

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-A-TARA ROHE**

[2026] NZERA 144

3448306

BETWEEN SECRETARY OF EDUCATION  
Applicant

AND ASSOCIATION OF PROFESSIONAL  
AND EXECUTIVE EMPLOYEES  
INCORPORATED (APEX)  
Respondent

Member of Authority: Andrew Dallas

Representatives: Calum Cartwright, counsel for the Secretary of Education  
Omar Hamed, advocate for APEX

Investigation Meeting: On the papers

Date of Determination: 9 March 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The Secretary of Education (Secretary) has made application for facilitation of collective bargaining with Association of Professional and Executive Employees Incorporated (APEX) because the bargaining has become “unduly protracted” and extensive efforts have failed to resolve the difficulties extant.<sup>1</sup>

[2] The parties are seeking to replace the Ministry of Education and Apex, Collective Agreement for Psychologists, 3 April 2023 – 3 June 2025. While not part of the statutory text for referral of bargaining for facilitation, Apex’s is supportive of the Secretary’s application.

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<sup>1</sup> Employment Relations Act 2000, s 50C(1)(b)

[3] The Secretary says the collective agreement, which remains in force through the operation of s 53 of the Employment Relations Act 2000 (the Act), covers 271 of its employees, of whom 141 are members of Apex. In the single departure from uniformity of views about the bargaining, Apex disputes this figure and say they have 193 members.

### **Background**

[4] Bargaining was initiated on 2 May 2025. No bargaining process agreement has been entered into by the parties.

[5] The parties have engaged in six days of formal bargaining. A further five days of mediated bargaining between the parties has also taken place. The parties have also engaged in direct “on the record” and “without prejudice” communications.

[6] The Secretary has made one formal offer to APEX through terms of settlement executed on 25 November 2025. This offer was rejected in a ballot of Apex’s members.

### **Should facilitation be granted?**

[7] Having assessed the Secretary’s application, heard from the parties and taking a commonsense assessment of the overall bargaining difficulties between parties, I find the ground set out in s 50C(1)(c) of the Act is made out. Consequently, the parties are ordered to now engage in facilitation to assist them find a pathway to settlement of their differences, including the successful ratification of a replacement collective agreement.

### **Next steps**

[8] The Authority will convene a case management conference with the parties as soon possible to discuss arrangements for facilitation including the timing and location of same.

### **Costs**

[9] There is no order for costs.<sup>2</sup>

Andrew Dallas  
Chief of the Employment Relations Authority

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<sup>2</sup> See, <https://www.era.govt.nz/assets/Uploads/practice-direction-of-the-employment-relations-authority.pdf> at [5]