



# Sydney Catholic Schools

26 April 2018

Associate to Vice President Hatcher  
Fair Work Commission  
Terrace Tower  
80 William Street  
**EAST SYDNEY NSW 2011**

Dear Associate

**FAIR WORK COMMISSION**  
**Commission Matter No.: C2013/6333**

We refer to the Order for Production of Documents of Vice President Hatcher dated 4 April 2018 issued to Sydney Catholic Schools (**SCS**) (formerly the Catholic Education Office, Sydney (**CEO**)) at the request of the Australian Childcare Alliance Incorporated (**Order**).

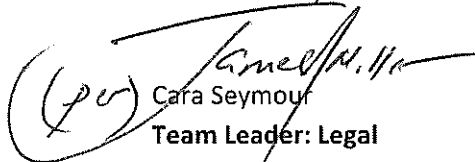
Sydney Catholic Schools has obtained and is in a position to produce documents in categories 5 – 14 of the Order today.

As advised to you by the legal representatives of the Australian Childcare Alliance Incorporated, Australian Business Lawyers, we have been unable to reach agreement to extend the date for compliance in respect of categories 1 – 4 of the Order. As at 23 April 2018 we anticipated that agreement could be reached regarding the categories of documents, however, Australian Business Lawyers has since advised that SCS will need to apply to the Commission on its own motion.

Accordingly, we *attach* for filing:

1. Form F1 Application to amend the Order
2. Form F52 Amended Order for Production.

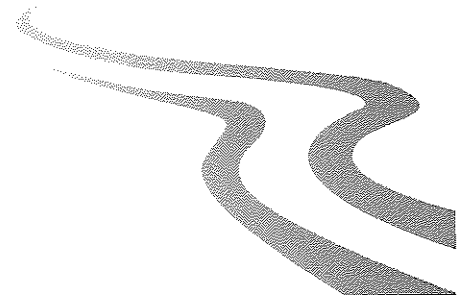
Yours sincerely

  
(per) Cara Seymour  
**Team Leader: Legal**  
**Sydney Catholic Schools**

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PO Box 217 Leichhardt NSW 2040

[www.sydcatholicschools.nsw.edu.au](http://www.sydcatholicschools.nsw.edu.au)

**SYDNEY CATHOLIC SCHOOLS LIMITED** ACN 619 137 343  
**AS TRUSTEE FOR THE SYDNEY CATHOLIC SCHOOLS TRUST** ABN 26 158 447 082



## Form F1—Application

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

### The Applicant



These are the details of the person who is making the application.

**Title**  Mr  Mrs  Ms  Other please specify:

**First name(s)**

**Surname**

**Postal address** PO Box 217

**Suburb** Leichhardt

**State or territory** NSW **Postcode** 2040

**Phone number** (02) 9569 6111 **Fax number**

**Email address** cara.seymour@syd.catholic.edu.au

### If the Applicant is a company or organisation please also provide the following details

**Legal name of business** Sydney Catholic Schools Limited ACN 619 137 343 as trustee for the Sydney Catholic Schools Trust ABN 26 158 447 082

**Trading name of business** Sydney Catholic Schools

**ABN/ACN**

**Contact person** Cara Seymour, Anne-Marie Fensom

### How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

### Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.

Yes—Provide representative's details below

No

### Applicant's representative



These are the details of the person or business who is representing the Applicant.

**Name of person**

<b>Firm, union or company</b>	Catholic Commission for Employment Relations		
<b>Postal address</b>	Level 14 Polding Centre, 133 Liverpool Street		
<b>Suburb</b>	Sydney		
<b>State or territory</b>	NSW	<b>Postcode</b>	2000
<b>Phone number</b>	(02) 9390 5255	<b>Fax number</b>	
<b>Email address</b>	simon.spence@ccer.catholic.org.au		

## The Respondent



These are the details of the person or business who will be responding to your application to the Commission.

<b>Title</b>	[ ] Mr [ ] Mrs [ ] Ms [ ] Other please specify:		
<b>First name(s)</b>			
<b>Surname</b>			
<b>Postal address</b>	140 Arthur Street		
<b>Suburb</b>	North Sydney		
<b>State or territory</b>	NSW	<b>Postcode</b>	2060
<b>Phone number</b>	(02) 9458 7005	<b>Fax number</b>	
<b>Email address</b>	michal.roucek@ablawyers.com.au		

### If the respondent is a company or organisation please also provide the following details

<b>Legal name of business</b>	Australian Business Lawyers and Advisors as representatives of the Australian Childcare Alliance Incorporated
<b>Trading name of business</b>	
<b>ABN/ACN</b>	
<b>Contact person</b>	Michal Roucek, Australian Business Lawyers and Advisors

## 1. The Application

### 1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.

Section 590  
Section 603

## 2. Order or relief sought

### 2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

The Order for Production of Documents made under section 590(2)(c) on 4 April 2018 in Commission Matter No.: C2013/6333 directed at the Catholic Education Office, Sydney (**Order**) be varied in the form at Annexure A to this Application.

## **2.2 Please set out grounds for the order or relief sought.**



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

The documents sought in the Order at the request of the Australian Childcare Alliance Inc.:

1. Are so broad and require the production of such a voluminous number of documents by Sydney Catholic Schools as to be oppressive
2. Are so broad as to include documents that are not directed to any relevant or potentially relevant issue in the proceedings
3. Constitute an impermissible fishing expedition rather than a legitimate forensic enquiry and should be varied as they are an abuse of process.

## **3. The employer**

### **3.1 What is the industry of the employer?**

Early Childhood Education

## **4. Industrial instrument(s)**

**4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.**

**Signature**



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

**Signature**

*Cara Seymour (per)*

**Name**

Cara Seymour

**Date**

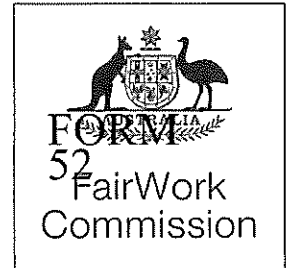
26 April 2018



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**

# ANNEXURE A DRAFT ORDER



*Fair Work*

*Act 2009*

s.590(2)(c) – Amended Order requiring a person to produce documents etc to the Fair Work Commission

**Applicant(s):**

Independent Education Union of Australia

v

**Respondent(s):**

Commonwealth of Australia as represented by the Department of Education, Employment and Workplace Relations; Australian Chamber of Commerce and Industry; Australian Childcare Centres Association; Australian Community Children's Services; Australian Community Services Employers Association, Union of Employers; Australian Federation of Employers and Industries; Association of Independent Schools of South Australia; The Association of Independent Schools of Tasmania Incorporated; Association of Independent Schools of Western Australia (Inc); Association of Quality Child Care Centres of NSW Inc; Australian Childcare Alliance Victoria; Childcare Queensland Inc; Childcare South Australia; Child Care Association of Western Australia; Community Connections Solutions Australia; Australian Municipal, Administrative, Clerical and Services Union-New South Wales and ACT (Services) Branch; NSW Business Chamber Limited; The Association of Independent Schools of New South Wales Limited T/A AISNSW; Catholic Commission for Employment Relations

Commission Matter No:

C2013/6333

VICE PRESIDENT HATCHER

SYDNEY, [DATE] 2018

TO: The Proper Officer

Sydney Catholic Schools Limited as trustee for the  
Sydney Catholic Schools Trust

Pursuant to s.590(2) of the *Fair Work Act 2009*, you are **ORDERED** to provide to the Fair Work Commission the documents, records and other information specified in paragraphs 1 – 3 of the Schedule to this order before the Fair Work Commission at the following time, date and place:

Time: 4:00pm

Date: 7 May 2018

Place: Terrace Tower, 80 William Street, East Sydney

VICE PRESIDENT HATCHER

Note

:

- This order has been issued at the request of the Australian Childcare Alliance Inc
- You can apply to have this order set aside or varied.
- Instead of attending to provide the documents etc. covered by this order at the time and place specified above, you may produce them to an officer of the Commission at the place specified above not later than 4.00 pm on the day before the day specified above.
- If you have any queries in relation to this order please contact the associate to [member] on [chamber's email].

## SCHEDULE

The Respondent seeks the following documents from the Catholic Education Office Sydney Catholic Schools Limited as trustee for the Sydney Catholic Schools Trust (the "CEOSCS"):

1. All documents recording or evidencing minutes of meetings attended by representatives of Sydney Catholic Schools (formerly the Catholic Education Office, Sydney (CEO)) with the Independent Education Union (IEU) and/or the Catholic Commission for Employment Relations (CCER) prior to the commencement of bargaining (as well as any documents prepared for that meeting or in consequence of that meeting) for the planning for the bargaining process in respect of Teacher classifications and conditions for the NSW and ACT Catholic Systemic Schools Enterprise Agreement 2015.

2. All documents recording or evidencing minutes of meetings attended by representatives of the CEO, with representatives of the IEU and/or CCER during the bargaining process (as well as any documents prepared for that meeting or in consequence of that meeting) for the planning or preparing for those meetings involving managers or other participants in the bargaining process in respect of Teacher classifications and conditions for the NSW and ACT Catholic Systemic Schools Enterprise Agreement 2015.

~~3. All documents recording or evidencing meeting minutes taken in the bargaining meetings with employees or their representatives in respect of Teacher classifications and conditions for the NSW and ACT Catholic Systemic Schools Enterprise Agreement 2015.~~

4. ~~3.~~ All documents recording or evidencing the Catholic Education Office Sydney CEO strategy for the NSW and ACT Catholic Systemic Schools Enterprise Agreement 2015, including:

- a. wages offers made in the course of bargaining in respect of Mr James Jenkins-Flint's position;
- b. wages offers made in general;
- c. wages position finally agreed; and
- d. the capacity for Catholic Education Office Sydney ~~or St Brigid's Primary School~~ to pay these wages.

~~4.5.~~ All documents recording or evidencing the remuneration received by James Jenkins-Flint, namely:

- a. contract of employment;
- b. payslips for the past three months;
- c. remuneration policy that applies to Mr Jenkins-Flint's employment.

~~5.6.~~ All documents recording or evidencing the nature of the work including the position descriptions or job description however described of Mr Jenkins-Flint for the last 12 months of his employment at St Brigid's Primary School.

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~~6.7.~~ All documents recording or evidencing the:

- a. school curriculum;



- b. extra-curricular activities including school camps, school excursions, sports teams coached etc;
- c. number of pupils in a class;
- d. timetables;

in connection with the last 12 months of the employment of Mr Jenkins-Flint ~~for the last 12 months of his employment~~ at St Brigid's Primary School.

~~8.7.~~ All documents recording or evidencing training undertaken by Mr Jenkins-Flint.

~~98.~~ All documents recording or evidencing the organisational chart displaying the position in which Mr Jenkins-Flint works within St Brigid's Primary School.

~~109.~~ All documents recording or evidencing performance management and performance appraisals for Mr Jenkins-Flint for the past ~~five~~ three years of his employment at St Brigid's Primary School.

~~110.~~ All documents recording or evidencing the school fees charged to ~~students~~ parents attending St Brigid's Primary School for the past 12 months.

~~1211.~~ All documents recording or evidencing the nature of the work performed by Mr Jenkins-Flint and other employees employed in his role within St Brigid's Primary School, including the responsibilities, skills necessary to perform the responsibilities, and the position description for the last 12 months of Mr Jenkins-Flint's employment at St Brigid's Primary School.

~~1312.~~ All documents recording or evidencing the specific day to day duties of Mr Jenkins-Flint including any special tasks and more complicated tasks that may arise for the last 12 months of Mr Jenkins-Flint's employment at St Brigid's Primary School.

~~1413.~~ All documents recording or evidencing the conditions under which the work of Mr Jenkins-Flint is performed, for instance, class room environment, school environment, and any other environment in which work is performed.

In the above, "*Document*" means any document including, without limitation, any handwriting, correspondences, letter, facsimile transmissions, emails, printouts of emails, memoranda, notes, records, diaries, files, file notes, receipts, invoices, cheques, cheque butts, accounts, accounting records, letters of instruction, bank account statements, reports, witness statements, statutory declarations, affidavits, submissions, audio tapes, videotapes, analogue or digital sound or video recordings, computer printouts, computer disks and all other documents whatsoever whether stored electronically, optically or otherwise.