

INDIVIDUAL EMPLOYMENT AGREEMENT
(KINDERGARTEN TEACHERS)

BETWEEN
[identify association], a Kindergarten Association that controls a free kindergarten within the meaning of section 120 of the Education Act 1989 (herein known as the “employer” or “Association”).

AND (the “employee”)

Definitions

A full-time employee means a teacher who is appointed to a position for which the total hours of work should, as far as practicable, not exceed 40 hours per week, worked from Monday to Friday inclusive.

A part-time employee means a teacher who is appointed to a position for which the total hours of work are less than 40 hours per week, worked between Monday and Friday.

The Employer appoints / continues the employment of [delete one] the employee in the position of [enter position including whether full-time or part-time, whether base scale teacher, head teacher, or senior teacher, and if a reliever, specify whether short-term or long-term reliever] working at [identify Kindergarten] with effect from [enter date of commencement for new employee or date agreement entered into for existing employee] upon and subject to the terms and conditions contained in this agreement.

The terms and conditions of employment under this individual employment agreement are the terms and conditions of the *Kindergarten Teachers, Head Teachers and Senior Teachers' Collective Agreement 2013-2016* which shall apply as an individual employment agreement, with all the necessary modifications as are necessary for that purpose. The terms and conditions of employment set out in this agreement replace any previous arrangements and understandings.

Any relevant term or condition in the collective agreement, including increases in remuneration, that has an implementation date prior to the date of this individual employment agreement being signed shall apply from the date of signing.

A full copy of the *Kindergarten Teachers, Head Teachers and Senior Teachers' Collective Agreement 2013-2016*, including the plain language explanation of the services available for the resolution of employment relationship problems, shall be available from the employer and is published on the Ministry of Education website at www.education.govt.nz.

The employee acknowledges s/he has had reasonable opportunity to seek advice.

SIGNED by (Employee) on [date]

SIGNED for and on behalf of the above named Association by:

..... [enter name and title]

..... [add signature]

..... [add date]

Notes for Guidance

The following information is provided for the assistance of the parties and is not intended to override the applicable provisions of the Employment Relations Act 2000, the State Sector Act 1988, or the Education Act 1989.

- 1 The terms and conditions of employment of all employees undertaking service as a registered teacher in a free kindergarten (as that term is used in the Education Act) are subject to the requirements of the State Sector Act.
- 2 All collective agreements applying to such employees are negotiated by the Ministry of Education with the union representing employees (in this case the NZEI) and are then binding on the employers (the Associations) and the employees covered (members of NZEI).
- 3 All employees not members of NZEI will be covered by individual employment agreements. All such individual employment agreements are entered into between the Association and the employee, and require the concurrence of the Ministry of Education.
- 4 To assist the process, the Ministry may promulgate an individual employment agreement that will be deemed to have concurrence. Where the Association and employee enter into a promulgated individual agreement that already has concurrence, no further approval is required.
- 5 If the Association and employee wish to vary the promulgated individual employment agreement, or enter into a new one, an application for concurrence must be made to the Ministry. This includes any variation of the individual employment agreement after it is entered into or at any other time.
- 6 All new or existing employees of an Association who are members of NZEI and who are covered by the collective agreement are automatically covered and bound by its terms. No offer and acceptance or negotiation is necessary once the employee advises membership of NZEI.
- 7 The Employment Relations Amendment Act 2014 came into effect on 6 March 2016. One amendment was the removal of the “30-day rule” for new employees who are not union members. The 30-day rule required new employees (who were not union members) to be employed on the terms and conditions in the collective agreement for their first 30 days on the job – if their work was covered by a collective agreement. After 30 days, the employee and the employer could agree to change the individual agreement as they saw fit (unless the employee joined the union). The removal of this rule means that employees who are not union members can negotiate an individual agreement as they see fit from the start of their employment, even if there is a collective agreement that covers their work. Employers who want to offer employees something different from the promulgated IEA will still have to seek concurrence. Employers will still have to give new employees a copy of the applicable collective agreement and proposed IEA.
- 8 If an Association wishes to pass on the new rates of pay and conditions to existing employees who are not members of NZEI, then they must either enter into the promulgated individual employment agreement that has prior approval, or seek concurrence to any variations or departures.
- 9 Any employee who falls within the coverage clause of the collective agreement may, at any time, join NZEI and become covered by the collective agreement.
- 10 All applications for concurrence must be made to the Ministry of Education Industrial Relations Unit (PO Box 1666, Wellington) identifying what the changes are and why they have been made, including any special circumstances that you would like to make known. This will enable proper consideration to be given to the application before a final decision is made. Departures from the promulgated individual employment agreement are only binding if and when final concurrence is granted.