- a. On June 29th the Ministry provided factsheets and other communications products which detailed the Settlement outcomes. At that time we advised schools that detailed operational guidance, information and support for schools and kura would be made available in term 4, closer to the time when the Settlement would be implemented.
 - b. On August 11th detailed joint operational guidance was published to enable schools and kura to make the changes to their local employment practices which are necessary to put the Settlement into effect.
 - c. On September 8th the operational guidance was updated with additional information on how schools and kura can apply for funding where they have agreed with a teacher aide that their work at the point of Settlement means they should be paid in a higher grade than they will be moved to under the standard point-to-point translation of pay rates. To date we have heard from about 100 schools and kura about regrading and we have received around 65 applications for this funding.
8. In addition the parties have provided supports such as:
 - a. provision of additional webinars and online communications
 - b. phone and email support via helpdesk channels
 - c. provision of representatives in each region to provide tailored support for the schools and kura in their area
 - d. proactive calling of schools to check in and explain how guidance and support can be accessed.
9. The NZEI also undertook paid union member meetings for teacher aides in June and August.
10. We are also working closely with special schools as these schools engage a large number of teacher aides and have indicated that many of their teacher aides are likely to be entitled to translate to a higher grade due to the specialised nature of their work. Special schools employ approximately 1,000 teacher aides across 36 schools.
11. Schools received their first funding for the Settlement on August 28th. This payment included funds for the backdated pay equity pay rate increase (including holiday pay), based on the point-to-point translation of employees' rates of pay, and the new Tiaki allowance which was introduced in the Settlement.
12. Schools will receive their second instalment of funding for the Settlement on October 1st. This payment is an interim wash up that adjusts their first instalment for changes in hours worked by teacher aides in the first part of 2020. This payment also includes top-up funding for the 3% increase in pay rates which will be provided in November for all employees (including teacher aides) who are paid under the *Support Staff in Schools' Collective Agreement*.
13. On November 4th, teacher aides who are members of the NZEI, or whose employer has advised Education Payroll that they have accepted a new IEA, will be paid the new pay equity rates provided by the Settlement, including back pay to the date of Settlement (February 12th).

Concerns raised by principals

14. On August 23rd the New Zealand Principals' Federation (NZPF) contacted the NZEI and the Ministry with concerns that its member principals have raised about how the Settlement has been communicated. Since then, we have been working with the NZEI, NZPF and NZSTA to understand and resolve these concerns. These discussions have informed the operational guidance made available on 8th September and other actions that we are taking to support schools at this time. As part of these discussions the parties agreed a statement that would be provided to all schools and kura. This was released on 16 September and is attached as Annex A.
15. The Settlement was developed on the basis that a very large majority of teacher aides would be translated to the correct new pay rate under the agreed point-to-point provisions. Nonetheless, subsequent to the point-to-point translation occurring a teacher aide may consider that the automatic translation has not moved them to the correct pay rate. In such circumstances they are entitled to seek a review of the grade for their role under the terms of the *Support Staff in Schools' Collective Agreement*.
16. In the course of discussions, NZPF reported that its principal members consider that the NZEI, and its representatives, have strongly encouraged principals to go over and above the terms of the Settlement by proactively regrading teacher aides. This was before principals were provided with the detailed operational guidance about how teacher aides would be automatically moved to the new, fair, pay rates under the Settlement point-to-point translation provisions, or how the work matrix should be implemented.
17. NZPF has also reported that in some circumstances principals have been advised to move teacher aides to grades higher than the work matrix would support, and that incorrect advice has been provided by the NZEI around what changes to teacher aide pay grades will be funded under the Settlement.
18. In our joint discussions the NZEI has stated that it has not gone further than explaining the Settlement outcomes which were agreed between the parties.
19. In our view there is no obligation under the terms of the Settlement to undertake a regrading consideration at this time. Rather, a point-to-point translation is expected as was agreed in the Settlement. We consider that all parties should have been consistently communicating this when discussing the Settlement and the pressure which schools and kura report to regrade teacher aide roles is likely to have slowed the achievement of pay equity for teacher aides.

Key Risks

20. The changes introduced by the Settlement are complex and are challenging for schools and kura to implement. They will take time to work through and the lack of consistency in messaging around the Settlement outcomes is likely to delay the benefits of the Settlement reaching some teacher aides as schools take time to consider how the new work matrix should be implemented.
21. In particular, schools and kura are required to offer an Individual Employment Agreement to teacher aides who are not members of the NZEI so that they can access the Settlement outcomes. We have strongly and repeatedly encouraged schools to take this action before September 18th in order to ensure their employees are paid the new rates in November. However, it is likely that some schools will not make such offers until they are confident that they fully understand the Settlement outcomes.

22. Some schools or kura may have incurred costs which exceed the parameters of funding under the Settlement. For example they may have reached an agreement to regrade teacher aides where the role does not actually fit within that grade, or they may have made changes to a teacher aide's job description subsequent to Settlement which they thought would be funded. These schools may be required to fund these changes from their operational funding.
23. In the process of regrading roles, some schools may have identified historic errors in their practices for paying their teacher aides. Costs associated with the correction of such practices were not included in the pay equity Settlement. In these circumstances schools and kura will continue to be entitled to funding for the portion of their costs which arise from the Settlement, but will they be required to fund the correction portion from their operational funding.

Next Steps

24. We will continue to actively support schools and kura to implement the Settlement, including provision of tailored support for schools who are concerned that they may have exceeded the provisions of the Settlement.
25. We will continue to update on our progress and the actions we are taking via the Education Weekly Update.
26. We are exploring what options are available to schools and kura in the circumstances that they have reached an agreement to regrade teacher aides where the role does not actually fit within that grade.
27. We have requested that schools and kura submit any applications for funding required due to the regrading of teacher aides as a direct result of the Settlement by November 30th. We expect to process completed applications within 20 working days of receipt, and will then be able to advise whether the school or kura will receive additional funding and how this will be calculated. The funding will be paid in April 2021 once the 2020 year has completed. This is to ensure that we can correctly calculate the number of hours the teacher aide has worked, and how much additional funding the schools is eligible for.

Proactive Release

28. We recommend that this Briefing is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

Annexes

- Annex 1: Statement regarding implementation of the Settlement issued on 8th September.

Teacher aide pay equity Settlement

Many of you have implemented the teacher aide pay equity Settlement and have ensured that your staff will receive the new fair rates of pay on the 4 November. Thank you.

However, it has come to our attention that a number of you may have reviewed and regraded your teacher aides against the new work matrix before our joint operational guidelines were released, and this may be causing you concerns as subsequent detailed guidelines have clarified how the Settlement should be implemented.

The outcome of our negotiations was a full and final Settlement for teacher aides that included automatic translation to fair rates of pay for current employees. As we have advised on other occasions, the Settlement does not require that you review all teacher aide job descriptions nor regrade all teacher aide roles. The change process, while necessary, has been complex and challenging for everyone, and we understand that misunderstanding of this issue has caused frustration.

Where a teacher aide considers that the automatic translation has not moved them to the correct pay rate, they can seek a review of the grade for their role. When a teacher aide has requested this review, and you agree that this change should be made, a regrading should occur.

The work matrix sets out the most common skills, responsibilities and demands that apply to teacher aides. When examining the grade for the role, you will need to assess the regular and ongoing skills/demands/responsibilities so that the grade recognises the highest level of skills/demands/responsibilities that are required for competent performance of the role. You will need to consider what makes up the majority of the role, and not things that are a one-off or isolated event. Teacher aides do not have to do every activity in a grade in order to be placed in that particular grade. Examples of how this works in practice are available in the published [operational guidelines for schools](#). We strongly encourage you to work with NZSTA to ensure your process for this is correct.

If you have reviewed and changed a teacher aide's grade because you have agreed that the work they were doing when the Settlement took effect means they should be paid in a higher grade than they will be translated to, you can apply for additional funding. Applications for exceptional translation funding must be sent to teacheraide.payequity@education.govt.nz by 30 November 2020. We expect to process completed applications within 20 working days of receipt, and will then be able to advise whether your school will receive additional funding and how this will be calculated. The funding will be paid in April 2021 once the 2020 year has completed. This is to ensure that we can correctly calculate the number of hours your teacher aide has worked, and how much additional funding you are eligible for.

Changes to grades should be notified to Education Payroll and will be processed after the automatic translation has occurred. This may not be until 2021 at which time they will be paid from the effective date that you have advised, in accordance with your local policy on changes to grades.

If you have regraded your teacher aides before 8 September when the detailed operational guidance was available, and are concerned, we recommend you contact NZSTA. They will work through your circumstances with you and provide tailored advice to help you in your situation.

Key dates:

- By 18 September, you need to notify Education Payroll that you have signed new IEAs with your non-union teacher aide employees. This will ensure they can access the Settlement and that your legal obligations to them under the Equal Pay Act have been met.
- On 4 November, all teacher aides who are either NZEI Te Riu Roa members or have signed the new IEA will automatically receive their new rates of pay based on the automatic point to point translation.
- On 27 November eligible teacher aides will receive a further 3% increase as part of the 2019 collective agreement Settlement.
- Applications for exceptional translation funding due to regrading close on 30 November.
- Any regrading instruction provided to Education Payroll will most likely be processed in the New Year.

Our joint comprehensive [operational guidelines for schools](#) were published on 11 August and updated on 8 September with information about how to apply for funding where a teacher aide's role has been regraded. These guidelines were developed in accordance with the signed Settlement agreement and associated Settlement outcomes.

More information including a pay rate calculator and the Settlement agreement can also be found at www.education.govt.nz/teacheraides.