

Hot Topics

Phil Taylor

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Peter Murphy

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NZSTA Advisers

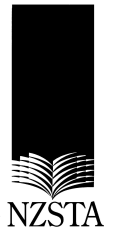
Personnel/Industrial Relations

Who are We?



- NZSTA represents the views of and provides a range of services to member Boards
- Personnel/Industrial Advisers respond to and advise on all Employment related issues which include:
 - Appointing, appraising, disciplining, competency, dismissal, interpretation of agreements, personal grievances, conflict, registration, hours of work, leave, health and safety

What's on the agenda?



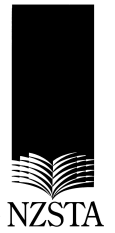
- Trial periods
- Fixed term appointments
- MoE concurrence, additional remuneration for principals
- Popular misconceptions

Trial Periods

Employment Relations Amendment Act 2008

Phil Taylor

Purpose



To provide when an employment agreement may specify a trial period of 90 days or less, during which an employee can be dismissed and cannot bring a personal grievance or other legal proceedings in respect of the dismissal, subject to certain conditions.

Effective from 1 March 2009

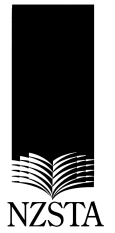
Applies to



Employee – an employee who has not been previously employed by the employer

Employer – an employer who, at the beginning of the day on which the employment agreement is entered into, employs fewer than 20 employees

Trial Period



- Must be in **WRITING** in the Employment Agreement
- Different from a fixed term appointment
- **NOTICE** if issued must be before the end of the trial period
- Termination may take effect **BEFORE, AT, or AFTER THE END** of the trial period

Employees can not take a personal grievance or other legal action against UNJUSTIFIED DISMISSAL

Can still take action on UNJUSTIFIED DISADVANTAGE

Good faith / Induction / support and guidance / other IEA CEA conditions



- Section 4(1A) (c) – Before making decision to terminate
- Employee affected – access to information and opportunity to comment
- Section 120 – Not required if requested to provide a statement of reason for dismissal

Does it apply to schools?



- CONCURENCY by MoE – section 74, 74AA, 74A and 75 of part 7 Education Service of the State Sector Act 1988
- FIXED TERM EMPLOYEES
- Not Genuine Reason
- Section 66 (3) (b) to establish the suitability of the employee for permanent employment

Fixed Term appointments

Do's and Don'ts

Lynne Guy

S66 of the ERA allows for employment to end.

Either

- at the end of a specified date or period, or
- on the occurrence of a specified event, or
- at the conclusion of a specified project.

**MUST BE FOR GENUINE REASONS BASED ON
REASONABLE GROUNDS**

- Genuinely relate to operational requirements.

MUST

- State IN WRITING
WHEN and How the employment will end

IF NOT

- Employment may be treated as PERMANENT

DO use the NZSTA LETTER TEMPLATES

DO NOT

- give any implied or express expectation of **ONGOING EMPLOYMENT**

BE CAUTIOUS about “rolling over” or renewing fixed term appointments

- Uncertainty of funding may not be a genuine reason

MoE concurrence Additional Remuneration for Principals

Peter Murphy

- Collective or individual employment agreement sets the terms and conditions of employment for school principals. The Ministry approves all such agreements, which set the amount of remuneration to be paid for normal duties.
- A principal might also have other responsibilities for which extra remuneration can be paid. Legislation requires that the Ministry approves all such additional remuneration before it is paid, and that it is paid through the Ministry's central payroll system rather than locally by a board.

Some of the reasons that the Ministry would usually consider an acceptable basis for granting approval include:

- Management of, and responsibility for, a residential/boarding hostel.
- Recruitment and management of large intakes of foreign fee-paying students.
- Management of, and responsibility for, a significant initiative that earns extra revenue for the school and is in addition to the principal's normal role.
- Management of a school that is considered an exemplar of practice that results in other schools seeking information and advice.
- Management of, and responsibility for, implementing a significant change process.

Unlikely to be approved by the Ministry



- Payments recognising performance.
- Payments for recruitment and retention.

The main determinant the Ministry looks for when assessing an application for additional remuneration is that the principal has responsibilities over and above those that normally form part of a principal's job.

Popular Misconceptions involving the operation of the SSCA



1. “If you make a position permanent, their hours of work become permanent”
2. “An employee’s grading must reflect their job title”
3. “An employee performing a mix of duties across 2 grades should be placed and paid in the higher grade”

Erin Walter

“If you make a position permanent, their hours of work become permanent”

- Support Staff CA clause 2.5.1 states:
- (a) Except as provided for in 2.6, each time the hours of work and the weeks worked per year for employees are fixed by the employer, they shall be fixed by written advice to the employee for a minimum of twelve months. After consideration of 2.4.2 the employer shall give the employee not less than one month's written notice of any variation in hours of work and/or weeks to be worked, prior to this variation coming into effect. Except in exceptional circumstances (e.g. where an employee is absent on long term sick leave) this notice shall be given at such a time as to ensure it covers a period during which the employee is paid and at work.
- (b) Where the employer and employee agree the hours of work and/or the weeks to be worked may be varied during the twelve month period.

Clause 2.4.2 states:

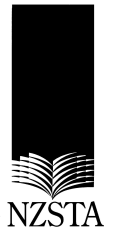
The hours of work and the weeks per year of employees will be set by the employer in accordance with the requirements of the school and where applicable will include consideration of the following:

- Time spent on school business, trips, camps, meetings, preparation for classroom and individual learning support;
- Attendance at Individual Education Plan (IEP) meetings and regular consultation time with the teacher-in-charge for teacher aides of students with special needs.
- A persons tenure may be permanent but their hours never are.
- Their hours are fixed term for a minimum period of twelve months.

“An employee’s grading must reflect their job title”

e.g. Our science technician undertakes basic and well specified duties, but her job title is listed under grade C in the collective agreement, so she should be graded and paid at grade C.

Job Titles



- **Associate Class**

Grade A

- teacher aide
library assistant
technical assistant
nurse aide

Grade B

- brailist
library assistant / librarian
technical assistant
nurse
signer
teacher aide

Grade C

- technician
librarian
nurse
network administrator

- **Administrative Class**

Grade A

- data entry operator
receptionist
word processor operator / typist

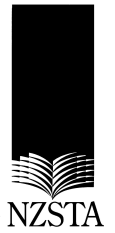
Grade B

- financial assistant
school secretary
principal's secretary
board secretary

Grade C

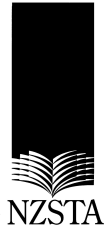
- bursar
executive officer
principal's secretary

Job Titles



- In this memorandum is a list of job titles provided by the parties to act as a guide for boards of trustees as to the appropriate grading for a variety of occupational classifications. However, the parties acknowledge that as particular job titles may relate to positions with differing job content, the grading of particular job titles may differ from school to school.

Associate Class



An associate position primarily involves working either directly or indirectly with teachers and students to support the teaching and learning outcomes of students.

3.6.1 Grade A

- (a) The position is closely supervised. It involves duties and tasks which are specified and clear and are carried out in accordance with well defined procedures.
- (b) Some examples of the duties required within this grade are:
- prepare and/or maintain resources;
 - support teaching programmes and student learning;
 - assist with routine needs of students.

3.6.2 Grade B

- (a) The position involves a range of duties for which advanced knowledge, skills and experience are required. The position is likely to involve periods without supervision or may be sole charge.
- (b) Some examples of the duties or level of duties required within this grade are:
- support and contribution to teaching programmes and curriculum delivery, including work with students either individually or in groups which assists their learning;
 - contributing to and maintaining healthcare programmes for students;
 - management of equipment and resources.

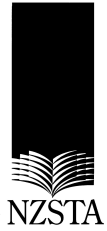
3.6.3 Grade C

- (a) The position involves a high level of responsibility and specialist knowledge. It will include management and/or administrative and/or financial responsibilities. Where the position does not involve supervision of staff it will involve management of specialist equipment and resources which make a significant contribution to the delivery of the curriculum.
- (b) Some examples of duties or levels of duties required for this grade are:
- management of systems and/or specialist equipment and resources;
 - management of healthcare programmes.

“An employee performing a mix of duties across 2 grades should be placed and paid in the higher grade”

E.g. I generally do filing and photocopying, but am not closely supervised and undertake some more involved duties at times. I must be moved from grade A to grade B.

Administrative Class



An administrative position primarily involves duties in secretarial work; office, and/or financial and/or property management.

3.4.1 Grade A

(a) The position is closely supervised. It involves duties and tasks which are specified and clear and are carried out in accordance with well defined procedures.

(b) Some examples of duties required within this grade are:

- clerical duties e.g. filing/photocopying/opening and processing mail;
- reception work;
- cash handling, i.e. receipting/banking;
- word processing and data entry.

3.4.2 Grade B

(a) The position involves a range of duties for which advanced knowledge, skills and experience are required to meet the administrative needs of the school. The position may be sole charge or involve supervisory responsibilities, including allocation and monitoring of work.

(b) Some examples of the duties or level of duties required within this grade are:

- administrative assistance;
- secretarial;
- data collation and reporting;
- financial duties.

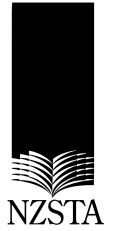
3.4.3 Grade C

(a) The position requires high levels of administrative skills. The employee will be responsible for administration and/or financial and/or property management functions of the school. The position will usually involve the supervision of staff; including appointments, development and appraisal of staff.

(b) Some examples of the duties or level of duties required within this grade are:

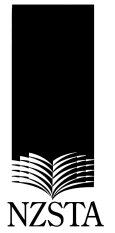
- responsibility for financial systems;
- supervision of other non-teaching staff;
- administrative innovation and systems' development;
- responsibility for maintenance and property administration.

Grading



- Clause 3.3.1
- Every position shall be classified as either administrative or associate and then graded by the employer according to the level of skill, qualifications, relevant experience and responsibility which are required according to the definitions set out in 3.4.1, 3.4.2, 3.4.3, 3.6.1, 3.6.2 and 3.6.3.
- Any employee performing a mix of similar duties across two or more grades within one class shall be placed in the grade which reflects the substantive part of the job.

To minimize disputes over grading



- Ensure job titles reflect both the status of the position and the duties being undertaken.
- Ensure the job description reflects the actual duties you wish the person to undertake.
- Regularly review job descriptions and the work being undertaken to ensure there has been no unwanted upwards ‘creep’ in duties and responsibilities.
- Always remember clause 3.3.1 “that an employee performing a mix of duties across 2 or more grades shall be placed in the grade which reflects the substantive part of the job”.