

DETERMINATION UNDER *TEACHING SERVICE ACT, 1980*

DETERMINATION 4 OF 2012

DOMESTIC VIOLENCE LEAVE

I, Michele Bruniges, Director-General of Education and Communities make the following determination pursuant to Section 13 (1) of the *Teaching Service Act, 1980*.

1. Definitions

- 1.1 "Department" means the NSW Department of Education and Communities.
- 1.2 "Teacher" means a person or officer employed permanently or temporarily under the provisions of the *Teaching Service Act, 1980* including a teacher in a promotions position. For the purposes of this definition it does not include a teacher in a non school based teaching service position or a casual teacher.
- 1.3 "Domestic Violence" means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.
- 1.4 "Family Member" is defined as follows:

The person concerned being:

- A spouse of the teacher; or
- A de facto spouse, who in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person: or
- A child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the teacher or spouse or de facto spouse of the teacher; or
- A same sex partner who lives with the teacher as the de facto partner of that teacher on a bona fide domestic basis; or
- A relative of the teacher who is a member of the same household, where for the purpose of this sub clause:

(1) "relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

- (2) "affinity" means a relationship that one spouse or partner has to relatives of the other; and
- (3) "household" means a family group living in the same domestic dwelling.

2. Domestic Violence Leave

2.1 The following leave entitlements may be used by teachers experiencing domestic violence:

- Sick leave
- Family and Community Service Leave

2.2 Teachers responsible for the care of a family member as defined in clause 1.4 who has been the subject of domestic violence may also use Family and Community Service Leave and where exhausted the provisions contained in the *Use of Sick Leave to Care for Dependents* provisions in the *Teachers Handbook* to care for that person.

2.3 Leave entitlements referred to in clause 2.1 must be applied for and taken in accordance with the provisions outlined in the *Teachers Handbook*.

2.4 Where the leave entitlements referred to in clause 2.1 are exhausted, the employee shall be granted up to five days special leave per calendar year.

2.5 Principals will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer, or where considered reasonable by the principal a statutory declaration for leave entitlements referred to in clause 2.1.

3. Confidentiality

3.1 Personal information including documents referred to in clause 2.5 concerning domestic violence will be kept confidential.

3.2 The Department's existing obligations under the *Children and Young Persons (Care and Protection) Act 1998* and the associated *NSW Government Mandatory Reporter Guide* to report suspected risk of significant harm to a child will continue to apply.

