

Marlborough Primary School

School Policies Manual



LEAVE POLICY

Rationale:

Members of the principal class, members of the teaching service and school service officers have an unqualified right to certain leave entitlements and, through the principal/delegate, qualified rights to other leave entitlements.

Leave entitlements:

- are a fundamental condition of employment;
- support equal employment opportunity;
- support the balancing of work and family responsibilities.

Leave entitlements are encompassed in Awards, Acts, Regulations, Orders and Department of Education policy and procedures.

The Human Resources A-Z guide found on the DEECD website details the leave available to staff and the process for granting that leave. It identifies automatic leave entitlements and those which are subject to the delegate/principal's discretion.

This policy is intended to:

- be consistent with award entitlements, legislation and Department of Education requirements;
- balance the rights and entitlements of all staff and school administrative considerations;
- represent a sound framework for local collaborative decision making; and
- provide options for the resolution of disputes and appeals/complaints.

Implementation:

1. Members of staff shall be referred to the school leave policy, and also the Human Resources A-Z guide. Staff will be informed about all changes to leave entitlements and provisions.

2. **Types of Leave**

Non Discretionary Leave. There are a number of types of leave which must be authorised by the Secretary of the Department of Education or his/her delegate if an entitlement exists and the necessary evidence is provided.

Examples of non-discretionary leave include: paternity, maternity and family leave; most forms of spouse leave; sick leave; carers leave; jury service leave.

Discretionary Leave. This type of leave is authorised at the discretion of the Secretary of the Department of Education or his/her delegate and therefore may be either supported or refused. For discretionary leave to be granted, an entitlement **must** exist, and evidence provided if required.

In considering applications for discretionary leave, the Secretary or delegate must adhere to various requirements and guidelines which prohibit discriminatory, arbitrary and unfair treatment. Appeal mechanisms exist to provide protection and redress for the applicant, if necessary. Examples of discretionary leave include: long service leave, some types of spouse leave, study leave, leave without pay, marriage leave and leave for sporting competitions.

3. Basic Principles

3.1 Where an entitlement exists, and discretion is relevant, every effort shall be made to respond favourably to a staff member's request for leave.

It is noted that, "Increasing recognition is being given to the need for workplaces to be family friendly and to provide flexible work options including access to leave, for employees. The Department of Education is committed to assisting employees to balance work and family responsibilities". Peter Allen, Director of Schools (Memo 97/024) 13th May, 1997.

3.2 The Principal has the responsibility to ensure that in all matters associated with the consideration and granting of leave there shall be:

- the recognition of the rights and entitlements of staff;
- the recognition of the interests of the school;
- a process which is fair, equitable, reasonable, impartial and non-discriminatory;
- protection from arbitrary action, personal favouritism or coercion;
- no unreasonable restrictions based on grade, year level or subjects taught;
- no unreasonable restrictions based on duties and responsibilities being taken;
- requirements from staff which are consistent with the Human Resources A-Z guide.

4 Timelines

4.1 In order to support the management of programs and personnel and to enhance the opportunity for a successful application, all requests for leave should be submitted with as much notice as possible having regard to the nature of the leave and the circumstances of the applicant at the time.

4.2.1 Unless otherwise approved by the principal applications for long service leave must be lodged no later than two terms before the intended commencement of leave.

4.2.2 Whilst no minimum period of long service leave applies, leave will not normally be granted for periods of less than one calendar week.

5. Considerations

In considering and prioritising applications for leave, the following should be taken into account.

5.1

- whether or not the leave is non-discretionary, or subject to the approval of the principal;
- whether or not an entitlement exists and the availability of supporting evidence (when relevant);
- the circumstances, needs and rights of the staff member applying for leave, including health issues, compassionate and compelling personal circumstances;
- the program needs of the school, and personnel/administrative issues;
- the number of staff requesting leave in a related time frame;

- whether or not leave has been recently granted to the applicant;
- the type of leave being requested, i.e. paid/unpaid/specific category; and
- the availability of a suitable replacement.

5.2 It is recognised that there can be significant issues associated with applications for leave from staff if the school is in ‘budget deficit’ where such staff have a specialist role, teaches in small or one person units or have duties or responsibilities considered a priority by the school.

Applications for leave in these circumstances will not automatically be denied, it is recognised that to do so may be discriminatory, represent unfair and arbitrary action, and lead to counterproductive outcomes.

In recognition of the particular difficulties which may be associated with the taking of leave in these circumstances, adequate notice by the staff member, pro-active teacher replacement strategies, and co-operative planning should be undertaken to ensure that the needs of the school and the rights/needs of staff can be met.

6. **Guidelines for the Prioritising of applications for leave.**

When prioritising applications for leave the following should apply:

- priority should be given to staff whose applications are based on health issues, compassionate and compelling personal and/or family circumstances;
- priority may be given to staff who have had an application for leave recently refused, or who have not taken leave in the recent past, or whose activities while on leave could benefit the school, eg study leave;
- the order in which applications for leave are received should not, in itself, determine priority;
- when a number of applications for leave have been submitted in a related time frame, and to assist in prioritising the applications, the principal will consult with relevant staff about the flexibility and staging of their leave.

7. **Process**

- 7.1 All requests for leave shall be made using Employee Self Service (ESS)
- 7.2 An application for LSL must be in writing, specifying the start and end dates, and whether the leave is on full pay or half pay.
- 7.3 The principal will check the employee’s leave balance on the payroll to confirm that he/she has sufficient leave entitlements.
- 7.4 The principal approves or refuses the leave.
- 7.5 Notify the employee in writing of the details of the leave.

Where the period of LSL is to be paid on half pay, advise the employee that they may need to contact the following to make appropriate arrangements whilst on leave (i.e. with the reduced payment there may be insufficient funds to cover the payment of all deductions):

- if they have salary/remuneration packaging arrangements in place; the salary packaging administrator (SmartSalary)
- any other organisations which are currently in receipt of payroll deductions.

- 7.6 Update eduPay using the appropriate leave code. Refer to the Absence eduPay User Guide for further information, available at:
http://www.education.vic.gov.au/hrweb/resources/eduPay_UGuides.htm

Public holidays that fall during a period of long service leave do not form part of the long service leave period and will be automatically accounted for by the payroll.

- 7.7 Place documentation on the employee's personnel file.
- 7.8 Once the principal has authorised leave and the staff member has accepted, neither party may unilaterally withdraw from the arrangement. However, if the circumstances of the member of staff or the school unexpectedly or dramatically change, either party may initiate discussions to explore options.
- 7.9 The school council has no role or responsibility in the consideration or granting of leave to staff, however the school council may have a role in considering budget and replacement matters arising from the granting of leave.

8 Collaboration

8.1 The principal is responsible for:

- the authorising of all leave, including the granting of discretionary leave; and
- the management of school resources to facilitate staff access to leave entitlements and the maintenance of school programs and functions.

8.2 Leave Working Party

A leave working party will be established, as required, to:

- evaluate and/or review the school leave policy;
- prioritise applications where this is necessary;
- provide advice to the principal where a leave related grievance exists.

The Leave Working Party should consist of the following:

- Principal
- A merit and equity representative nominated by the principal.
- An elected staff representative.

9 Support for Staff

It is recognised that in the interests of both the school and individual members of staff that:

- while on leave the opportunity for professional and personal contact be maintained;
- an effective induction program and support be offered upon return to duty, where the leave has been for an extended period.

10 Appeals and Complaints

10.1 Whenever it is possible to do so, disputes associated with the submission, consideration or granting of leave will be resolved at the school. When resolution involving all appropriate organisations has not been achieved, an appeal to the Merit Protection Board, or in some circumstances a complaint to the Equal Opportunity Commission, may be the chosen course of action.

10.2 Merit Protection Board

It is understood that Principal Class officers, teachers and ES staff may lodge an appeal when leave for which they have applied is refused or not granted in the terms sought by them. Appeals are usually directed to the Merit Protection Boards under the personal grievance provisions. Personal grievances to the Merit Protection Board will ensure an independent review of a decision.

10.3 Complaints to the Equal Opportunity Commission

It is understood that, in relation to an application for leave, if staff believe they have been discriminated against under the terms of the Equal Opportunity Act Victoria 1996, or have been identified as a respondent in a complaint, **advice should be sought immediately from the appropriate industrial organisation.**

It is noted that it is usually not possible to have an appeal to the Merit Protection Board and a complaint to the Equal Opportunity Commission on the same matter dealt with concurrently and that complaints to the Equal Opportunity Commission take longer to be considered/conciliated/resolved than appeals to the Merit Protection Board.

References: