POLICY: PERSONAL STAFF LEAVE

PURPOSE:

The school principal has the responsibility for managing all leave and leave requests, as well as ensuring the smooth and efficient operation of the school.

AIMS:

- To provide guidelines and processes to accommodate the leave requests of staff with minimum disruption to the daily organisation and administration of the school.
- To ensure discretionary leave is granted on a fair, reasonable and equitable basis.

IMPLEMENTATION:

- Leave may be paid or unpaid.
- The principal is responsible for managing a wide range of leave matters, whilst ensuring the smooth and efficient operation of the school, as well as budgetary issues.
- Each form of leave is granted subject to a variety of legislative requirements.
- Information about leave entitlements can be obtained by staff through requests to the principal.
- Staff seeking discretionary leave must apply in writing to the principal as early as possible to assist with forward planning.
- Applications for Long Service Leave must be in writing and should be received by the principal at least one full term in advance.
- Staff taking sick leave will notify the casual teaching relief coordinator as early as practicable.
- The principal will make provision for replacement staff and higher duties where appropriate.
- In determining whether leave may be granted, the principal will consider;
    - whether the leave is discretionary or mandatory.
    - the impact the granting of the leave will have on the operations of the school.
    - the financial impact of the leave and the school's budgetary situation.
    - the entitlement of the staff member to the leave for which they have applied.
    - the order of leave applications.
    - availability of replacement staff.
    - previous leave record.
- All periods of extended leave will be reported monthly to school council.

TYPES OF LEAVE:

Personal Leave

Personal leave is available to an employee who is absent due to personal illness or personal injury, to care for an immediate family or household member who is sick or injured and requires the employee's care or support, or who requires care or support due to an unexpected emergency, or to support a person experiencing family violence in order to accompany them to court, to hospital, or to care for children.

Immediate family includes:

- the spouse or domestic partner (including a former spouse or former domestic partner) of the employee. A domestic partner means a person to whom the employee is not married but with whom the staff member is living as a couple on a genuine domestic basis (irrespective of gender) and
- a child or an adult child (including an adopted child, a stepchild or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

Personal leave is not available to an employee:

- during a period of leave without pay. However personal leave can be accessed immediately following the expiration of the approved period of leave without pay.
- on account only of being pregnant or giving birth. However personal leave can be accessed for illness resulting from pregnancy or childbirth.
- as a result of an illness or injury due to the misconduct of an employee or if an employee is absent from duty without sufficient cause.

Under the provisions of the National Employment Standards, an employee is entitled to 2 days of paid compassionate leave for each occasion when a member of the employee's immediate family, or a member of the employee's household contracts or develops a personal illness that poses a serious threat to his or her life; or sustains a personal injury that poses a serious threat to his or her life.

Personal Leave Entitlement

Employees are credited with 114 hours personal leave on full pay on commencement of employment. Employees employed on a part time basis have access to the personal leave provisions on a pro rata basis according to the time fraction worked.

Prior service with an approved employer may be recognised for personal leave purposes. In this case personal leave credits will be calculated as if the approved prior service had been with the Department including the deduction of any personal leave taken during the period of prior service.

If, in the first year of employment, an employee's personal leave credits are exhausted, the employee may access personal leave credits which would later accrue up to a maximum of 114 hours. Employees employed on a fixed term basis for one or more periods can only accrue 114 hours personal leave in respect of each completed year of service.

Personal leave accrues at the rate of 114 hours on full pay for each completed year of service. Unused personal leave credits accumulate. To determine the current net personal leave entitlement for an employee, all personal leave with pay granted during the employee's service is deducted from the amounts credited during their service and the period remaining is the net amount of personal leave credit.

Personal leave (carer's) is deducted from an employee's accrued personal leave credits. An employee whose personal leave credits are exhausted in any calendar year has access to a further 22.8 hours paid personal leave (carer's).

The National Employment Standards provide that where all paid personal leave entitlements have been exhausted, an employee is entitled to up to two days of unpaid carer's leave per occasion.

This leave may be taken for a particular occasion as:

- a single continuous period of up to two days, or
- any separate periods which are agreed between the employee and the principal.

An employee who has exhausted all paid personal leave entitlements may make an application for other leave, paid or unpaid, such as long service leave or leave without pay.
Generally, two employees would not be granted personal leave (carer's) to provide care for the same person at the same time.

The date on which personal leave is credited is deferred when:

- an employee has taken any period of leave without pay (of any type that does not count as service) in excess of 1 month in any 12 month period unless otherwise approved by the delegate
- an employee has taken a period of leave, either continuous or in aggregate, of greater than 261 working days in respect of a particular injury or incapacity, where the employee is in receipt of workers' compensation payments under the Workplace Injury Rehabilitation and Compensation Act 2013

An employee eligible to be absent on personal leave may elect in writing to use some or all of their personal leave credits on half pay. The basis of the conversion is that 1 hour on full pay equals 2 hours on half pay. An employee granted personal leave without pay or on half pay is restored to full pay from the day the employee actually resumes duty.

If there is occasion to doubt the cause or the reason for a personal leave absence the Medical Advisory Service may be contacted for advice.

Payment in lieu of accumulated personal leave credits is not available on cessation.

Applications for personal leave

- Applications for personal leave must be supported by a required document,
- Provided that:
    - up to 38 hours personal leave in aggregate may be granted in any calendar year without production of a required document subject to any one continuous absence without a required document not exceeding three days. Where the delegate has a reasonable belief that the employee was unfit for duty and was unable to obtain a required document, the delegate may approve personal leave of more than 38 hours or three days in one continuous absence without production of a required document
    - a required document must be provided for personal leave which occurs either immediately before and, or after a period of long service leave, school vacation or public holiday. Where the delegate has a reasonable belief that the employee was unfit for duty and was unable to obtain a required document, the delegate may approve personal leave without production of a required document in these circumstances. If a part-time employee is absent on personal leave the day before or after a public holiday and that public holiday is not one of the employee's designated working days, a required document for that absence may not be required
    - a required document may be required for any particular absence
    - a required document is required for personal leave:
        - that occurs on a day of stop work action authorised by a relevant union.
        - where the delegate doubts the authenticity of an illness or injury or the reason for absence.

Where a required document is provided for personal leave (carer's) it must state that the person requiring care and support is suffering from an illness which requires care by another or requires care or support due to an unexpected emergency.

Where an application for personal leave is granted and a required document is required and is not provided, the absence will be without pay. Where the delegate has a reasonable belief that the employee was unfit for duty and was unable to obtain a required document, the delegate may approve personal leave with pay.

Where there is cause to doubt the cause of an illness or injury or the reason for absence the delegate may refer any required document to a medical practitioner for report or contact the Medical Advisory Service for advice.

Required document

In the case of an application for personal leave (illness or injury) a required document is a medical certificate or, if it is not reasonably practicable to provide a medical certificate, a statutory declaration. The judgement as to whether it is practicable to provide a medical certificate is a matter for decision by the principal having regard to the circumstances of the individual case.

In the case of an application for personal leave (carer's) a required document is a medical certificate or a statutory declaration.

For the purposes of this Guide:

Medical certificate

Medical certificate means a certificate issued by a registered health practitioner, other than a registered student, within the meaning of the Health Practitioner Regulation National Law (Victoria) Act 2009 (Vic).

Statutory declaration
Statutory declaration means a statement or declaration which is sworn or affirmed (depending on religious beliefs) to be true by the deponent (person making the declaration) in the presence of an authorised witness. Further information is available at Statutory Declarations and Affidavits.

Evidence of family violence
Where personal leave (carer's) is taken to support a person experiencing violence, evidence of family violence can be in the form of an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and child health nurse or lawyer. A signed statutory declaration can also be offered as evidence.

Fitness for duty
The Secretary has approved all medical practitioners for the purpose of providing medical assessments in relation to employees in the teaching service. There may be circumstances where an assessment by the employee's treating medical practitioner is not sufficient to satisfy the delegate in relation to an employee's fitness or otherwise. In these circumstances the delegate may consider an independent medical assessment.

Where an employee has been absent through illness or injury for thirteen continuous weeks, the grant of further personal leave is subject to the employee being examined by a medical practitioner approved by the delegate. Generally, advice from the employee's treating practitioner is sufficient to meet this requirement unless the delegate considers an independent medical assessment is required.

If any employee is absent from duty on account of illness or injury, and such absence has extended beyond thirteen continuous weeks, that employee is not permitted to return to duty unless and until a medical practitioner approved by the delegate has certified that the employee is fit to resume work. Generally, advice from the employee's treating practitioner is sufficient to meet this requirement unless the delegate considers an independent medical assessment is required.

The delegate may direct an employee to be absent from duty on personal leave (illness or injury), with or without pay, until the employee is examined by a medical practitioner approved by the delegate in the following circumstances:

- where an employee resumes or intends to resume duty following an absence due to illness or injury of less than thirteen weeks and the delegate is of the opinion that the employee is not fit to resume duty, or
- the delegate has reason to believe that an employee's state of health may make the person a risk to the health, safety or welfare of other employees or persons at the workplace including students.

The delegate will need to consider whether a report from the employee's treating practitioner is appropriate or a report from an independent medical practitioner should be sought having regard to the particular circumstances.

If the examination discloses that the employee is unfit for duty, the employee will be granted such further personal leave (illness or injury) as the medical report indicates is necessary. If the examination discloses that the employee is fit for duty, any personal leave debited as a result of such direction will be restored and the employee repaid any salary or wages lost.

A direction by the delegate must not be for a period of more than ten working days. Provided that, where the employee unreasonably refuses to attend a medical examination, the delegate may direct the employee to absent themselves from duty on personal leave (illness or injury), with or without pay, until the employee attends the medical examination or the delegate is otherwise satisfied that the employee is fit to resume duty.

The Medical Advisory Service can assist with the provision of advice relating to an employee's fitness for duty.

OTHER RELATED LEAVE PROVISIONS:

Long service leave
An employee who becomes ill or is injured during long service leave may be granted personal leave (illness or injury) on provision of a required document.

Where this occurs an equivalent period of long service leave will be re-credited or the period of long service leave extended by the amount of personal leave approved.

Annual leave and additional paid leave
An education support class employee who becomes ill or is injured during annual leave or additional paid leave may be granted personal leave (illness or injury) for the period covered by a required document and have the equivalent period restored to their annual leave credits.

Public holidays
Public holidays observed during an absence on paid personal leave are not regarded as part of that leave.

School vacations
An employee, other than an education support class employee, who is absent on personal leave immediately before and after the Christmas vacation, will be paid for the public holidays and one additional week, provided that the employee was on duty for four weeks of the preceding school term. Employees will need to apply for personal leave to cover the remaining Christmas vacation period.

An employee, other than an education support class employee, who is absent on personal leave immediately before and after a school vacation period, other than the Christmas vacation, is entitled to receive pay for that vacation period if the employee has been on duty for at least four weeks in the preceding term.

An employee, other than an education support class employee, who is absent on personal leave immediately before a school vacation period is entitled to receive pay for that vacation period if the employee:

- returns to duty immediately after the school vacation period,
- ceases duty on the first day of the following term, or
- is granted leave immediately after the school vacation other than personal leave.

This policy also applies where long service leave is being used as a substitute for personal leave.
In any other case the employee will need to apply for personal leave to cover the vacation period.

Bereavement Leave
An employee may be granted bereavement leave on full pay of up to three days on account of the death of a member of their immediate family or household for the purposes of making funeral arrangements or attending the funeral.

Bereavement leave would not normally be granted beyond the date of the funeral.

In considering applications for bereavement leave, it is important to note that each case should be considered on its merits.

Immediate family includes:

- the spouse or domestic partner (including a former spouse or former domestic partner) of the employee. A domestic partner means a person to whom the employee is not married but with whom the employee is living as a couple on a genuine domestic basis (irrespective of gender), and
- a child or an adult child (including an adopted child, a stepchild or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee

The above includes step-relations (e.g. step-parents) as well as adoptive relations.
The principal may grant paid leave to an employee in the event of a death of a person who is not a member of the employee's immediate family or household in special circumstances such as the death of a:

- foster parent or foster child
- relative who has taken the place of a parent
- person where the employee is the only relative of the deceased person and is the only person available to make the funeral arrangements

- person with whom the employee had a close relationship that is akin to that of an immediate family relationship and would not, for example, include friendships or normal acquaintances between people

Bereavement leave, with or without pay, in excess of that specified above may be granted if the principal is satisfied that three days is inadequate because of special circumstances such as where extensive travelling is required.

Employees experiencing grief may also apply for other leave, both paid and unpaid, such as annual leave, additional paid leave (education support class), personal leave, long service leave or leave without pay. Applications for other forms of leave should be made in accordance with the relevant policy. Bereavement leave is not granted for the execution of any legal business associated with the death of a relative. Leave without pay may be granted for this purpose.

SUPPORTING DOCUMENTATION:
For applications on account of bereavement, a death or funeral notice should be provided with advice establishing the employee's relationship to the deceased.

Long Service Leave:

Entitlement
An employee is entitled to 495.6967 hours (3 months) of long service leave after 10 years of full time eligible service, and 247.84835 hours (1.5 calendar months) of long service leave for each 5 years of full time eligible service thereafter. An employee may, however, access their long service leave entitlement on a pro rata basis after 7 years of eligible service. Part-time employees accrue long service leave on a pro rata basis.

For information about eligible service for long service leave purposes, refer to Recognition of Prior Service for Leave Purposes — Teaching Service.

Employees may view their current long service leave entitlement, or forecast future entitlements, on eduPay using Employee Self Service.

On cessation of employment (including the expiration of a fixed period of employment) an employee may be entitled to payment in lieu of long service leave. For information, refer to payment in lieu of entitlements in Cessation of Employment — Teaching Service.

Granting long service leave
Whilst long service leave is an entitlement, the timing of the leave is discretionary. An application for long service leave needs to be lodged with sufficient notice but no later than two terms before the intended commencement of leave or such shorter period that may be approved by the principal (or Regional Director in the case of the principal) either generally or in any particular case.

In considering applications for long service leave, the principal will have regard to the operational requirements of the school, taking into account the availability of replacement staff and the number of staff who wish to take leave at the same time. Where long service leave is not granted, arrangements should be made with the employee to enable leave to be taken at an alternative date in the future.

An employee may access some or all of their long service leave entitlement during a period of unpaid parental absence. For information, refer to Parental Absence — Teaching Service.

An employee granted long service leave with full pay will be paid their normal rate of pay during the period of long service leave. An employee may elect to take all or part of the long service leave at half pay. An employee may apply for payment in advance for long service leave.

Commuting long service leave to salary
Employees have the option to commute a portion of long service credit to salary in conjunction with a long service leave absence of 228 hours (6 weeks) or longer.
Commutation of long service leave is also available in special circumstances (such as financial hardship) without the requirement to be absent for a period of long service leave. Applications for commutation in these

circumstances should be made in writing to the principal (or the Regional Director in the case of a principal) for consideration. If the principal (or the Regional Director in the case of a principal) is satisfied that the employee has, in all the circumstances, reasonable grounds to commute some or all of their long service leave credits, the principal (or the Regional Director in the case of a principal) may approve the commutation of the long service leave credits sought by the employee.

School vacations and public holidays during long service leave
With the exception of education support class employees, where a school vacation period occurs during a period of long service leave, the school vacation will form part of the long service leave. Generally, where long service leave is to commence at the beginning of a school term and, or to end at the conclusion of a school term, the school vacation period immediately preceding and, or immediately following the leave is not counted as part of the long service leave.

Education support class employees are expected to use accrued annual leave and additional paid leave during school vacation periods unless otherwise approved, therefore long service leave is not generally approved during school vacation periods.

Public holidays which occur during a period of long service leave will not form part of the leave.

Illness or injury during long service leave
An employee who becomes ill or is injured during long service leave may be granted personal leave (refer to Personal Leave — Teaching Service for more information including eligibility requirements). Where this occurs, the equivalent amount of long service credits will be restored to the employee. The initial period of leave will not be automatically extended, however an employee may apply for an extension of the leave.

POLICY REVIEW AND APPROVAL:

Policy last reviewed	9/5/2023
Consultation	Consultation with school council and approved by School Council
Approved by	James Bell, principal
Next scheduled review date	May 2027