

SUBMISSION COVER SHEET



Commonwealth Government Covid-19 Response Inquiry

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Submitted to: COVID-19 Response Inquiry Taskforce

The Independent Education Union (IEU) welcomes the opportunity to contribute to the Inquiry into the Commonwealth Government's response to the Covid-19 pandemic.

The IEU represents employees in non-government education in all states and territories. Our union's coverage spans early childhood education, faith-based schools, community colleges, non-government institutions and post-secondary services. At the time of preparing this submission, the IEU has 74,801 members. We are the only union with coverage of principals, educational leaders, teachers, school support staff and early childhood professionals.

Our submission is informed by our members' experiences as they continued to work, teach, and care for students throughout the pandemic in their essential worker roles.

The IEU has had the opportunity to read the submission prepared by the ACTU, and we support the content of the ACTU submission.

Introductory Comments to the Inquiry

The Covid-19 pandemic imposed unprecedented challenges in all workplaces and across all industries. Our nation's educational institutions, early childhood education centres and school systems endured some of the most widespread and severe disruptions.

The pandemic posed unique threats within the education system to not only the health and the safety of students and school staff, it also brought into focus the broader implications of how school operations could impact community health and transmission of the virus.

Along with the health and prison sectors, schools constituted a particularly difficult and high-risk setting. School communities involve interactions between hundreds, and sometimes thousands, of staff and students for prolonged periods of time, and mainly located indoors.

While the pandemic was an international crisis, domestic governments had a critical responsibility to mitigate the impacts of the pandemic by developing and deploying a comprehensive public policy response. Unfortunately, the Commonwealth Government failed in several critical areas within the education and schools sector.

Weaknesses in the regulation of non-government schools, enforceability of safety precautions and inadequate workplace rights were exposed during the pandemic. Despite, for example, the *National Principles for School Education 2020*, there were major disparities in arrangements within the non-government sector and compared to state schools. The Principles sought "to support the ongoing delivery of high quality education for *all* students during COVID-19".¹ The second Principle notes "...alternative flexible, remote delivery of education services may be needed." In reality, arrangements varied greatly with some employers initially refusing remote work or insisting remote learning was still delivered by school staff on-site.

Essential workers experienced some of the worst impacts of the pandemic, yet their safety was at times compromised by employer inaction. All workers in all workplaces need access to social protections including secure income, financial support and modernised leave entitlements, which also aids in reducing inequities and public health risks during a pandemic.

¹ <https://www.education.gov.au/covid-19-national-principles>. Our italics.

1. Key Health Response Measures

Health and safety challenges in schools and early childhood services were complex; however, an earlier and more decisive intervention by the Federal Government would have helped alleviate risks and address serious safety hazards in the early months of the pandemic.

- 1.1 Education employees were regarded as essential workers, and yet access to Covid vaccinations was limited and extremely difficult to access throughout a majority of the pandemic. Priority access to vaccinations should have been confirmed for education workers at the earliest possible stage. The IEU had also proposed that schools be considered for use as central vaccination hubs for staff and students.
- 1.2 Despite the risk of Covid transmission in schools - a setting characterised by extensive personal contact between students, staff and parents - the supply of personal protective equipment (PPE) was manifestly inadequate. Adequate supplies of PN95 masks approved by the Therapeutic Goods Administration must be freely available in all schools. The Federal Government failed to provide any allocation of safety equipment to a sector that educates 35% of our nation's students.
- 1.3 Similar to the failure to protect front-line education workers with basic TGA approved PPE, the Government was unable to source Rapid Antigen Tests (RATs) for use in non-government schools or provide priority access for school staff. This failure contributed to delays in schools resuming normal operations and placed the onus on schools and individual staff members to try and source their own testing equipment at a time when tests were almost impossible to locate.

2. Financial Support for Individuals

- 2.1 The Federal Government's pandemic leave income support measures applied to very few IEU members given eligibility requirements. Instead, school and ECEC staff were required to use their limited personal leave in cases where they contracted Covid, where they were required to quarantine or where they needed to care for a family member. In many jurisdictions, our union was able to negotiate additional paid pandemic leave with individual employers; however, the vast majority of such leave has since been discontinued by employers.

For IEU members in workplaces without pandemic leave, or where employees exhausted all of their other accrued leave, the pressure to return to work in order to continue to be paid became an understandable dilemma. The situation also had the potential to undermine public health directives around home isolation and 'close contact' requirements designed to limit the spread of the virus.

The pandemic highlighted the need for consistent and enforceable minimum standards and a modernised safety net for all employees. The limitations of modest personal leave entitlements were obvious. The quantum of personal leave was not developed within the context of an international pandemic that was now requiring employees to be absent from work for extended periods.

The [National Employment Standards \(NES\)](#) should be updated to include access to paid pandemic leave (in addition to personal leave) for all workers including casuals.

3. Governance Responsibilities and Accountability

The pandemic exposed a number of deficiencies in the regulation of non-government schools, the enforceability of safety precautions and the protection of workplace rights.

- 3.1 A wide variety of employer responses were witnessed during the pandemic. While some employers worked constructively with staff and our union to develop comprehensive safety and operational plans, others failed to adhere to best-practice health protocols. Employers were often slow to implement new systems or amend school practices to minimise risks. Several employers failed to confirm necessary changes until forced by [union action or formal dispute](#).

Non-government education providers should be required to follow clear medical guidance designed to limit the spread of disease. This could include prohibitions on large staff/student gatherings, mandated remote work and teaching, modified school activities, compulsory risk assessment procedures and the installation of clean air equipment. While we appreciate the interaction between state and federal responsibilities as they pertain to health and education, we also note that the Federal Government funds the non-government school sector to the value of [\\$16.7 billion dollars](#) per year. It is reasonable for the Federal Government to be afforded greater oversight and compliance powers within the sector.

- 3.2 One of the most common industrial disputes in schools during the pandemic related to the inability of employers to provide a safe workplace for medically vulnerable employees. [Reasonable requests for remote work or flexible work arrangements](#) designed to limit exposure for medically vulnerable staff were routinely and unilaterally dismissed by employers. We propose that the right to access flexible work arrangements under the *Fair Work Act* should explicitly include medically vulnerable employees working at the time of a pandemic.
- 3.3 The significant workplace challenges caused by the pandemic reinforced the need for genuine consultation. Open communication with staff and their union leads to better decisions, greater transparency and a shared commitment to outcomes.

While the pandemic imposed unforeseen difficulties on many occupations, employers who engaged in genuine consultative processes with employees were best placed to meet these challenges, while at the same time minimising adverse impacts on the working rights and conditions of employees.

- 3.3.1 Consultation requirements should be expanded in the *Fair Work Act* to specifically apply where employers seek to impose [unpaid stand downs of employees](#). Tougher threshold tests should also apply in such circumstances to [ensure all alternative options are exhausted](#) and demonstrated to the satisfaction of employees and their union. Penalties should apply to employers who fail to comply with such requirements.

- 3.3.2 Clearer interaction between government health directives, such as vaccination requirements or mask wearing, and the industrial obligation of employers should be confirmed in workplace consultation requirements. There should be an unequivocal and explicit requirement for employers to consult with employees and their union around how such government directives are managed and implemented at the workplace level.

4. Community Supports – Disrupted Student Learning

- 4.1 Negative impacts on student learning were sadly inevitable during the pandemic. However, support for the development of digital learning programs and adequate access for students in regional or remote areas was frequently insufficient to maintain schooling connections. Of equal importance in mitigating the effects of disrupted education were measures implemented following a return to classrooms. Small-group tuition programs were established by [New South Wales](#), South Australia and Victoria from 2020 on, but not implemented equitably across the nation.

Federal co-ordination of the funding and implementation of these supports may reduce negative impacts and improve learning outcomes during a future public health or other emergency. New programs such as the Commonwealth's [School Student Broadband Initiative](#) should continue and be considered for expansion.

5. IEU Recommendations for Government Action

As stated within the various elements of this submission, the IEU proposes:

- Education workers, along with other essential workers, be provided with immediate priority access to vaccination programs during declared health emergencies. (S.1.1)
- The Federal Government must assume responsibility for the provision of TGA approved personal protective equipment (PPE) and personal testing equipment to education workers during health emergencies. (S.1.2 & S.1.3)
- Paid pandemic leave be included as a standalone NES entitlement for employees (including casuals) during declared public health emergencies. (S.2.1)
- The Federal Government be afforded greater authority and enforcement capacity to oversee health and safety and school operational arrangements during a public health emergency in order to ensure compliance with health protocols. (S.3.1)
- The Commonwealth Government's *National Principles for School Education* should be revised to ensure that, at the level of policy and implementation, the work health and safety conditions for non-government education staff are on par with those in the government education sector during pandemics including in relation to remote work options and other safety precautions. (S.3.1)

- Flexible work arrangements be available under the *Fair Work Act* for medically vulnerable employees working at the time of a public health emergency. (S.3.2)
- A tougher threshold test should also be required of employers prior to the imposition of any unpaid standdown on their workforce. (S.3.3.1).
- Consultation requirements should be strengthened to ensure genuine prior discussions with employees and their union in relation to compliance with government health directives, identification of workplace safety measures or amended school operations resulting from events such as a pandemic (S3.3.2).
- Greater federal co-ordination of funding and implementation of special education supports and programs designed to reduce negative learning impacts should be considered (S4.1).