

Dr Neil McGoran
Director
Catholic Education South Australia
Catholic Church Endowment Society Incorporated
116 George Street
Thebarton SA 5031

16 April 2020

AND TO

The Principals of the schools named in Schedule 1 to this letter

By email only: Neil.McGoran@cesa.catholic.edu.au

Dear Dr McGoran

Notification of industrial dispute about the legitimacy of stand-downs

1. The IEU hereby notifies the Catholic Church Endowment Society Incorporated (**the employer**) of a dispute pursuant to clause 10 of the South Australian Catholic Schools Enterprise Agreement 2017 (**the agreement**) about the employer standing down employees without pay and the employer's assertion (which the IEU does not accept) that that the employer is authorised to stand the relevant employees down without pay by section 524(1) of the *Fair Work Act 2009* (**the FW Act**).
2. This is a dispute within the meaning of clause 10.1 of the agreement.
3. The IEU does not accept that the employer may lawfully stand-down employees without pay in these circumstances, pursuant to s524(1) of the FW Act or otherwise.
4. The IEU does not accept that the relevant employees *cannot usefully be employed* or that there has been a *stoppage of work for any cause for which the employer cannot reasonably be held responsible*.
5. There remains useful work for the relevant employees to do.
6. The employer has failed to provide duties to the relevant employees when it is able to do so.

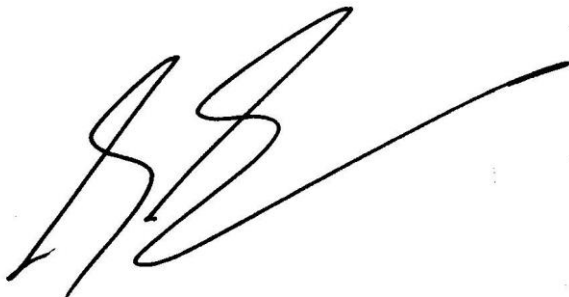
7. It is apparent from your emails to me of 8 April 2020 and 3 April 2020 that you speak for the employer about this issue rather than the Principals of individual schools. Accordingly, this letter is principally directed to you. This letter is also addressed to the Principals of the schools identified in schedule one should the employer elect to respond to this notification via one or more such Principals.
8. If the employer decides to reverse its decision to stand down the relevant employees, please provide us with written confirmation of that by 4 PM on Friday, 17 April 2020.
9. The IEU seeks to urgently resolve this dispute. Unless the employer decides to reverse its decision to stand down the relevant employees by 4 PM on Friday, 17 April 2020, the IEU seeks urgent discussions in accordance with clause 10.3 of the agreement.
10. Please let us know by 4 PM on Friday, 17 April 2020 whether the employer agrees to discussions pursuant to clause 10.3 and if so when it proposes they occur. Given current circumstances, it may be convenient for such a discussion to proceed by videoconference (for example using “zoom”).
11. As a consequence of the IEU invoking the dispute resolution procedure in clause 10 of the agreement, the employer must honour its obligations in clause 10.6.
12. Accordingly, the relevant *employees must continue to perform their work as they would normally unless they* (the relevant employees) *have a reasonable concern about an imminent risk to their health or safety, unless the employer directs them to perform other available work at the same workplace, or at another workplace* (subject to the qualifications to clause 10.6.2).
13. Unless the employer decides to reverse its decision to stand down the relevant employees by 4 PM on Friday, 17 April 2020, please provide us with written confirmation by 4 PM on Friday, 17 April 2020 that:
 - 13.1. the employer will honour its obligations in clause 10.6 by advising all relevant employees that they are no longer stood down without pay, effective immediately, until the resolution of the dispute; and
 - 13.2. written advice to that effect will be provided to all relevant employees by 4 PM on Monday, 20 April 2020.
14. Unless the employer reverses its decision to stand down the relevant employees, the IEU respectfully urges the employer to honour its obligations under clause 10.6 the agreement.

15. As the employer would be aware, section 50 of the FW Act requires that persons not contravene enterprise agreements, and section 546 of the FW Act provides for Courts to impose civil penalties on persons who contravene enterprise agreements.
16. If the employer failed to honour its obligations under clause 10.6, it seems likely that such a contravention would be a *serious contravention* within the meaning of section 557A of the FW Act, which would significantly increase the applicable maximum penalties.

Conclusion and next steps

17. The IEU seeks to work with the employer to ensure that employees perform useful work in these circumstances.
18. We look forward to the employer's urgent response to the matters raised in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'G. Seidel', written in a cursive style.

Glen Seidel
Branch Secretary

Schedule I

All Saints Catholic Primary School

Antonio Catholic School

Blackfriars Priory School

Blackfriars Priory School ELC

Cabra Dominican College

Cardijn College

Caritas College

Catherine McAuley School

Christ the King School

Christian Brothers College

Christian Brothers College Community Children's Centre
ELC

Christian Brothers College Junior School

Dominican School

Dominican School OSHC

Edmund Rice Education Australia

Emmaus Catholic Primary School

Galilee Catholic School

Gleeson College

Holy Family Catholic School

Immaculate Heart of Mary School

Kildare College

Loreto College

Loreto ELC

Loreto Junior College

Marcellin Technical College

Mary MacKillop College

Mary MacKillop Memorial School

McAuley Community School

Mercedes College

Mount Carmel College

Nazareth Catholic College Primary Campus

Nazareth Catholic College Secondary Campus

Nazareth Childhood Centre

Our Lady of Grace School

Our Lady of Hope School

Our Lady of La Vang School

Our Lady of Mount Carmel Parish School

Our Lady of the River School

Our Lady of the Sacred Heart College

Our Lady of the Visitation School
Our Lady Queen of Peace School
Rosary School
Rostrevor College
Rostrevor College - Junior Campus
Sacred Heart College (Champagnat Campus)
Sacred Heart College (Marymount Campus)
Sacred Heart College Senior School
Saint David's Parish School
Saint Ignatius' College - Early Years
Saint Ignatius' College - Junior Campus
Saint Ignatius' College - Senior Campus
Samaritan College OLHC Campus
Samaritan College Saint John's Campus
Samaritan College St Teresa's Campus
School of the Nativity
St Albert's Catholic School
St Aloysius College
St Anthony's Catholic Primary School
St Anthony's School Edwardstown
St Augustine's Parish School
St Barbara's Parish School
St Bernadette's School
St Brigid's Catholic School
St Brigid's School
St Catherine's Parish School
St Columba College
St Columba College Junior School
St Columba's Memorial School
St Dominic's Priory College
St Dominic's Priory Junior School
St Francis De Sales College
St Francis of Assisi School
St Francis School
St Francis Xavier's Regional Catholic School
St Gabriel's School
St James' School
St John Bosco School
St John the Apostle Catholic School
St John the Baptist Catholic School
St Joseph's Education Centre
St Joseph's Memorial Junior School
St Joseph's Memorial School

St Joseph's Parish School Gladstone
St Joseph's School - Barmera
St Joseph's School - Clare
St Joseph's School - Hectorville
St Joseph's School - Hindmarsh
St Joseph's School - Kingswood
St Joseph's School - Murray Bridge
St Joseph's School - Ottoway
St Joseph's School - Payneham
St Joseph's School - Peterborough
St Joseph's School - Port Lincoln
St Joseph's School - Renmark
St Joseph's School - Tranmere
St Margaret Mary's School
St Mark's College - Benedict Campus
St Mark's College - Bosco Campus
St Martin de Porres School
St Martin's Catholic Primary School
St Mary Mackillop School
St Mary Magdalene's School
St Mary's College
St Mary's Memorial School
St Michael's College
St Michael's College - Primary School
St Monica's Parish School
St Patrick's School
St Patrick's Special School
St Patrick's Technical College - Northern Adelaide
St Paul's College
St Pius X School
St Raphael's School
St Therese Primary School
St Thomas More School
St Thomas' School and Pre-School
Star of the Sea School
Stella Maris Parish School
Tenison Woods Catholic Primary School
Tenison Woods College
Tenison Woods College Early Learning Centre
Thomas More College
Whitefriars School
Xavier College