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11.1 Resignation or Retirement

- a) Before resigning from the Education Teaching Service teachers should ensure that other available options such as long service leave, leave without pay, permanent part time work, part time leave without pay or maternity leave have been considered.
- b) There is no compulsory retirement age and teachers must make an individual decision as to the age at which they wish to retire.
- c) In respect of contributors to a State Government superannuation scheme, advice should be sought from Pillar Administration (see Chapter 12 for contact details) regarding the superannuation aspects of a decision to resign or retire.

11.1.1 Notice of Resignation or Retirement (Separation)

- a) Notice of resignation or retirement should be submitted on the *Teachers' Notice of Separation* form which is available in schools.
- b) Notice of resignation or retirement may be given at any time but should be submitted at least one month prior to the date on which separation from the service is to be effective.

Where a teacher proposes to resign or retire with the last day of service occurring during or at the end of a school vacation, the notice of resignation/retirement should be submitted at least one month prior to the last day of the relevant school term.

- c) The Department has the authority not to accept a teacher's notice of resignation or retirement in cases where the teacher is the subject of an investigation or other sensitive management process.
- d) To assist in the selection of appropriate and qualified staff and to ensure prompt payment of benefits, where possible, teachers are asked to submit their notice anything up to six months in advance.
- e) The separation form, when completed by a teacher and signed by the principal, should be sent by the principal to Teacher Services Unit. In the case of a principal, the separation form should be signed by the district superintendent.
- f) Any comments made by the principal or district superintendent on the form must be shown to the teacher.
- g) The teacher should ensure they complete any necessary forms required by Pillar to effect payment or preservation of superannuation entitlements.
- h) Permanent teachers who resign or retire will be issued with a letter of approval to work with the NSW Department of Education and Training in a casual or temporary capacity. The letter of approval will be issued by Teacher Services Unit effective from the resignation/retirement date.

The letter of approval will not be issued if the principal/district superintendent recommends that the teacher should not work in a casual or temporary capacity, fails to complete the relevant recommendation on the separation form, or in cases where the teacher's resignation has been tendered as part of a resolution of an investigation, other sensitive management process or workers' compensation settlement.

11.1.2 Effective Date of Resignation or Retirement

- a) When completing the separation form, teachers must indicate the effective date of resignation or retirement. Where this date is during a school term the effective date should be the last day of active duty or approved leave. Care should be taken in selecting this date as payment of benefits such as long service leave and superannuation can be dependent on length of service.
- b) Teachers resigning or retiring while on leave of absence may nominate that the resignation or retirement is to become effective from the date the separation form is completed, dated and signed or they may nominate an effective date which is on or before the last date of the approved leave. The nominated date, however, cannot be back dated to a date which falls before the separation form is signed and dated by a teacher or, if completed on or after the date of expiration of a period of leave, cannot be back dated to a date earlier than the last date of approved leave.

11.1.3 Resignation or Retirement During a Term

Where a teacher's resignation or retirement becomes effective during a school term, payment of salary ceases at the end of the school day on which the teacher ceases duty. If the last day of duty is a Friday, salary is not payable for the weekend.

11.1.4 Vacation Pay

11.1.4.1 Election of Vacation Payment

The separation form makes provision, in the case of teachers resigning or retiring from the end of a school term, to make an election regarding the method of payment for vacation pay entitlements. Three options are available as follows:

- i) elect to be paid a lump sum for the whole vacation in which case the resignation or retirement becomes effective from the last day of term;
- ii) elect to be paid a lump sum for part of the vacation in which case the resignation or retirement becomes effective from a date nominated which falls within the vacation period;
- iii) elect to be paid fortnightly payments for the duration of the vacation in which case the resignation or retirement becomes effective from the last day of the vacation.

11.1.4.2 Advantages and Disadvantages of Electing Lump Sum Payment

- a) Advantages
 - Vacation pay entitlement is paid in a lump sum in advance as distinct from fortnightly payments.
 - The lump sum is regarded as a gratuity payment for taxation purposes which may result in a taxation saving for some teachers.
 - In respect of contributors to a State Government superannuation scheme, benefit is payable from the first day of the vacation.
- b) Disadvantages
 - Employment ceases on the last day of term and the resignation or retirement cannot be withdrawn subsequent to that day.
 - A teacher will not receive any incremental progression, award or agreement salary increases which may take effect during the vacation.

This could affect the monetary value of long service leave and in respect of contributors to a State Government superannuation scheme, could mean the loss of additional benefits.

- The vacation period will not count as service for long service leave purposes. This could be a vital consideration in marginal cases where a teacher is approaching eligibility to qualify for payment of monetary value of long service leave. See Section 4.9, Long Service Leave for details.
- The vacation period will not count as service in respect of superannuation retirement benefits or withdrawal benefits from a State Government superannuation scheme.
- Miscellaneous deductions from fortnightly salary will not be debited from lump sum payments.

11.1.4.3 Vacation Payment Entitlement

“Under Review” as a result of reforms arising from the 2009 teachers’ award outcome

11.1.5 Reason for Separation from the Service

- a) The reason for resignation or retirement should be indicated on the separation form in the appropriate space, e.g. personal reasons, other employment, etc.
- b) Completion of this section is particularly relevant to teachers who have completed more than five years but less than ten years service. Payment of the monetary value of long service leave for teachers in this category is only made where the reason for separation from the service is because of illness, incapacity, or other pressing necessity. Pressing necessity may include marriage, family responsibilities, child rearing or the impending birth of a child.

11.1.6 Long Service Leave - Payment of Monetary Value

- a) A teacher who has acquired a right to long service leave will be paid the monetary value of any leave entitlement on resignation or retirement.
- b) When a long service leave payment is made on resignation or retirement, taxation instalments are calculated according to the service period in which the entitlement accrued, in three components:
 - i) Long service leave accrued prior to 15 August 1978 – five per cent of the value of unused long service leave from the period prior to 15 August 1978 will be taxed at the rate of 30 per cent (plus Medicare levy);
 - ii) Long service leave accrued in the period 16 August 1978 to 17 August 1993 – the total monetary value of unused long service leave from the period 16 August 1978 to 17 August 1993 will be taxed at the rate of 30 per cent (plus Medicare levy);
 - iii) Long service leave accrued after 17 August 1993 – the total monetary value of unused long service leave accrued after 17 August 1993 will be taxed at normal (marginal) taxation rates.

11.1.7 Withdrawal of Resignation or Retirement

- a) Notice of resignation or retirement cannot be withdrawn after the date on which the notice became effective.
- b) Should a teacher wish to withdraw notice of resignation or retirement, a written

request should be submitted through the principal or district superintendent to Teacher Services Unit, prior to the day on which the notice is to become effective.

- c) When a teacher submits a separation form to the Department indicating that they intend to resign or retire from the service, their position will be declared vacant. Teachers who apply to withdraw their notice of resignation or retirement will only be considered for re-appointment to their current position if a replacement teacher has not been appointed.

11.1.8 Records of Employment

- a) Current and former teaching service staff who require a record of employment should make a written application to:

Employment Category	Section
Permanent Teachers (school based)	Teacher Services Unit Locked Bag No 6 Hamilton Delivery Centre HAMILTON NSW 2303
Permanent/Temporary Teachers (non school based)	Corporate Employees Services Unit Level 13 1 Oxford Street DARLINGHURST 2010
Temporary/Casual Teachers	Payroll Services Unit Locked Bag No 3010 BLACKTOWN NSW 2148

- b) A record of employment does not indicate suitability for further employment nor does it constitute a reference.
- c) Any teacher who attempts to falsify information on a record of employment may be liable to disciplinary action.

11.1.9 Employment Separation Certificates

Current and former teaching service staff who require an Employment Separation Certificate should make a written application to:

Employment Category	Section
Permanent Teachers (school based)	Teachers Salaries Unit Locked Bag No 12 WOLLONGONG EAST NSW 2520
Permanent/Temporary Teachers (non school based)	Corporate Employees Services Unit Level 13 1 Oxford Street DARLINGHURST 2010
Temporary/Casual Teachers	Payroll Services Unit Locked Bag No 3010 BLACKTOWN NSW 2148

11.1.10 Superannuation Forms

- a) On resignation or retirement from the service, contributors to a State Government superannuation scheme must complete exit forms.
- b) The superannuation exit documents for teachers who are retiring or resigning should be obtained from Pillar Administration and returned to the same authority.
- c) The above information is based on superannuation provisions applicable prior to the issue of the Teachers Handbook. As changes to superannuation legislation can have a significant impact on entitlements, teachers should contact the Pillar Administration Customer Service Centre for advice. See Chapter 12 for contact details.

11.1.11 Federal Elections

See Section 4.8.17.2, Leave Without Pay for details.

11.2 Medical Retirement

11.2.1 General

A permanent teacher, who because of invalidity or physical or mental incapacity, is unable to perform the duties of her or his position may be medically retired from the Education Teaching Service.

11.2.2 Medical Examination

A medical examination will be arranged in order to determine a teacher's fitness to continue in employment where:

- i) the teacher requests an examination; or
- ii) a medical certificate is submitted covering a period in which a teacher's sick leave with pay will cease and the medical condition is such that it is highly unlikely that the teacher will be able to continue in the teaching service;
- iii) where the medical certificate indicates an absence of at least six months; or
- iv) where the teacher is frequently absent due to illness and/or concern is held for the teacher's health or wellbeing.

11.2.3 Medical Appeals Panel

- a) Teachers who are found to be unfit for the duties of their position will be advised of the decision and appeal rights by HealthQuest.
- b) The appeal period is 21 calendar days from the date of HealthQuest's letter to the teacher advising him or her of the right of appeal.
- c) No action to proceed with the medical retirement of a teacher is taken until:
 - i) the teacher waives the right of appeal; or
 - ii) the 21 day appeal period has expired with no appeal lodged; or
 - iii) the appeal is determined.
- d) Where a teacher is found unfit for the duties of their position the teacher may be medically retired under Section 76 of the *Teaching Services Act 1980*.
- e) Where an appeal is lodged against the decision that a teacher remains fit for work, no administrative action is taken regarding the allocation of any sick leave until the outcome of the appeal is known. If the appeal is upheld, sick leave to credit will be granted. The teacher may resume duty pending the outcome of their appeal.

11.2.4 Last Day of Service

The last day of service of a teacher who is to be medically retired will be the date that the medical report is signed unless:

- i) the teacher is eligible for special sick leave, in which case the last day of service will be the date that special sick leave ceases; or
- ii) the teacher appeals, in which case the last day of service will be the date the Medical Appeals Panel makes a decision; or

- iii) the teacher, because of special circumstances, is permitted to take a period of long service leave or leave without pay, in which case the last day of service will be the date that leave ceases. This can occur where the teacher would otherwise suffer financial disadvantage by not being in the service to qualify for a salary increase or further superannuation units.

11.2.5 Vacation Leave and Long Service Leave

Following determination of a teacher's last day of service the Department will automatically calculate any vacation pay or long service leave entitlement and pay any benefits as a lump sum.

11.2.6 Medical Retirement and Workers' Compensation

Teachers who are medically retired because of a work related illness or injury should contact the GIO regarding the continuation of workers' compensation payments.

11.2.7 Superannuation and Government Benefits

- a) The Department advises Pillar Administration of the medical retirement of all contributors to a State Government superannuation scheme.
- b) Teachers who are contributors to the State Superannuation Scheme will be eligible for pension benefits following medical retirement.
- c) Contributors to the State Authorities Superannuation Scheme will be eligible for lump sum benefits subject to meeting the specific requirements of the fund.
- d) Eligibility for payment of any superannuation benefit will be determined by the relevant superannuation authority.
- e) Teachers who are not contributors to a State Government superannuation scheme may be eligible for payment of a disability support pension and should contact Centrelink for information.
- f) The above information is based on superannuation provisions applicable prior to the issue of the Teachers Handbook. As changes to superannuation legislation can have a significant impact on entitlements, teachers should contact Pillar Administration's Customer Service Centre for advice.

11.2.8 Re-employment of Medically Retired Teachers

- a) Before a teacher is re-employed in any capacity (including casual or temporary) after having been medically retired, the teacher must:
 - i) complete an application for re-employment and attach a certificate of fitness from a registered medical practitioner, preferably one who has treated the applicant for the last twelve months at least;
 - ii) undertake a personal suitability interview;
 - iii) if successful at the personal suitability interview, undertake a medical examination for the purposes of determining fitness for re-employment as a teacher. The medical examiner will be determined by the Department.
- b) Teachers who have been approved to resume duty will be given, on compassionate grounds, the same status for appointment to a suitable vacant position as other teachers with compassionate status for transfer.

It will be in the teacher's best interest to include a broad range of schools in which they are prepared to work. The appointment of such teachers will be subject to the availability of a suitable vacancy.

- c) Pillar Administration will be notified when a teacher in receipt of a state superannuation pension is re-employed.
- d) Any inquiries concerning superannuation entitlements should be addressed to the advisory section of the Pillar Administration at PO Box 1229, South Coast Mail Centre NSW 2521. See Chapter 12 for other contact details.