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4.1 INTRODUCTION

4.1.1 APPLICATION

The leave provisions described in this chapter relate to SAS staff employed under the [Education \(School Administrative and Support Staff\) Act 1987](#).

These provisions complement and are to be read in conjunction with the clauses of the [Crown Employees \(School Administrative and Support Staff\) Award](#) that have been referenced. Staff should read the relevant award clause as a first instance via the links provided.

4.1.2 GENERAL

A staff member must not be absent from duty without good reason. A staff member should apply for the appropriate leave in advance, and ensure that it is approved before the leave is taken.

A staff member absent because of illness or other emergency must, as soon as practicable, notify their principal or supervisor of their absence and the reason, or arrange for their principal or supervisor to be notified of their absence and its reason.

Staff members who do not provide a satisfactory explanation for their absence will be regarded as absent without authorised leave. Should no satisfactory explanation be forthcoming the staff member's pay will be debited for the period of absence.

Staff members applying for longer periods of leave should consider aligning commencing and finishing dates of leave with school term dates wherever possible to minimise disruption to school programs.

Leave conditions apply to part time staff on a pro rata basis, calculated according to the number of hours worked per week.

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4.2 PARENTAL LEAVE

To be provided at a later date.

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4.3 ANNUAL LEAVE LOADING

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.2 of the Award](#).

4.3.1 BROKEN SERVICE

Broken service does not attract the annual leave loading. A staff member who resigns and is subsequently re-employed has only that service from the date of re-employment recognised for annual leave loading purposes.

4.3.2 CALCULATION OF LOADING

Calculation of the loading is to be based on the ordinary salary or wage applicable at the time the loading is paid.

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4.4 ENTITLEMENTS FOR SHORT TERM TEMPORARY STAFF MEMBERS

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 25 of the Award](#)

4.4.1 GENERAL

Short term temporary staff members usually receive a rate of pay which incorporates a loading in lieu of recreation leave.

Short term temporary staff members are entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*.

Short term temporary staff members are not entitled to any other paid leave.

Short term temporary staff members who access the following entitlements must be reengaged following the leave or absence.

4.4.2 ADOPTION, MATERNITY AND PARENTAL LEAVE

[See clause 25.4 of the award](#)

4.4.3 PERSONAL CARERS ENTITLEMENTS

[See clause 25.5 of the award](#)

4.4.4 BEREAVEMENT ENTITLEMENTS

[See clause 25.6 of the award](#)

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4.5 EXTENDED LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [clause 17.3 of the award](#)

4.5.1 GENERAL

The provisions for extended leave apply to both permanent and long term temporary staff members.

- a) Applications for extended leave should be submitted six weeks in advance.
- b) Shorter notice may be given in special circumstances (eg for compassionate reasons).
- c) Prior to submitting an application for leave, staff should exercise their judgement with regard to the impact of such leave on school programs.
- d) If the period for which leave has been applied is not convenient to the school because of reasons such as relief difficulties, educational programs and student needs, then a mutually convenient time may be negotiated between the principal and the staff member prior to the application being submitted.
- e) Extended leave may be taken on full, half pay, double pay or as a combination of full and half pay.
- f) Should a staff member wish to combine a period of extended leave with leave without pay, the extended leave should precede the leave without pay.

4.5.2 ENTITLEMENT

4.5.2.1 Calculation of Entitlement

See clause 17.3 of the award

Staff members may also be entitled to payment of proportionate extended leave after five years service as follows:

- i) on the completion of five years service the entitlement is 22 working days on full pay;
- ii) for each completed year in excess of five years the entitlement is 4.4 working days.

Extended leave accrued between five and seven years cannot be taken as leave. The monetary value of this leave may be paid on resignation or termination of services depending upon the reason. See Section 4.5.11 for further details.

If periods of leave without pay of up to six months are taken in the first ten years of service, only the time worked is counted as service for the accrual of extended leave. However, once ten years net service is completed, all periods of leave without pay of up to six months are counted as service for extended leave. See section 4.8.4.

4.5.2.2 Entitlement Table

Extended leave entitlement for full time service of five years or more:

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After five years full time service	
No. of years	No. of working days
5	22
6	26.4
7	30.8
8	35.2
9	39.6
10	44
11	55
12	66
13	77
14	88
15	99
16	110
17	121
18	132
19	143
20	154
21	165
22	176
23	187
24	198
25	209
26	220
27	231
28	242
29	253
30	264
31	275
32	286
33	297
34	308
35	319
36	330
37	341
38	352
39	363
40	374
41	385
42	396
43	407
44	418
45	429
46	440
47	451
48	462
49	473
50	484
51	495

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After five years full time service	
No. of years	No. of working days
52	506
53	517
54	528
55	539

4.5.3 EXTENDED LEAVE WHILST RECEIVING HIGHER DUTIES ALLOWANCE

Staff members who have acted for one year in the same higher graded position and receive the full rate of allowance and who continue to act in that position up to the first day of leave or date of retirement or resignation are eligible for payment of the higher duties allowance for extended leave purposes. This includes payment of the higher duties allowance for accrued extended leave upon retirement or resignation.

4.5.4 EXTENDED LEAVE TO COUNT AS SERVICE

Extended leave counts as service for all purposes. Accrual for leave loading and vacation pay is 50% during periods of extended leave at half pay.

Extended leave taken on double pay counts as service at the single time rate for all purposes.

4.5.5 ILLNESS WHILE ON EXTENDED LEAVE

If a staff member becomes ill during a period of extended leave, the Secretary will grant any available sick leave in respect of the period and recredit the extended leave if satisfied that:

- a) the illness is genuine; and
- b) the period of illness is of at least five working days duration; and
- c) the application is supported by a satisfactory medical certificate.

4.5.6 INCREMENTS DUE DURING EXTENDED LEAVE

Any increments falling due during a period of extended leave shall be paid to a staff member provided the staff member's services were satisfactory prior to entry on extended leave.

4.5.7 PART TIME SERVICE FOR EXTENDED LEAVE PURPOSES

Permanent part time or long term temporary part time staff members accrue extended leave on the same basis as full time staff members but on a pro rata basis.

For example, a permanent part time SAO who works two days (12.5 hours) per week for ten years will have an entitlement to extended leave as follows:

Accrual = part-time hours x 44 working days x standard hours per day ÷ full time hours per week

$$= 12.5 \times 44 \times 6.25 \div 31.25$$

$$= 110 \text{ hours or } 17.6 \text{ days}$$

Service as a part time school administrative and support staff member prior to the introduction of the

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School Ancillary Staff Enterprise Agreement (1995), is credited in terms of the *Long Service Leave Act 1955*, not as extended leave.

4.5.8 RECOGNITION OF OTHER SERVICE

A staff member who commenced employment with the Department prior to 1 January 2006 and who had a period of service in the public service of another state, the Commonwealth, a declared authority under the *Transferred Officers Extended Leave Act 1961*, or in the armed forces of the Commonwealth of Australia and whose service is continuous will have such service recognised in accordance with the requirements of the *Transferred officers Extended Leave Act 1961*.

A staff member who commenced employment with the Department after 1 January 2006, who had a period of service with a Commonwealth, interstate or NSW public sector agency and whose service is continuous will have such service recognised in accordance with the requirements of *Schedule 2 of the Government Sector Employment Regulations 2014*.

4.5.8.1 Evidence of Other Service to be Recognised

A staff member requesting recognition of service should provide an official statement of service attesting to previous service showing full commencing and finishing dates, employment basis (i.e. full or part time) and whether or not leave without pay was taken. Statutory declarations may be used to support a request for recognition of previous service.

4.5.8.2 Criteria for Eligibility

- a) Staff members eligible for recognition of service are those whose services are deemed continuous in terms of the *Transferred Officers Extended Leave Act 1961* and who:
 - transferred from a department of the Commonwealth or of any State Public Service to which the various Public Service Acts apply or from the armed forces of the Commonwealth of Australia and were employed in a department subsequent to 24 March 1961; or
 - transferred from a Governmental Authority of the Commonwealth or another State or a New South Wales Authority, and were employed in a department on or subsequent to the date of publication of a notice in the Government Gazette that such a Governmental Authority or State Authority is declared to be an employer under the Act.
- b) Under the Schedule 2 of the *Government Sector Employment Regulations 2014*, staff members eligible for recognition of service are those who:
 - commenced employment with the NSW Department of Education after 1 January 2006; and
 - were previously employed in a Commonwealth, interstate or NSW government agency identified as such through the [List of interjurisdictional agencies approved for the purpose of recognition of service](#).

4.5.8.3 Staff Members Dismissed From Previous Employment

The provisions of the *Transferred Officers Extended Leave Act 1961* do not apply to staff who were dismissed from their previous employment, except where the dismissal was by reason of retrenchment or reduction of work.

4.5.8.4 Service Recognised by Previous Employer

When a staff member transfers to a department from an employer declared under the *Transferred*

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Officers Extended Leave Act 1961 and where such service is accepted by the current employer, all such service accepted by the previous employer for extended leave purposes will be taken into account to the same extent as has already been allowed by the previous employer.

4.5.9 SERVICE DEEMED TO BE CONTINUOUS

4.5.9.1 Criteria for Continuous Service: Transferred Officers Extended Leave Act 1961

For the purposes of the *Transferred Officers Extended Leave Act 1961*, a staff member's service will be deemed continuous if:

- a) the staff member entered on duty in a NSW Public Service department on the next working day following cessation of employment with the former declared employer; or
- b) the staff member has been accepted for employment by a NSW Public Service department prior to the last day of service with the former declared employer, in which case a break of up to two months may be allowed between cessation of duty with the former employer and commencement of duty in the NSW Public Service department;
- c) after retrenchment, the staff member is re-employed by the same employer within twelve months of the date of retrenchment; or
- e) If a staff member has had a period of service with the armed forces of Australia that was during or partly during a period of war in which the Naval, Military or Air Forces of Australia were engaged, the maximum break allowed between ceasing service with the armed forces and entering on duty in a department will be twelve months. This time limit also applies to members of the armed forces who have served in an area prescribed as an operational area for the purposes of subsection 2 of Section 4 of the *Transferred Officers Extended Leave Act 1961* (i.e. Special Service).

To enable the Department to determine whether a staff member's service is war service or special service, the staff member must supply to the Department a service record from the Department of Defence.

4.5.9.2 Criteria for Continuous Service: Schedule 2 of the *Government Sector and Employment Regulations 2014*

- b) For the purpose of Schedule 2 of the *Government Sector Employment Regulations 2014* service will be deemed to be continuous under the following circumstances:
 - if the staff member entered on duty with the Department within two months following cessation of employment with the former declared employer; or
 - if the earlier period comprises full-time war service as a member of the Australian Defence Force, as defined in clause 4 (2) of Schedule 2 of the *Government Sector Employment Regulations 2014* and employment with the Department commenced within twelve months after ceasing service with the armed forces.

4.5.10 PAYMENT OF ACCRUED EXTENDED LEAVE

4.5.10.1 Payment in Advance

Payment of accrued extended leave will be made in advance for leave taken if the staff member so requests but payment will be subject to the usual provisions in respect of pay in advance as determined

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by the Treasurer from time to time.

4.5.10.2 Double Pay Extended Leave

A staff member with an entitlement to extended leave may elect to take leave at double pay. The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work. The staff member's leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.

For example, a staff member with an extended leave balance of 50 working days wishing to take extended leave at double pay may take 25 working days leave from work, reducing their extended leave balance to 25 days. A further 25 working days will be debited from the staff member's balance to cover payment of the non-superable taxable allowance.

Other leave entitlements eg recreation leave, vacation pay, sick leave and extended leave, will accrue at the single time rate where a staff member takes extended leave on double pay.

Superannuation contributions will only be made on the basis of the actual absence from work ie at the single time rate.

Where a staff member elects to take extended leave at double pay, in most cases a minimum period of absence of one week should be taken ie one week leave utilising two weeks of accrued leave.

4.5.10.3 Staff Member to be Paid Monetary Value on Termination

A staff member who has acquired an entitlement to extended leave, will upon termination of services be paid in lieu of such leave, the monetary value of accrued extended leave. Payment is to be made at the rate of salary received as at the last day of service

4.5.11 PAYMENT OF EXTENDED LEAVE – OFFICER FULL TIME TO PART TIME

Previous full time service of a staff member who now works part time will be taken into account for accrual of extended leave but payment in such circumstances will be made at the part time rate of pay in respect of any extended leave taken during part time employment.

4.5.12 PAYMENT OF PROPORTIONATE EXTENDED LEAVE

- a) The question of payment of proportionate extended leave generally arises when:
- i) a staff member has completed at least five years service but less than seven years; and
 - ii) services are being terminated either by the employer for any reason other than serious and intentional misconduct or by the staff member on account of illness, incapacity or other domestic or pressing necessity.
- b) Instances where payment of proportionate extended leave must be made are:
- i) medical retirements;
 - ii) voluntary redundancy;
 - iii) retrenchment;
 - iv) voluntary retirement at 55 years of age or older;

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- v) termination by the employer for any reason other than serious and intentional misconduct;
 - vi) termination by the staff member where evidence proves that the termination was brought about by illness or incapacity of the staff member or of a member of the staff member's family, or by other reasons that constitute domestic or pressing necessity.
- c) There is no requirement for an employee with seven or more years of service to have been terminated or to have left employment because of the reasons outlined in b) above, when claiming an entitlement.

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4.6 FAMILY AND COMMUNITY SERVICE LEAVE, SICK LEAVE TO CARE FOR A FAMILY MEMBER AND FLEXIBLE USE OF OTHER LEAVE ENTITLEMENTS

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view: [Clause 17.4 FACS leave](#) and [Clause 17.7 Personal Carer's leave](#) of the Award for definition of 'family'.

4.6.1 FAMILY AND COMMUNITY SERVICE LEAVE

[See Clause 17.4 of the Award](#)

4.6.2 USE OF SICK LEAVE TO CARE FOR SICK DEPENDANT

[See clause 17.7 of the Award](#)

4.7 LEAVE FOR MATTERS ARISING FROM DOMESTIC VIOLENCE

NOTE: this section is currently under review.

Employees should refer to [IRC23/03 – leave for employees experiencing domestic and family violence](#) and Premier's Memorandum [M2022-13 – Support for employees experiencing domestic and family violence](#) for the leave entitlement and evidence requirements.

Support for employees and principals/managers is available through the [Health, Safety and Staff Wellbeing Directorate](#). Support is also available through the [Employee Assistance Program \(EAP\)](#).

For instructions on applying for this leave, see [domestic and family violence leave](#).

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4.8 LEAVE WITHOUT PAY

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.5 of the Award](#)

4.8.1 GENERAL

- a) Principals must take into account the needs of the school when considering applications for leave without pay.
- b) Unless there are special circumstances, applications for long term leave without pay (ie for periods greater than one term or three months) should be submitted three months in advance.
- c) Leave without pay for short periods immediately before or after school vacations in order to take advantage of travel concessions should be considered carefully in the light of school operations.
- d) Staff members who intend to apply for long term leave without pay are advised to discuss the effects of taking such leave with EDConnect prior to applying.

4.8.2 STAFF COVERED

Leave without pay applies to all full time and part time staff, including long term temporary staff members. However, it does not apply to short term temporary staff who are employed for short periods to meet short term staffing needs.

4.8.3 RIGHT OF RETURN

[See clause 17.5.3 of the award.](#)

4.8.4 CHANGES TO LEAVE ARRANGEMENTS

4.8.4.1 Premature Return

The Secretary may approve of staff members resuming from leave without pay prior to the expiration of the agreed leave. Staff members are expected to provide sufficient notice of the intended date of return to duty so as to allow the school time to make any necessary staffing and associated adjustments.

4.8.5 FULL TIME AND PART-TIME LEAVE WITHOUT PAY

4.8.5.1 Recognition of Service

As leave without pay is a form of leave there is no break in the continuity of employment with the Department. However, periods of full time or part-time leave without pay do not count as "service" with the Department for entitlements to other forms of leave and salary benefits except in the circumstances outlined below. See Section 4.8.6 for a summary of the effects of leave without pay on entitlements.

Part time leave without pay which when aggregated does not exceed five days pay in a period of twelve months is to count as service. Therefore, it is to be recognised for vacation pay and incremental salary progression.

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Aggregated periods of part time leave without pay of more than six months do not count as service for the purposes of extended leave.

Aggregated periods of part time leave without pay of up to six months can be recognised for extended leave purposes if ten years service has been completed.

If periods of part time leave without pay of up to six months are taken in the first ten years of service, only the time worked is counted as service for the accrual of extended leave. However, once ten years net service is completed, all periods of part time leave without pay of up to six months are counted as service for extended leave.

In any other case, staff on part-time leave without pay will receive pro rata entitlements for all forms of leave.

4.8.6 EFFECT OF LEAVE WITHOUT PAY ON ACCRUAL OF OTHER FORMS OF LEAVE AND INCREMENTS

Leave without pay will be recognised as service for the accrual of other forms of leave and for increments as specified in the following table:

Purpose for Grant of Leave Without Pay	Entitlements Accrued
Military Service	Vacation pay Extended leave Sick leave Increments
Leave without pay for any purpose which when aggregated does not exceed 5 days in a period of twelve months.	All leave Vacation pay Increments
Sick leave without pay	Sick leave Vacation pay
Leave without pay to represent Australia or New South Wales as an amateur in a major sport	Increments only
Leave without pay for any purpose in one year which when aggregated is less than six months	Extended leave for officers with at least ten years service

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4.9 MILITARY LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.6 of the Award](#) and [Military Leave Guidelines](#)

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4.10 PURCHASED LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [clause 17.15 of the Award](#)

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4.11 RECREATION LEAVE

Permanent and long term temporary school administrative and support staff are entitled to recreation leave. However, they do not receive a separate recreation leave entitlement but an overall vacation pay entitlement which incorporates recreation leave, stand down pay and public holidays during school vacations. See also Section 4.16 Vacation Pay

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4.12 SICK LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.9 of the Award](#)

Where a staff member is on a long period of sick leave or has a limited sick leave entitlement, leave applications and medical certificates should be submitted promptly and on a regular basis.

4.12.1 ENTITLEMENTS

4.12.1.1 General

[See Clause 17.9.5 of the Award - Entitlements.](#)

The unused component of the annual entitlement is fully cumulative.

Part time staff receive pro rata entitlements.

4.12.1.2 Special Sick Leave

a) Conditions

Special sick leave is a grant of sick leave additional to the - cumulative entitlement, and its application is reserved for occasions of long term illness only.

Special sick leave may be granted by the Secretary subject to satisfying the following criteria:

- the staff member has ten or more years service;
- the staff member has been or will be absent for a continuous period of at least three months;
- the staff member has exhausted, or will exhaust, all normal sick leave entitlements.

b) Calculation of entitlement

The grant of special sick leave will be on the following basis:

Completed years of service	No. of working days 5 day week
10	22
20	44
30	66
40	88
50	110

Full time and permanent part time service – if an employee has had a period of full time service followed by a period or periods of part time service or vice versa, the entitlement to special sick leave is still 22, 26 or 30 days for each completed 10 years of service.

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The rate at which the special sick leave is granted however will depend on how the employee was employed at the time just prior to proceeding on sick leave.

If the employee worked full time, they will be granted available special sick leave at the full-time rate. If the employee was a permanent part time employee, the payment for the period covered by special sick leave will be made only for the hours when the employee would have been on duty.

A full-time employee who was absent on part time adoption, maternity, or parental leave or short term part time leave without pay prior to proceeding on sick leave is granted special sick leave, when applicable, as a full time employee.

4.12.1.3 Sick Leave for War Caused Disabilities

a) Definition

A war caused disability is an injury or illness resulting from armed service in a Recognised War Zone. All World War II service is recognised. Injury or illness resulting directly or indirectly from service in the armed forces but not in a war zone, is not regarded as war caused.

b) Additional Entitlement

Staff members who are ex-services personnel and who have an accepted war caused disability are entitled to an additional annual entitlement of fifteen days per calendar year non-cumulative. This is an additional grant of leave to be applied only to absences directly related to the war caused disability and is separate from the normal annual entitlement.

c) Evidence of Disability

To be eligible for this entitlement, the staff member must provide a statement from the Department of Veteran's Affairs, to the effect that the illness or injury is a result of service in a Recognised War Zone.

4.12.4 EXHAUSTION OF PAID SICK LEAVE

4.12.4.1 Election to Use Other Paid Leave or Proceed on Sick Leave Without Pay

Where all paid sick leave entitlements for which a staff member is eligible have been exhausted, they may elect to:

- a) use extended leave; or
- b) proceed onto sick leave without pay.

4.12.4.2 Former Ministerial Staff Member

A staff member with former ministerial service may be granted the sick leave remaining to credit as at the last day of ministerial service providing that:

- a) the staff member has had one or more years of continuous service as a ministerial staff member with a department listed in the Schedule 1 *Government Sector Employment Act 2013*
- b) there was no break between such service and service under the *Government Sector Employment Act 2013*, *Public Sector Employment and Management Act 2002*, *Public Sector*

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Management Act 1988 or the Public Service Acts of 1902 and 1979.

4.12.4.3 Sick Leave Without Pay to Count as Service

Sick leave without pay counts as service for the accrual of:

- a) leave loading;
- b) extended leave (for periods of sick leave no pay of less than six months);
- c) further sick leave with pay, provided such leave will not be granted during the currency of the sick leave without pay; and
- d) vacation pay.

4.12.5 SICK LEAVE WHILST ON EXTENDED LEAVE

4.12.5.1 Recredit of Leave

A staff member who becomes ill while on extended leave, and who has sick leave to credit, may have the period of leave during which the illness occurred, recredited subject to the staff member:

- a) contacting the Secretary at the earliest opportunity, notifying details of the situation; and
- b) providing a medical certificate issued by a registered medical practitioner which clearly states the nature and duration of the illness. Any certificate provided that is not written in English must be accompanied by a certified translation.

4.12.6 MEDICAL CERTIFICATES FOR SICK LEAVE PURPOSES

[See Clause 17.10 of the Award](#)

4.12.6.1 Medical Certificate for Part of an Absence Only

Where a staff member has been absent for a period exceeding three days and presents a medical certificate which covers the latter part of the absence only, sick leave will be granted for the entire period provided the Secretary is satisfied that the reason for the absence is genuine.

4.12.6.2 Medical Certificates to be Submitted to a Department approved medical assessor

Where a staff member applies for sick leave and:

- a) no medical condition has been disclosed on the medical certificate; or
- b) the staff member wishes the nature of illness to remain confidential – refer Section 4.12.8; or
- c) the Secretary is in doubt as to whether or not the condition is one that would properly give rise to a grant of sick leave;

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the medical certificate will be referred to a Department approved medical assessor (who is also the Government Medical Officer) to determine suitability for sick leave purposes.

The nature of the leave to be granted to the staff member in respect of the application will be determined by the Secretary on the advice of the Department approved medical assessor

If sick leave is not granted the Secretary must, as far as practicable, take into account the wishes of the staff member when determining the nature of the leave to be granted.

4.12.7 ATTENDANCE FOR TREATMENT

4.12.7.1 General

Sick leave will be granted to cover attendance at treatments ONLY when the Secretary is satisfied that an appointment could not be obtained outside normal working hours and that the treatment was urgently needed. Sick leave will be granted in non-urgent cases only where it was not possible to obtain an appointment outside normal working hours.

4.12.7.2 Special Cases

On production of satisfactory evidence of need and of attendance, staff members are to be granted sick leave to attend legitimate therapy, training, counselling or rehabilitation, for example for adjustment to a disability, injury or accident; alcohol or another drug or gambling dependency; post-traumatic shock; and comparable conditions for which such assistance is appropriate.

4.12.7.3 Periodic Treatment

Where a staff member has a medical condition that requires periodic treatment of short duration (e.g. physiotherapy), all consequential absences will be aggregated for the purpose of debiting against leave credits.

4.12.8 CONFIDENTIALITY OF ILLNESS

4.12.8.1 General

A staff member wishing the nature of illness to remain confidential, need not record the nature of illness on the sick leave application form.

4.12.8.2 Medical Certificate Not Required

The staff member must give a personal explanation to the principal or some other person at a similar supervisory level, who will certify on the application form that the granting of sick leave is appropriate in the circumstances. In such circumstances, every attempt will be made to ensure that the person to whom the explanation is given is of the same sex as the staff member, if the staff member so wishes.

4.12.8.3 Medical Certificate Required

The staff member must submit an application for sick leave with:

- a) the medical certificate in a sealed envelope; and
- b) a request for the nature of the illness to remain confidential;

for referral to the a Department approved medical assessor for determination as to whether a grant of

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sick leave is warranted.

Under no circumstances will the sealed envelope be opened within the Department.

4.12.8.4 Disclosure of Nature of Illness

Only in exceptional circumstances will the Department approved medical assessor disclose to the Secretary the nature of the illness. Those circumstances would be where screening or counselling of other staff members or the public may be required as a result of having contact with the staff member who has applied for the leave.

Where this occurs, there will be full consultation between the staff member, the staff member's treating doctor(s) and the Department approved medical assessor.

4.12.9 HEALTH RISKS TO THE INDIVIDUAL STAFF MEMBER, OTHER STAFF MEMBERS AND/OR THE PUBLIC

4.12.9.1 General

Where a staff member:

- a) is known to have had contact with someone suffering from an infectious disease; or
- b) enters on duty or resumes duty after suffering tuberculosis; or
- c) is considered to pose a significant health risk in any other way, to that staff member, other staff members and/or the public;

the Secretary will immediately contact the Department approved medical assessor for advice as to the procedure to be adopted.

4.12.9.2 Direction to Cease Duty

The Secretary may direct such staff member to cease duty or not to resume duty in the following circumstances:

- a) where the advice of the Department approved medical assessor is that the staff member should not be at work pending investigation and/or examination; or
- b) where the Secretary considers that there may be a health risk to the staff member, other staff members and/or the public, by that staff member remaining on duty for the time it may take to obtain the advice of the Department approved medical assessor.

4.12.9.3 Grant of Special Leave

A staff member directed to cease duty or not to resume duty, will be granted special leave until such time that the Department approved medical assessor has made a decision as to the appropriateness or otherwise, of granting sick leave. Such time may involve examination by the medical examination centre, other specialists and consultation with the staff member's treating medical practitioner.

4.12.9.4 Allocation of Sick Leave

Where the Department approved medical assessor advises that sick leave is appropriate, such leave will apply from the date of the direction to cease duty or not to resume duty. The grant of sick leave will

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continue until clearance to resume duty is given by the Department approved medical assessor and may be necessary to cover such examinations and consultation as referred to in Section 4.11.9.3 above.

4.12.9.5 Unnecessary Direction to Cease Work

Where the Department approved medical assessor advises that the staff member was not unfit for duty and the direction to cease duty or not to resume duty, was unnecessary, the staff member will be allowed to resume immediately and special leave will be granted for the duration of the absence.

4.12.9.6 Medical Certificates

The Secretary will not accept any medical certificates either in support of the staff member's continued absence or resumption of duty unless the certificates have the endorsement of the Department approved medical assessor.

4.12.10 SICK LEAVE MONITORING

Departmental policy concerning sick leave monitoring is as follows.

- a) Staff members with five working days' sick leave during a calendar year unsupported by medical certificates should be interviewed to discuss reasons for sick leave. Following interview and examination of sick leave absences within the context of the staff member's overall attendance patterns and work performance, it may be decided to take no further action.
- b) If there is reason to continue to monitor sick leave absences, then a period should be specified for improvement, and the staff member advised of the consequences of continued unsupported sick leave absences.
- c) If no improvement occurs within this period then medical certificates will be required for each future sick leave absence for a period determined by the Secretary. A minimum period of three months is recommended for this action to be effective.

4.12.11 LONG TERM ABSENCES DUE TO ILLNESS OR INJURY

4.12.11.1 Medical Examinations

Arrangements will be made immediately to have a staff member medically examined by a Department approved medical assessor if:

- a) the staff member's resumption of duty appears unlikely; or
- b) the staff member's absence will continue or is likely to continue for a period substantially in excess of six months.

This action should be taken before available sick leave is exhausted.

4.12.11.2 Allocation of Leave

Provided the staff member has submitted appropriate medical certificates supporting the absence on sick leave, leave will be granted as a charge against sick leave to credit followed by extended leave to credit and or sick leave without pay, subject to election under Section 4.12.4.1.

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4.12.12 FREQUENCY OF ABSENCE

Where a staff member:

- a) is ill so frequently as to raise the question of fitness to carry out the duties of the position; or
- b) is absent frequently on sick leave (see also Section 4.12.10 Sick Leave Monitoring), arrangements may be made to have the staff member examined by the Department approved medical assessor as to fitness to continue duty.

4.12.13 RECOVERY APPEARS UNLIKELY

Where it appears from the nature of the illness, or from other facts that a staff member's recovery is unlikely, the matter will be referred to the Department approved medical assessor as soon as possible for determination of fitness to continue.

4.12.14 MEDICAL APPEALS

4.12.14.1 General

Staff members who have been referred to the Department approved medical assessor for examination and consider themselves adversely affected by the assessment may appeal the assessment.

Staff members who are eligible to lodge an appeal will be forwarded an appeal form from the Department approved medical assessor.

All appeals are reviewed by an Independent Appeals Committee

Appeals must be lodged by the staff member within 21 calendar days of the date of the a Department approved medical assessor's assessment result letter.

4.12.14.2 Procedure Following Medical Examination

Where a staff member has been examined by the Department approved medical assessor for any reason, a written report will be made. The Department will inform that staff member:

- a) of their fitness or otherwise to return to duty;
- b) that no action in relation to the report will be taken until the medical appeals period expires; and
- c) that the Department approved medical assessor will notify the staff member of their appeal rights direct.

4.12.14.3 No Appeal Lodged

Where no appeal is to be lodged and a written statement is obtained from the staff member to that effect, then:

- a) that staff member may return to duty as soon as practicable if the medical report states that they are fit to resume duty; or
- b) the Department may institute proceedings for medical retirement where the medical report states that the staff member is unfit to continue in the service.

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4.12.14.4 Appeal Lodged

Where an appeal is to be lodged and no written statement to the contrary is obtained, no action will be taken until either the appeal period has expired, or the appeal proceedings have been finalised.

4.12.14.5 Expiration of Appeal Period

When the appeal period has expired or appeal proceedings have been finalised:

- a) the staff member will be directed to resume duty forthwith; or
 - b) the Department will immediately institute proceedings for medical retirement;
- whichever is appropriate.

4.12.14.6 Inquiries Regarding Appeals

All inquiries concerning rights of appeal should be directed to the Department approved medical assessor

4.12.15 ILLNESS OR INJURY NOT COVERED BY WORKERS' COMPENSATION

[See clause 17.12 of the award](#)

4.12.15.1 Provision of Information

If information is requested from the Department by the staff member or his or her legal representative, the Department is obliged to provide an accurate statement of the total salary or wage that would have been received had the staff member been on duty, including leave payments made for the period of incapacity.

4.12.15.2 Refusal of Claim

Where a claim is refused, normal sick leave provisions are to apply.

4.12.15.3 Refund of Leave

Where a staff member has refunded the monetary value of sick leave granted, the sick leave will be recredited. The period of absence resulting from the injury or illness is then regarded as special leave without pay but counts as service for the accrual of all types of leave.

4.12.15.4 Other Leave

Where the staff member has taken extended leave he or she may, upon receipt of compensation elect:

- a) to repay the monetary value of the extended leave taken and have the leave recredited; or
- b) not to repay it, in which case the leave remains as a debit.

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4.13 SPECIAL LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.14 of the Award](#)

4.13.1 GENERAL

Special leave is a category of full pay leave which covers activities which are not regarded as being on duty but which are not covered by other forms of leave.

Where appropriate, applications for special leave should be accompanied by documentation verifying the staff member's involvement in the particular activity or organisation.

Short term temporary staff are not entitled to special leave.

See Section 4.15 Trade Union and Employer Representative Activities for details of union activities which attract the grant of special leave.

4.13.2 COURSE ATTENDANCE AND EXAMINATIONS

A maximum of ten days in any 12 months may be granted to attend courses conducted by officially recognised organisations.

A maximum of five days in any twelve months may be granted for the purpose of attending an examination approved by the Secretary and for necessary time spent in travelling to and from the place at which the examination is held.

4.13.3 JURY SERVICE

[See clause 17.14.1](#)

- a) A staff member who attends court but is not empanelled for jury service is obliged to report for duty where practicable, even for part of the day. In these circumstances, staff members should telephone the principal and indicate that they are returning to school.
- b) A staff member who serves on a jury during a school vacation while receiving vacation pay is not eligible for compensatory leave. The certificate of attendance is not required and the staff member may claim the jury service fee for any period of attendance during a school vacation.

4.13.4 WITNESS AT COURT – OFFICIAL CAPACITY

[See clause 17.14.2](#)

4.13.5 WITNESS AT COURT – OTHER THAN IN AN OFFICIAL CAPACITY

4.13.5.1 Crown Witness

[See clause 17.14.3](#)

4.13.5.2 Union Witness

[See clause 17.14.6](#)

4.13.5.3 Private Capacity

A staff member who is subpoenaed or called as a witness in a private capacity must, for the whole of

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the period necessary to attend as a witness, be granted at the sole election of the staff member:

- a) extended leave; or
- b) leave without pay.

4.13.5.4 Court Attendance as an Interpreter

Special leave is available to staff to assist in official interpreting at courts provided that the costs are allocated to and recouped by the Language Services Division of the Community Relations Commission.

4.13.5.5 Traffic Offences Occurring in Course of Duty

Special leave must be granted for the period necessary to attend court where a staff member has been charged with a traffic offence while driving in the course of duty and is acquitted. Where the charge is found proven, leave without pay is to be granted at the election of the staff member.

Where a staff member is a witness and gives evidence regarding a traffic offence alleged to have been committed by another staff member in the course of duty, special leave is to be granted to the witness for the period necessary to attend court.

4.13.6 EMERGENCIES

[See also Leave Framework for Responding to Emergencies](#)

4.13.6.1 Emergency Volunteers and Volunteer Members of Safety Organisations

Where a staff member is a volunteer member of:

- Public Service Support Group;
- Volunteer Rescue Association of NSW (or affiliated groups);
- State Emergency Services;
- NSW Volunteer Fire Brigade;
- Rural Fire Service;
- Wireless Institute Civil Emergency Network;
- Cave Rescue Association;
- Volunteer Coastal Patrol;
- Bushwalkers' Federation;

special leave of up to five days in any period of twelve months may be granted when called upon to assist as a volunteer of one of these organisations.

4.13.6.2 Declared Emergencies

Where a situation arises requiring a major operational response, or an emergency is declared under Section 44 of the *Rural Fires Act 1997* or under other relevant legislation or by the Premier, staff members who volunteer to assist are to be granted special leave with no upper limit. Leave granted under this clause is not to count towards the five days upper limit specified in Section 4.12.6.1 above.

4.13.6.3 Proof of Attendance at Emergencies

An application for leave must be accompanied by a statement from the local or Divisional Controller, the Fire Controller, Deputy Fire Controller or the Police, certifying the times of attendance. The leave application should indicate the period and area of attendance together with the name of the organisation to which the volunteer member belonged.

4.13.6.4 Rest Period

Where a staff member remains on emergency duty for several days, the Secretary may grant special leave to allow the staff member reasonable time for rest before returning to normal duties.

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Where a staff member does not remain on emergency duty for several days but assists in a rescue at such time as it would be unreasonable to expect the staff member to report for duty at a normal time, up to one day's special leave for rest purposes may be granted.

In the case of an emergency other than a declared emergency, this leave is to be included in the general limit of five days in any period of twelve months.

4.13.6.5 Emergency Service Courses

Where the Director of State Emergency Services considers it essential that a staff member should attend a course of training or lectures, the Secretary should make every effort to release that person from duty. Where the staff member is so released the necessary absence from work is regarded as being on duty.

The Director of the State Emergency Services may nominate staff members for attendance at courses where their attendance is not regarded as essential. In these circumstances special leave may be granted for the time staff members are necessarily absent from duty.

A certificate of attendance is not necessary. The State Emergency Services will advise the Department whether attendance is required and any non-attendance will be reported to the Department.

4.13.6.6 Bush Fire Fighting Training Courses

Emergency volunteers nominated to attend courses approved by the Rural Fire Service, by organisations recognised by the Service, will be granted the necessary special leave to attend, up to a maximum of ten working days in any period of twelve months.

Applications are to be supported by written approval of the Rural Fire Service. Approval of leave will be subject to Departmental convenience and written confirmation of attendance.

4.13.7 ABORIGINAL AND TORRES STRAIT ISLANDER STAFF UNDERTAKING TEACHER TRAINING

Permanent and long term temporary staff members who identify as Aboriginal or Torres Strait Islander people who are undertaking approved indigenous education studies which articulate into teacher education studies or approved initial teacher education programs at the Western Sydney University, the University of Sydney or the Australian Catholic University, are entitled to special leave to cover:

- compulsory residential attendance requirements,
- practicum,
- graduation ceremonies; and
- time for related essential travel during usual working hours.

4.13.8 SPECIAL LEAVE FOR COUNTRY AND RELIEVING STAFF

4.13.8.1 Travelling to Another Centre for Medical Examination

Country staff required to travel to another centre for medical examination at the direction of the Secretary are to be granted special leave for the time they are necessarily absent from duty.

Where staff are required to travel to another centre for a medical examination for appointment, the relevant travelling and sustenance allowance provisions apply.

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4.13.8.2 Return Home

An employee granted special leave as provided [clause 17.14.8 of the award](#) is to be reimbursed for the actual and necessary travel expenses incurred. The employee is entitled to:

- first class return rail fare for the journey; or
- reimbursement for the use of their private vehicle at the [Casual Rate under Clause 28 – Allowance payable for Use of Private Motor Vehicle](#); or
- an economy class air fare

4.13.9 TRANSFERRED EMPLOYEES

Staff members who satisfy the definition of “transferred employee” under the terms of the Crown Employees (Transferred Employees’ Compensation) Award may be eligible for special leave.

4.13.10 MISCELLANEOUS ACTIVITIES ATTRACTING SPECIAL LEAVE

4.13.10.1 First Aid Courses

Staff members attending courses conducted to train or retrain first aid officers in order to meet Department needs during the normal span of hours will be regarded as being on duty. In such cases the cost of the course may be met from Departmental funds provided that the staff member is nominated by the Department to attend the course.

4.13.10.2 Blood Donors

Staff members may be granted special leave to give blood, with such leave being restricted to the time reasonably necessary.

4.13.10.3 Retirement Preparation Seminars

Staff members invited to attend retirement preparation seminars conducted by the Superannuation Administration Corporation, may be granted two days special leave, with no other concessions.

4.13.10.4 Olympic and Commonwealth Games

Staff members who are selected as competitors or officials at the Commonwealth or Olympic Games may be granted up to four weeks special leave to enable them to participate in the Games. The same concessions may be applied to competitors or officials taking part in the equivalent games for the disabled.

4.13.10.5 National Aborigines and Torres Strait Islander Day

[See clause 17.14.10 of the award](#)

4.13.10.6 Bone Marrow Donors

Staff members who are listed in the Australian Bone Marrow Donor Register and who are called on to donate, may be granted up to five days special leave.

The grant is subject to the production of a medical certificate from a registered medical practitioner covering any absence.

4.13.10.7 Returning Officers Appointed by the State Electoral Office

A returning staff member undertaking electoral duties for an election or a by-election may be granted special leave for the period from four weeks before the polling day or the issue of the writ, whichever is the longer, until three weeks after polling day. If required by the Electoral Commissioner, further leave

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may be granted by the Secretary.

Special leave for up to one day may be granted for attending a returning officers' election seminar.

Special leave for up to three days may be granted for attending election training courses.

The Electoral Commissioner will correspond directly with department heads to notify the period for which the services of returning officers are required.

4.13.10.8 Former Armed Services Personnel

Up to 62 working days special leave is available to former armed services personnel in any period of 12 months, for the following purposes:

- a) attending a hospital or visiting a medical officer for review;
- b) attending a hospital to report for periodical examination or attention in connection with a war caused disability;
- c) obtaining, replacing, or having repaired an artificial limb or member, prosthesis or surgical appliance; or
- d) attending the Department of Veterans' Affairs in connection with claims made for military pensions.

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4.14 STUDY ASSISTANCE AND STUDY LEAVE

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.13 of the Award](#)

4.14.1 GENERAL

Study assistance is available to develop the skills and versatility of school administrative and support staff (SAS staff). It should be equitably accessible to all eligible staff and should be used to promote a highly trained and skilled workforce responsive to the requirements of Department of Education.

The purpose of study assistance is to assist SAS staff to undertake approved study which is relevant to their professional development and of value to the Department.

Study assistance is granted at the discretion of the Department.

Study assistance may be approved for a maximum period of three hours per week, including travel.

4.14.2 SAS STAFF STUDYING ON A PART-TIME BASIS

Study assistance may be granted at full pay to staff members who are studying on a part time basis. It is not to be granted to a staff member to attend a course organised essentially for full time students or which, in later stages, requires full time attendance.

4.14.3 ELIGIBILITY

All permanent and long term temporary SAS staff are eligible to apply.

4.14.4 DEPARTMENTAL CONVENIENCE

The approval of study assistance will be at departmental convenience, with consideration of such factors as:

- a) proposed absences;
- b) combination of study assistance with other types of leave; and
- c) maintenance of service at the school.

4.14.5 USE OF STUDY ASSISTANCE

[See clause 17.13.4 of the award](#)

4.14.6 APPROVED COURSES

Courses for which study assistance may be granted should meet the following criteria:

- a) Lead to a nationally recognised qualification;
- b) be able to be taken on a part-time basis;
- c) be relevant to the SAS staff member's professional development; and

be of value to the Department.

4.14.7 MORE THAN ONE COURSE STUDIED AT THE ONE TIME

Study assistance may be granted for more than one course studied at the same time, provided that

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the two courses result in a part-time load and the resulting attendance pattern is convenient to the school. Study assistance granted remains up to three hours per week irrespective of the number of courses studied at one time.

4.14.8 ACCUMULATION

[See clause 17.13.5 and 17.13.6 of the award](#)

4.14.9 MAKING UP TIME

Where the grant of study assistance is insufficient to cover absences to attend compulsory field days or residential schools, additional time may be granted. Additional time may be made up within normal working hours to a maximum of ten days. The time must be made up within the framework of the averaging of hours provisions at [Clause 8.4 of the Crown Employees \(School Administrative and Support Staff\) Award](#).

The arrangement for making up time must be negotiated with the school. Where such an arrangement is being negotiated, the following factors should be considered:

- a) nature of duties;
- b) needs of the workplace;
- c) whether additional time granted can be made up before the next grant of study assistance; and
- d) use of other forms of leave to offset the additional time where making it up is impractical.

4.14.10 Non mandatory class attendance

Where class attendance is not a mandatory component of course completion, (eg external distance modes of study) study assistance is approved only for the duration of the course term/semester time and excludes any holiday or study break periods

4.14.10 STUDY ASSISTANCE NOT TAKEN AT THE NOMINATED TIME

Study assistance is an expendable grant which if not used for the nominated course is lost. If an emergency situation occurs, a person may have to give up their normal study assistance. If circumstances allow, however, such time may be granted on another day during the same week. Such requests for variation should be discussed with the school principal.

Study assistance does not accrue during any other form of leave.

4.14.11 APPLYING FOR STUDY ASSISTANCE

4.14.11.1 The application process

SAS staff who wish to apply for study assistance should complete the [Study time leave application](#) and seek the recommendation of the principal prior to forwarding their application for consideration by the Department.

Where study assistance has been granted, the SAS staff member should give the school reasonable notice of the program for each year/semester and their proposed pattern for use of the study assistance.

4.14.11.2 Non approval of study assistance application

Where the Department does not approve an application for study assistance, the Department will ensure that:

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- a) the reason/s for refusal is/are clearly and promptly stated, in writing to the SAS staff member;
- b) timely advice is given to allow the SAS staff member to consider alternatives;
- c) advice is available to assist the SAS staff member to consider alternatives through their school principal or EDConnect.

4.14.11 COMPETITIVE AWARDS AND SCHOLARSHIPS

SAS staff who, in the Department's opinion, are awarded competitive scholarships or awards and where the areas of study or investigation are recognised as being relevant to the professional development of the SAS staff and of value to the Department may be granted study assistance on normal salary for the period of the award or scholarship.

4.14.13 EXAMINATION LEAVE

[See clauses 17.13.14, 17.13.15 and 17.13.16 of the award](#)

Examination leave may be granted by the Department as special leave. It is available for either face to face or distance courses.

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4.15 TRADE UNION AND EMPLOYEE REPRESENTATIVE ACTIVITIES

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [Clause 17.14.6 of the Award – Association activities](#)

4.15.1 GENERAL

Except where otherwise specified in this Section, staff members who undertake trade union business or act as a staff member representative, are to do so in their own time outside their normal working hours and at their own expense.

4.15.2 TRADE UNION ACTIVITIES

4.15.2.1 On Duty Activities

A trade union delegate is to be released from normal Departmental duties for the activities specified below without being required to apply for leave.

- a) Attendance at meetings of the workplace Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Work Health and Safety Act 2011* and the Regulations.
- b) Attendance at meetings with workplace management or workplace management representatives.
- c) A reasonable period of preparation time (by agreement with management and when operational requirements allow the taking of such time) before:
 - meetings with management; and
 - disciplinary or grievance meetings when a trade union member requires the presence of a trade union delegate.
- d) Giving evidence in court on behalf of the Department.
- e) Presenting information on the trade union and trade union activities at induction sessions for new staff members of the Department.
- f) Distributing official trade union publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

4.15.2.2 Special Leave Activities

[See Clause 17.14.6 of the Award](#)

4.15.2.3 Training Courses

[See clause 17.14.7 of the Award](#)

4.15.2.4 On Loan Arrangements

Subject to the operational requirements of the workplace, on loan arrangements apply to the following activities.

- a) Meetings interstate or in NSW of a federal nature to which a union representative or staff

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member has been nominated or elected by the union:

- as an Executive Member; or
 - as a member of a Federal Council; or
 - as a member of a vocational or industry committee.
- b) Briefing counsel on behalf of the union.
- c) Assisting union officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of their trade union.
- d) Country tours undertaken by a member of the Executive or Council of the trade union.
- e) Taking up of full time duties with the trade union if elected to the office of President, General Secretary or to another full time position with the trade union.
- f) Recognition of on loan arrangement as service: – on loan arrangements negotiated in terms of this provision are regarded as service for the accrual of all leave and for incremental progression.
- g) Limitation: – on loan arrangements may apply to full time or part time staff members and are to be kept to the minimum time required. When the trade union needs to extend an on loan arrangement, the trade union must approach the Secretary in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.

4.15.2.5 Financial Arrangements

The following financial arrangements apply to the occasions when a staff member is placed on loan to their trade union.

- a) The Department continues to pay a delegate or an authorised union representative whose services are on loan to their trade union.
- b) The Department seeks reimbursement from the trade union at regular intervals of all salary and associated on-costs, including superannuation, as specified by the NSW Treasury from time to time.
- c) Agreement with the trade union on the financial arrangements must be reached before the on loan arrangement begins and must be documented in a manner negotiated between the Secretary and the trade union.

4.15.2.6 Period of Notice

The Secretary must be notified in writing by the trade union or, if appropriate, by the accredited delegate as soon as the date and time of the meeting, conference or other accredited activity are known.

4.15.2.7 Access to Facilities

The workplace must provide accredited delegates with reasonable access to the following facilities for authorised union activities.

- a) Telephone and e-mail facilities.
- b) A notice board for material authorised by the union on access to staff notice boards for material authorised by the union.

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- c) Workplace conference or meeting facilities, if available, for meetings with member(s), as negotiated between local management and the relevant trade union.

4.15.2.8 Responsibilities of the Union Delegate

Responsibilities of the union delegate are:

- a) establishing accreditation as a delegate with the union and providing proof of accreditation to the workplace;
- b) participating in the workplace consultative processes, as appropriate;
- c) following the dispute settling procedure applicable in the workplace;
- d) providing sufficient notice to the immediate supervisor of any proposed absence on authorised union business;
- e) accounting for all time spent on authorised union business;
- f) when special leave is required, applying for special leave in advance;
- g) distributing union literature and membership forms, under local arrangements negotiated between the Secretary and the relevant trade union; and
- h) using any facilities provided by the workplace properly and reasonably as negotiated at the Departmental level.

4.15.2.9 Responsibilities of the Trade Union

The responsibilities of the trade union are:

- a) providing written advice to the Secretary about a trade union activity to be undertaken by an accredited delegate and, if requested, to providing written confirmation to the workplace management of the delegate's attendance and participation in the activity;
- b) meeting all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in 4.15.2.10 Responsibilities of Workplace Management;
- c) paying promptly any monies owing to the workplace under a negotiated on loan arrangement;
- d) providing proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- e) applying to the Secretary well in advance of any proposed extension to the on loan arrangement;
- f) assisting the workplace management in ensuring that time taken by the union delegate is accounted for and any facilities provided by the Department are used reasonably and properly; and
- g) advising the Department of any leave taken by the trade union delegate during the on loan arrangement.

4.15.2.10 Responsibilities of Workplace Management

When time is required for union activities in accordance with this Section the responsibilities of the workplace management are:

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- a) to release the accredited delegate from duty for the duration of the union activity, as appropriate, and, if necessary, to allow for sufficient travelling time during the ordinary working hours;
- b) to advise the workplace delegate of the date of the next induction session for new staff members in sufficient time to enable the trade union to arrange representation at the session;
- c) to meet the travel and accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- d) if possible, to provide relief in the position occupied by the delegate in the workplace while the delegate is undertaking union responsibilities related to workplace management;
- e) to recredit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- f) to apply the provisions of the paragraph above when a union activity under this clause coincides with the trade union delegate's rostered day off (if applicable);
- g) to continue to pay salary during an on loan arrangement negotiated with the relevant union and to obtain reimbursement of salary and on-costs from the union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- h) to verify with the union the time spent by a union delegate or delegates on union business, if required; and
- i) if the time or the facilities allowed for union activities are thought to be used unreasonably or improperly, to consult with the trade union before taking any remedial action.

4.15.2.11 Travelling and Other Costs

[See Clause 17.14.7c of the Award](#)

Except as specified in 4.15.2.10 Responsibilities of Workplace Management, all travel and other costs incurred by accredited union delegates in the course of trade union activities must be paid by their union.

No overtime or any other additional costs are claimable in respect of union activities covered by special leave or on duty activities provided for in this Section.

The on loan arrangements apply strictly as negotiated and no extra claims in respect of the period of on loan are to be made on the Department by the trade union or the staff member.

4.15.3 EMPLOYEE REPRESENTATIVE ACTIVITIES

4.15.3.1 General

The grant of special leave to engage in employee representative activities:

- a) is at Departmental convenience;
- b) must be confined to a minimum of number of staff members;
- c) is for the minimum necessary period;
- d) is dependent on an application being made to the Department in advance;

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- e) is payable at the base rate of pay (including, if appropriate, relevant allowances that would normally be paid on that day);
- f) is not to incur liability by the Department in fares, overtime, travelling compensation, travelling and sustenance allowances, meal money, and so on; and
- g) is not extended beyond the standard hours for the staff member for that day.

4.15.3.2 Availability

Special leave is available for the following purposes.

- a) Local meetings between employee representatives and management.
- b) Attendance as a witness on behalf of employee associations or of employees before an industrial tribunal. Staff members who attend as witnesses before industrial tribunals are granted special leave for such a period as is necessary for them to give evidence. They should return to duty as soon as their evidence has been given unless required by the tribunal to remain in attendance.
- c) Conciliation committee members: – Staff members appointed as members of a Conciliation Committee or as alternate members under the provisions of the *Industrial Relations Act 1996*, may be granted special leave of absence during standard hours for the period they are engaged.

4.15.4 INDUSTRIAL ACTION

4.15.4.1 General

Provisions of the *Industrial Relations Act 1996* apply to the right of union members to take lawful industrial action (Note the obligations of the parties under [clause 16](#), Grievance and Dispute Settling Procedures of the award).

There is to be no victimisation of staff members prior to, during or following industrial action.

The following provisions apply to staff members absent from duty:

- a) attending stop work meetings;
- b) complying with a direction to strike; or
- c) supporting industrial action of other employee organisations

The decision to participate in industrial action or a failure to report for work during such action, rests with the individual.

4.15.4.2 Work to be Made Available for Staff Members During Industrial Action

Work is to be available for all staff members during any industrial action. If premises are to be closed for health, safety, security or other reasons, staff members are to be informed of this action, and if practicable, are to be advised of work arrangements at an alternative location.

4.15.4.3 If Alternative Arrangements are not Practicable

Staff members who, in the opinion of the Secretary, have made a reasonable attempt to report for duty but have been unable to enter the premises, are not to be regarded as being on an unauthorised absence.

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4.15.4.4 Leave and Increment Provisions

Approved leave is any leave which was approved prior to the date of notification of the industrial action.

Absences from work for which leave has not been approved, including all absences owing to industrial action are unauthorised.

Unauthorised absences from work are not leave without pay and are not covered by any approved leave. Periods of unauthorised absence are not regarded as service for any purpose.

Applications for sick leave and family and community service leave during the period of the industrial action will not normally be approved. The Secretary may exercise discretion to approve an application for sick leave or family and community service leave if satisfied that the absence is unrelated to the industrial action and is supported by acceptable evidence such as a medical certificate.

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4.16 VACATION PAY

The source of authority is the [Crown Employee \(School Administrative and Support Staff\) Award](#). Please view [clause 6 – Vacation Pay of the award](#)

4.16.1 GENERAL

Permanent and long term temporary school administrative and support staff are paid a rate that averages full pay during term time, recreation leave and public holidays and half pay during vacations.

For each day worked during school terms, permanent and long term temporary SAS Staff employees will accrue an entitlement to vacation pay which is payable during the vacation period.

The accrual rate will be based on the total annual school vacation days and the total school days for any given year.

Short term temporary SAS staff are not entitled to vacation pay.

4.16.1.1 Variations to Fortnightly Pay

Variations to the regular fortnightly payments for vacation periods may occur where permanent staff members:

- a) commence duty after the beginning of the school year ie day one, term one;
- b) are absent from duty on certain types of unpaid leave, half pay leave, or unauthorised absences;
- c) vary their hours of duty during a school year;
- d) resign or retire during the school year.

4.16.2 TYPE OF SERVICE COUNTING TOWARDS THE ACCRUAL OF VACATION PAY

Vacation pay accrues on:

- daily hours of duty, excluding overtime.
- paid leave.
- additional hours - up to the daily hours of: 6 hours and 40 minutes for School Administrative Managers (SAMs), 7 hours for Business Managers and 6 hours and 15 minutes for other SAS Staff classifications.

4.16.2.1 Types of Leave Affecting Vacation Entitlements

Pro rata calculation of vacation entitlements applies where permanent or long term temporary SAS staff are absent on:

- leave without pay absences; which, in total, exceed five working days in a school year
- unauthorised absences (not to be regarded as service for any purpose);
- maternity, adoption or parental leave (no pay or half pay);
- extended leave (half pay).

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4.16.2.2 Payment of vacation pay

SAS Staff who are not required to work during a vacation (refer to clause additional hours and overtime where staff are required to work during a vacation), the entitlement to vacation days accrued in the term leading up to that vacation will be paid on the same week days that were worked during the term.

Example: If a long term temporary SAS Staff employee works Monday, Tuesday, Wednesday each week during term time they will be paid accrued vacation pay against those days during the vacation period.

Where, the work pattern changes during the term as a result of the employee taking a form of part-time leave without pay, the vacation will be paid against the pattern in place in the last two weeks of term.