4.11 Sick Leave

Source of authority: Determination No 2 of 2009

4.11.1 General entitlements

a) All full time permanent teachers shall be entitled to fifteen (15) days paid sick leave per annum to be granted on 1 January. For new permanent full time teachers appointed after 1 January this entitlement is granted on a pro-rata basis. For example a permanent full time teacher appointed on 1 July shall be granted 7.5 days sick leave in that calendar year.

b) The entitlement is fully cumulative with the balance at 31 December each year rolled into the entitlement for the following year.

c) Permanent part time teachers and temporary teachers shall be entitled to sick leave on a pro rata basis proportionate to the entitlement of a permanent full time teacher.

d) A teacher who commences their first appointment or first temporary engagement with the Department may be entitled to additional sick leave up to a maximum of fifteen (15) additional days over the first two years of their first appointment provided that the:

i. teacher’s principal/supervisor (or their nominee) certifies that there are no current concerns with the teacher’s use of their sick leave; and

ii. teacher has exhausted all sick leave entitlements to date.

e) To be eligible for sick leave a temporary teacher must have signed a temporary engagement notice and have entered on duty. Sick leave will only be granted within a period of a temporary engagement where the teacher has already entered on duty.

f) Payment for sick leave is subject to the teacher:

(i) informing their manager as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the staff members starting time as possible; and

(ii) providing evidence of illness as soon as practicable if required by clause 4.11.4

g) Sick Leave will be granted where treatment by a treating doctor (medical health practitioner such as GP or specialist) is required during school hours. Appointments for treatment by other health practitioners (refer 4.11.4 b) should be made outside school hours.

h) Sick leave will only be granted for an absence during school hours where urgent treatment by such health practitioner is required to relieve pain. For example sick leave to see a dentist would only be provided where urgent treatment was required to relieve pain.

4.11.2 Special Sick Leave

a) Special sick leave may be granted to a teacher with at least ten (10) years service who has
exhausted all sick leave entitlements and who because of illness has been or will be absent from duty for a period of at least three (3) months. For the purpose of this section the three months are calendar months inclusive of student vacation periods.

b) Special sick leave may be granted to a full time permanent teacher on the basis of 22 additional working days for each completed ten years of service as follows:

<table>
<thead>
<tr>
<th>Completed years of service</th>
<th>Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 years and less than 20 years</td>
<td>22 days</td>
</tr>
<tr>
<td>20 years and less than 30 years</td>
<td>44 days</td>
</tr>
<tr>
<td>30 years and less than 40 years</td>
<td>66 days</td>
</tr>
<tr>
<td>40 years and over</td>
<td>88 days</td>
</tr>
</tbody>
</table>

c) Special sick leave is a separate entitlement and is not taken into account when calculating a teacher’s normal sick leave entitlement.

4.11.3 Sick Leave for Ex-service Personnel

a) Teachers who are ex-service personnel and who have an accepted war-caused disability may be granted 40 days sick leave on full pay in any period of twelve months.

b) This provision does not apply, if, during a teacher’s service, they have been granted sick leave at full pay exceeding the amount provided by the following formula: years of service x 20

c) Provision also exists for ex-service personnel who have exhausted all available full pay sick leave, and who are in receipt of a war disability pension and/or war disability sustenance allowance, to be granted additional leave with pay. Payment for this leave is the difference between the pension and/or allowance and normal salary on the following basis:

<table>
<thead>
<tr>
<th>Completed Years of Service</th>
<th>Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10 years</td>
<td>66 days</td>
</tr>
<tr>
<td>10 years and less than 30 years</td>
<td>132 days</td>
</tr>
<tr>
<td>20 years and less than 40 years</td>
<td>198 days</td>
</tr>
<tr>
<td>30 years and over</td>
<td>264 days</td>
</tr>
</tbody>
</table>

d) To be eligible for the above entitlements teachers 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 and service was with the armed forces of the Commonwealth of Australia.

4.11.4 Application and Medical Certificates

a) Where a teacher applies for a period of sick leave of three days or less it is generally not necessary to state the nature of the illness. When completing the leave application, teachers may indicate “sick” in the appropriate section.

b) Applications for sick leave exceeding three days must be supported by a certificate stating
the nature of the illness and the period that the teacher is unfit for duty. The certificate would most commonly be from a registered medical practitioner however a certificate issued by other health practitioners may cover absences of up to 5 days where special circumstances are indicated in the certificate. In any case, absences in excess of 5 days shall be supported by a certificate from a medical practitioner.

In accordance with the Health Practitioner Regulation National Law (NSW), a health practitioner means an individual who practices the following professions or speciality it contains:

- chiropractic;
- dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- medical;
- nursing and midwifery;
- optometry;
- osteopathy;
- pharmacy;
- physiotherapy;
- podiatry;
- psychology
- Aboriginal and Torres Strait Islander health practice; or
- Chinese medicine; or
- medical radiation practice; or
- occupational therapy.

c) Where a teacher’s leave record is considered to be unsatisfactory, a medical certificate may be required for every absence or for absences of less than three (3) days.

d) Should a teacher wish to keep the nature of the illness confidential, the medical certificate/s can be reviewed by a nominated medical assessor from Medibank Health Solutions (the NSW Public Sectors medical assessment provider).

The employee is required to complete the ‘Independent Review of Medical Certificate’ Form and attach the relevant medical certificate/s. The documents should be placed in an envelope marked ‘Confidential’ and sent to DPC Corporate Administration Team Medibank Health Solutions GPO Box 9821 Sydney NSW 2001.

The Manager, Work Health and Safety Corporate Support from the Work Health and Safety Directorate (or a delegate) will be advised by Medibank Health Solutions whether a valid medical certificate has been provided.

e) A teacher who is absent on a long period of sick leave or who has a limited sick leave entitlement should ensure that a leave application complete with a doctor’s certificate is submitted promptly. This will reduce the likelihood of a serious overpayment occurring. Where the absence is ongoing, leave applications and doctor’s certificates should be submitted on a regular basis. Advising the school by telephone is not sufficient to avoid overpayments.

f) Sick leave on a part time basis will only be considered in connection with departmentally approved rehabilitation programs and will be subject to regular review.
4.11.5 Sick Leave and Vacation Leave Entitlements

a) A teacher’s vacation leave entitlement is not affected where a teacher is absent on paid sick leave.

b) Sick leave without pay not exceeding twenty days (as aggregated in any school year) does not affect vacation leave entitlements, irrespective of when the twenty days sick leave without pay are taken.

c) Sick leave without pay in excess of twenty days in a school year reduces vacation leave entitlement on a pro rata basis.

4.11.6 Sick Leave While on Extended Leave

a) A teacher who becomes ill while on extended leave and who has sick leave to credit, may apply to have the extended leave recredited. To be eligible for a recredit of extended leave the teacher must have been ill for at least a period of five continuous working days. The five day period must occur during the extended leave.

b) The application must be accompanied by a medical certificate stating the nature and duration of the illness.

c) These provisions do not apply to teachers on extended leave prior to resignation or termination of services.

4.11.7 Sick Leave Without Pay

Where all paid sick leave entitlements for which a teacher is eligible have been exhausted the teacher may:

a) elect to take available extended leave concurrent with no pay sick leave; or

b) be granted sick leave without pay.

A teacher who is on sick leave without pay may be eligible for Commonwealth sickness benefits and should contact Centrelink regarding entitlements.

Sick leave without pay will not count as service for the accrual of paid sick leave.

4.11.8 Sick Leave Prior to Maternity Leave

a) A teacher may be granted available paid sick leave, sick leave without pay or extended leave if, because of a complication associated with the pregnancy including a history of miscarriages or other illness, the teacher is unable to continue to work.

b) If a teacher is entitled to paid maternity leave, sick leave must cease no later than the day prior to the anticipated date of birth.

c) If a teacher is not entitled to paid maternity leave, available sick leave may be granted until the anticipated date of birth. Unpaid maternity leave is granted on and from the
11. Sick Leave

anticipated date of birth.

4.11.9 Sick Leave Prior to Resignation or Retirement

If a teacher has submitted notice of resignation or retirement to take effect from a specific date and is absent on sick leave up to and including that date, the application for leave must be accompanied by a medical certificate.

4.11.10 Sick Leave to Attend Invitro Fertilisation Programs

a) Sick leave in accordance with a teacher’s entitlement is available in circumstances where, as a result of treatment administered under an Invitro Fertilisation Program, the teacher is unable to attend work. An application for leave in these circumstances should be supported by a medical certificate.

b) Teachers may be granted leave without pay or extended leave to credit to cover other absences in connection with attendance at Invitro Fertilisation Programs.

4.11.11 Medical Examinations

a) As a general rule teachers will be referred for a medical examination where a teacher is on sick leave for a continuous period of six months or more, or where 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. This may include absences on part time sick leave or rehabilitation programs.

b) Teachers suffering from a serious illness and whose medical practitioner recommends medical retirement, may request that a medical examination be arranged in order to determine their fitness to continue in employment.

c) In accordance with Teaching Service Regulation 2007, Clause 10 Medical Examinations, for the purpose of ascertaining the fitness of a teacher to perform their duties the Director-General may direct the teacher to submit to a medical examination by a qualified medical practitioner selected by the Director-General.

The teacher must comply with the direction. If the Director-General has issued any such direction to a teacher the Director-General may also direct the teacher to:

i) if on duty, to cease immediately, and

ii) not to resume duty until the medical examination is complete and the medical practitioner concerned has furnished a certificate stating that the teacher is fit for work.

d) See Chapter 11 Separation from the Service for details on medical retirement.

4.11.12 Workers’ Compensation

a) An application for workers’ compensation must be accompanied by an application for sick leave and irrespective of the period of absence must be supported by a WorkCover medical
See Section 4.15 Workers’ Compensation for details.

4.11.13 Damages and Compensation Claims - Other than Workers’ Compensation

Where the circumstances of an injury or illness may give right to a claim for damages or compensation not under the *Workers Compensation Act 1987*, a teacher may be granted sick leave on condition that they sign an undertaking to reimburse the Department the monetary value of any sick leave granted in the event that the action is successful.