

**KNOW  
YOUR  
RIGHTS**

**It pays to  
be union!**

ECE teachers in NZEI Te Riu Roa work together to win fair pay and conditions that help recognise the true value of teaching. Whether you're on an individual agreement or are covered by a collective agreement, joining with your colleagues and your union to get what you deserve is always more powerful than going it alone.

Knowledge is power – so make sure you know your rights at work! And remember that your employment agreement is exactly that – an agreement. Before you sign an individual agreement, check that it meets all minimum legal requirements and consider whether there are issues that you want to negotiate to change with your employer.

It can sometimes be awkward to talk about pay and conditions with your boss once you're in a job. NZEI encourages you to talk with your colleagues either informally or at staff meetings and raise it together. Talk together about how best you can explain to your employer why you have an issue or how you want an issue addressed. Make a time to talk with your employer as a group, or with a support person, or consider sending an email that all your colleagues can sign up to, explaining your views in a clear and professional way.

**Want more help? Join your union**

to get personalised advice and collective support from your 50,000 colleagues working across education.

[nzei.org.nz/join](https://nzei.org.nz/join)  
**0800 693 443**  
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This information provides general guidance on employment rights.  
For personalised advice about your own circumstances, please contact your union.

# What does my individual employment agreement (IEA) need to include?

## What is your minimum legal entitlement?

**YOUR IEA MUST INCLUDE YOUR NAME AND THE NAME OF THE EMPLOYER. THIS MAKES YOU BOTH "PARTY" TO THE AGREEMENT.**

**YOUR IEA MUST DESCRIBE YOUR WORK (YOUR JOB DESCRIPTION) AND PLACE OF WORK. YOUR JOB DESCRIPTION IS PART OF YOUR EMPLOYMENT AGREEMENT AND SHOULD BE ATTACHED TO IT.**

**YOUR IEA MUST INCLUDE THE AGREED HOURS AND DAYS OF WORK, AND YOUR START AND FINISH TIMES.**

The Ministry's minimum attestation rate of pay (\$51,358 annually) is based on 40 hours a week. Any hours you work additional to 40 hours must be paid at the same rate as your ordinary hours (a minimum of \$24.69).

IEAs that ask you to work, for example, for 30 hours but be available for 40 hours are not lawful unless you are compensated for that availability and there are reasonable grounds for including this type of clause.

**YOUR IEA MUST STATE THE NUMBER OF NON-CONTACT HOURS YOU HAVE, AS AGREED WITH YOUR EMPLOYER.**

**YOUR IEA MUST INCLUDE YOUR PAY RATE AND HOW IT WILL BE PAID.**

You must be paid more than the minimum wage or in the case of ECE qualified and certificated teacher working in centres attesting to having qualified teacher staff, at least \$51,358 (\$24.69 per hour) from July 1, 2021.

The current minimum wage is \$20 an hour (\$160 for an 8 hour day, \$800 for a 40 hour week or \$1600 for an 80 hour fortnight).

If there is no pay scale offered in your individual employment agreement, or clause about pay being reviewed, ask to add a clause to meet annually with your employer to consider pay increases.

**YOUR IEA MUST INCLUDE AN EXPLANATION OF HOW TO RESOLVE EMPLOYMENT RELATIONSHIP PROBLEMS, AND INCLUDE ADVICE THAT PERSONAL GRIEVANCES MUST BE RAISE WITHIN 90 DAYS**

## What can a collective agreement deliver?

A collective agreement is between an employer or employers and union members. For example, the Early Childhood Education Collective Agreement (ECECA) is between 106 employers and union members in those services. The Kindergarten Collective Agreement (KTCA) is between the Secretary for Education (acting on behalf of kindergarten associations) and kindergarten teachers. **By coming together, collective agreements generally deliver better pay and conditions than individuals can negotiate on their own.**

Collective agreements include definitions of roles, including for part time and relieving staff.

The KTCA states that hours should not exceed 40 hours a week to be worked from Monday to Friday inclusive, and set maximum child-contact times and minimum professional time (non-contact hours). The ECECA provides for time in lieu or overtime by agreement if more than 40 hours a week are worked.

ECECA members get 12.5% of their total hours (5 hours a week for people working a 40 hour week)

ECE teachers on NZEI Te Riu Roa collective agreements earn more on average than other similarly qualified ECE teachers, a 2021 analysis of MOE pay data found. All have pay scales that result in considerably higher pay over time than the sector average and because the agreements guarantee pay progression on an annual basis, teachers employed under these collective agreements progress well beyond the average pay for the sector rapidly, and then beyond the upper quartile for the sector within 4-8 years.

The KTCA includes 11 steps and states salaries are paid fortnightly, equivalent to the annual salary divided by 26.071.

For example, the KTCA lays out principles to use when addressing complaints, competency or discipline matters, including a tikanga Māori approach. Assistance, professional guidance and written competency processes are outlined, as well as the disciplinary process and process for raising personal grievances.

**YOUR IEA MUST INCLUDE A STATEMENT THAT THE EMPLOYEE WILL GET AT LEAST TIME AND A HALF PAYMENT FOR WORKING ON A PUBLIC HOLIDAY.**

The KTCA lists the paid public holidays and states employees required to work on a public holiday shall be entitled to be paid in accordance with the Holidays Act. The ECECA states that any time worked on a public holiday should be paid at time and a half, or double time after three hours, and an alternative holiday granted in lieu of the holiday, paid at your normal daily pay.

**YOUR IEA MUST INCLUDE EMPLOYMENT PROTECTION PROVISIONS THAT WOULD APPLY TO YOU IF YOUR EMPLOYER'S BUSINESS WAS SOLD OR TRANSFERRED**

In the KTCA, the kindergarten association agrees to notify NZEI Te Riu Roa of any restructure or new employer to ensure teachers are offered employment by the new employer on at least the same terms and conditions or redundancy compensation. If a kindergarten teacher is made redundant, they are entitled to six weeks' pay for the first 12 months service and two weeks' pay for every year or part year's service up to 30 weeks pay, as well as all holiday pay and salary owing.

**YOUR IEA SHOULD ALSO INCLUDE ANY OTHER MATTERS AGREED ON, SUCH AS PROBATIONARY ARRANGEMENTS OR AVAILABILITY PROVISIONS.**

You do not have to agree to trial periods or probationary arrangements. It is not lawful to require you to be available for work beyond your agreed hours unless there is financial compensation for this availability. Recent legal cases make clear that for example, your employer must pay you financial compensation if they expect you to be available for work for a certain number of hours. Contracts that say you are expected to work between 30 and 40 hours a week are effectively requiring your availability for 40 hours a week.

**YOUR IEA MUST STATE THE NATURE OF THE EMPLOYMENT IF IT IS FIXED TERM.**

There must be a legal reason for fixed term employment. One of the most frequently-used reasons for a fixed-term in the education sector is based on fluctuating enrolments/funding arrangements. However recent case law (Morgan v Transit Coachlines Wairarapa Ltd [2019] NZEmpC 66) indicates that this is no longer considered a genuine reason, especially if it can be proven that there has been a consistent renewal of external funding from year to year. In these situations the appropriate question is: 'why is this role not being offered as a permanent appointment?'

**ADEQUATE REST BREAKS ARE IMPORTANT BECAUSE THEY PROMOTE GOOD WELLBEING AND PREVENT FATIGUE CAUSING HARM AND STRESS. PEOPLE CAN'T KEEP PERFORMING AT A HIGH LEVEL WITHOUT HAVING BREAKS OF SOME SORT.**

In the Kindergarten Teacher Collective Agreement, each teacher working more than six hours per day is entitled to two paid rest breaks of 10 minutes and is entitled to a lunch break of one hour after working five hours or more. The KTCA provides for six weeks paid annual leave as well as public holidays for every year of service, as well as one paid day between Christmas and New Year. Annual leave unable to be taken when kindergartens are closed must be taken by agreement.

The legal minimum breaks for all New Zealand workers are:

- 1 x 10 min paid rest break after your first two hours
- 1 x 10 min paid rest break and 1 x 30 minute unpaid meal break if you work between 4 and 6 hours
- 2 x 10 minute paid rest breaks and 1 x 30 minute unpaid meal break if you work 6 to 10 hours (and a further 10 min paid rest break if you work between 10 and 12 hours).

NZEI recommends you do not waive your rest breaks for financial compensation – breaks are important for your and children’s wellbeing.

You should also check for the provision of family violence leave, parental leave, domestic leave and bereavement leave.

**YOUR IEA SHOULD INCLUDE SICK LEAVE ENTITLEMENTS. FROM JULY 24 2021, YOU MUST BE ALLOWED TO TAKE AT LEAST 10 DAYS PAID SICK LEAVE IN THE 12 MONTHS FOLLOWING YOUR NEXT SICK LEAVE ANNIVERSARY. IF YOU START A NEW JOB, YOU MUST BE ALLOWED TO TAKE AT LEAST 10 DAYS ONCE YOU HAVE BEEN IN THE JOB FOR 6 MONTHS. YOU CAN ALSO CARRY UP TO 20 DAYS OF UNUSED SICK LEAVE ENTITLEMENT INTO FOLLOWING YEARS.**

**IF THERE IS A COLLECTIVE AGREEMENT IN THE WORKPLACE, YOUR INDIVIDUAL AGREEMENT MUST CONTAIN TERMS CONSISTENT WITH IT FOR THE FIRST 30 DAYS. THIS IS CALLED THE 30 DAY RULE, AND MEANS YOU HAVE TIME TO “OPT IN” TO JOINING YOUR UNION AND ANY COLLECTIVE AGREEMENT THAT MAY APPLY.**

You have the choice to have an individual agreement instead, but it must not undermine the terms and conditions of the collective agreement.

**WITHIN YOUR FIRST 10 DAYS OF EMPLOYMENT, YOUR EMPLOYER MUST PROVIDE YOU WITH AN “ACTIVE CHOICE” FORM INDICATING IF YOU INTEND TO JOIN A UNION (UNLESS YOU ARE ALREADY A MEMBER).**

This is then sent to the union for follow up with you. The form is here: <https://www.employment.govt.nz/assets/Uploads/c3173a524a/form-to-indicate-intention-to-join-union.pdf>

**YOUR IEA MUST INCLUDE THE NOTICE PERIOD REQUIRED BY EITHER YOU OR YOUR EMPLOYER IF ENDING EMPLOYMENT.**

**YOUR EMPLOYER’S KIWISAVER COMPULSORY CONTRIBUTION OF 3% OF YOUR GROSS PAY MUST BE ON TOP OF YOUR PAY, IT SHOULD NOT REDUCE YOUR TAKE HOME PAY. IF YOUR EMPLOYER WANTS TO INCLUDE THE KIWISAVER CONTRIBUTION IN YOUR TOTAL REMUNERATION PACKAGE, THIS MUST BE EXPLICITLY AGREED WITH YOU AND RECORDED IN YOUR IEA.**

In the KTCA, sick leave can be accumulated for use in subsequent years up to a maximum of 306 days. It can also be transferred to teachers’ whānau, and sick leave can be transferred if a teacher moves to another kindergarten association.

In the ECECA, staff get 12 sick days that can be used when they are sick or injured, or a person who depends on the employee (eg parent, partner or child) for care is sick or injured, and can accumulate up to 62 days leave.

Within your first 10 days of employment, your employer must provide you with an “active choice” form indicating if you intend to join a union (unless you are already a member). This is then sent to the union for follow up with you. The form is here: <https://www.employment.govt.nz/assets/Uploads/c3173a524a/form-to-indicate-intention-to-join-union.pdf>

The KTCA requires one month’s notice by either employer or teacher. The ECECA requires four weeks’ notice.

The KTCA and ECECA are silent on the employers’ compulsory contribution of 3% of gross pay which means it is paid on top of teachers’ pay.

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