



DEPARTMENT OF EDUCATION

DEPARTEMENT VAN ONDERWYS

LEFAPHA LA THUTO

ISEBE LEZEMFUNDO

156 Barkly Road  
Homestead  
KIMBERLEY 8301

Private Bag X5029  
KIMBERLEY 8300  
Republic of South  
Africa  
[www.ncedu.gov.za](http://www.ncedu.gov.za)

## DEPARTMENTAL POLICY DOCUMENT

# LEAVE POLICY FOR EDUCATORS

## TABLE OF CONTENTS

1.	OBJECTIVE .....	3
2.	PRINCIPLES .....	3
3.	SCOPE OF APPLICATION .....	5
4.	DEFINITIONS .....	5
5.	LEGAL FRAMEWORK .....	6
6.	RESPONSIBILITIES .....	6
7.	POLICY PROVISIONS .....	7
8.	IMPLEMENTATION AND EFFECTIVE DATE .....	32
9.	POLICY REVIEW .....	32

## 1. OBJECTIVE

The purpose of this policy is to ensure that leave is granted to employees under circumstances which necessitate their absence from work. This policy document provides guidelines and procedures to regulate an employee's absence from duty by means of granting leave of absence within the framework, provisions and measures as set out below

## 2. PRINCIPLES

- 2.1 The Public Service provides leave of absence for various occasions and purposes. The dispensation in respect of leave was reviewed and changed extensively in terms of Collective Agreement No.7 of 2000. Leave is now calculated in terms of working days and no longer in terms of calendar days.
- 2.2 In terms of the Personnel Administrations Measures, a distinction is made between the annual leave entitlement of **institution-based** educators and **office-based** educators.
- 2.3 Accurate record keeping is essential for the management and administration of the leave entitlement of educators. Inaccurate and poor record keeping can lead to financial benefits educators are not entitled to. The following principles must be applied in record keeping:
  - a) Applications for leave of absence must be recorded in up-to-date leave registers and a running total kept of the total number of days leave taken by each educator in the leave cycle.
  - b) Human Resource practitioners will compare the official leave records with the records maintained by managers, for audit purposes.
  - c) Human Resource practitioners will analyse leave data to determine overall trends and provide the data to managers to aid decision-making.

- d) Analysed and processed data will be communicated to managers in easily understood formats.

2.4 The leave entitlement of educators must be managed responsibly. Educators must bear the requirements of the service delivery programme of the Department in mind when requesting absences of leave. Managers may, also, not unreasonably refuse to grant leave, as such refusal could deprive educators of needed rest.

2.5 Except in exceptional circumstances, educators may not stay away from his/her place of duty unless an application for leave of absence has been lodged, in writing, and the delegated authority has informed him/her that the application has been approved.

2.6 The Department will, through the appropriate mechanisms, ensure that-

- a) Leave forms are submitted for all absences;
- b) All outstanding leave forms are followed up and resolved;
- c) Details of all leave taken will be captured timeously;
- d) There will be no backlog in respect of leave transactions for each leave cycle; and
- e) Each educator will receive information regarding the utilization of vacation leave at the end of each annual leave cycle.

2.7 If an educator has utilized all his/her annual leave on full pay, unpaid leave may be granted. Unpaid leave will be limited to 184 calendar days in a period of 18 months. Only in exceptional cases will unpaid leave in excess of this be granted. Individual cases must be referred to the Head of the Department, or delegated authority, for a decision. Unpaid leave must be utilized for absences from work due to:

- a) Arrest, imprisonment or appearance in court on a criminal charge that leads to conviction; or
- b) A criminal sentence

- 2.8 Unpaid leave will not be granted to educators who intend working for remunerative purposes elsewhere while on unpaid leave.
- 2.9 Unpaid leave will only be granted if the Head of the Department is convinced that this will be to the benefit and advantage of the Department.

### **3. SCOPE OF APPLICATION**

This policy is applicable to all Educators employed by the Northern Cape Department of Education.

### **4. DEFINITIONS**

- 4.1 Educator** – any person employed in the department in terms of the Employment of Educators Act, 1998, irrespective of rank or position.
- 4.2 “Office-based educator”** means an educator who is not an institution-based educator.
- 4.3 Employer** – employer means the Head of the Northern Cape Department of Education
- 4.4 Manager** – a manager is anyone whose duties in the main involve responsibility for the work of others. Thus, the term includes not only those who are usually referred to as managers because they are members of the so-called “management echelon”, but also all first-line supervisors.
- 4.5 Immediate family** – is limited to the educator's spouse or life partner, any children/adopted children, parents, adoptive parents, grandparents, grandchildren, siblings, parents-in-law, brothers and sisters-in law, niece/nephew.
- 4.6 Leave** – An absence from the workplace as a result of specified circumstance. Annual leave in a leave cycle is a right, whilst leave due to other (specified) circumstances is a special advantage granted by the employer.
- 4.7 Institution closure period** – the scheduled period that education institutions close at the end of each term and during which period teaching and learning activities are discontinued.

## 5. LEGAL FRAMEWORK

- i) Employment of Educators Act, 1998
- ii) Labour Relations Act, 1995
- iii) Basic Conditions of Employment Act, 1997
- iv) Government Employees Pension Law, 1996
- v) Compensation for Occupational Injuries and Diseases Act, 1993
- vi) Unemployment Insurance Fund Act, 1996
- vii) Resolution on Improvement in the Conditions of Service of Public Service Employees, No.2 of 2000
- viii) Resolution on Incapacity Code and Procedures i.r.o Ill Health No.12 of 1999

## 6. RESPONSIBILITIES

Responsibility	Delegation
Approval of annual, special and sick leave for Institution-based educators	District Director
Approval of annual, special and sick leave for office-based educators	Director
Approval of unpaid leave	HOD or Delegated authority
Approval for utilisation of capped leave for institution-based educators	District Director
Approval for utilisation of capped leave for office-based educators	Director: HRM

## 7. POLICY PROVISIONS

### 7.1 PROCEDURES

#### 7.1.1 Annual leave with Full Pay Granted in Excess

- a) An educator may not be granted annual vacation leave on full pay in excess of that which the educator is entitled to, plus capped leave.
- b) If, due to a *bona fide* error, an educator has been granted annual leave with full pay in excess of that which stood to his/her credit at that time, the over-grant will be deducted from the subsequent leave cycle.
- c) If an educator who has been granted annual leave with full pay in excess of the entitlement exits the Public Service, the portion of the over-grant which exceeds his/her normal leave credit will be regarded as an overpayment and will be recovered from him/her.
- d) If an educator exits the Public Service during an annual leave cycle after utilizing the full leave entitlement, the over-grant will be regarded as an overpayment and will be recovered from him/her.

#### 7.1.2 Provision for the Utilisation of Capped leave

- a) The utilisation of capped leave will be encouraged as the conversion of leave to a cash value has a financial implication.
- b) Applications for the utilisation of capped leave must be submitted in advance, in accordance with normal procedures. Such applications must take into consideration operational requirements of the Department /institution.
- c) Consultation must take place between the educator and the manager if, due to operational requirements, the educator cannot be released from duty for a long period and the rescheduling of leave must be considered.
- d) Capped leave may be used when ***family responsibility leave*** and ***leave for urgent private matters*** have been exhausted.

- e) An educator who has applied for **maternity leave** and wishes to extend her maternity leave may utilize her capped leave. An application for the utilisation of capped leave must be made in writing, in advance of the requirement.
- f) In cases where **temporary or permanent incapacity/disability leave** has not been applied for, and approved, in advance, the educator may request the utilisation of his/her capped leave. Applications in this respect must be submitted in writing with full explanation of the reason for the request.
- g) An educator who requires an extension of adoption leave may apply for the utilisation of capped leave for this purpose. Applications in this respect must be submitted in writing.
- h) Should an educator not have capped leave to his/her credit, or does not apply for the utilisation of capped leave in advance, leave without pay will be implemented for all forms of leave not applied for.

#### **7.1.3 Implementation of Leave Without Pay – Application of the Audio Iteram Partem Rule**

- a) Leave of absence from duty by an educator shall be granted by the Department with due regard for the requirements of the Department or educational institution concerned.
- b) Applications for leave must be made on a form approved by the Department and is subject to the approval of the employer. The employer may, on good cause shown, at any time withdraw leave already granted.
- c) An educator, except an educator who has been suspended from duty or who is by sudden illness or other unavoidable circumstances prevented from remaining on or reporting for duty, shall not leave or stay away from work until he/she has applied for leave in writing and has been advised that his/her application has been approved.



- d) Leave without pay will be implemented for unauthorized absences from duty. For the implementation of leave without pay, the following must be submitted –
- The audio alteram partem must be applied. The rule makes provision for the alleged guilty party to, within a period of 7 days, give reasons for his/her absence and explain the conditions leading to his/her actions. This letter must be signed by the manager as well as the alleged guilty party. Should the alleged guilty party refuse to sign, this must be duly noted in writing and be witnessed (by signature) by a member of staff.
  - Leave forms signed by all parties involved must accompany the audio alteram partem letter.
  - If an application for leave without pay is submitted, the dates on the leave form and on the audio alteram partem letter must correspond.
  - For each period of leave without pay, an audio alteram partem letter must be submitted.

#### **7.1.4 Annual Vacation leave – General Provision**

- a) Educators are entitled to annual leave with full pay during each leave cycle of 12 months, commencing on 1 January of each year.
- b) An educator retains all his/her leave credit when he/she is transferred within a department or between State Departments, without a break in service.
- c) Unless indicated otherwise, days of leave granted in respect of any category of leave, other than annual leave, shall not be deducted from an educator's leave provision in respect of annual leave.
- d) An educator shall not be considered to be on leave (i.e. will be regarded as being on duty) if he/she:
- Must appear as a witness –
    - In any court;

- In misconduct proceedings or in a misconduct investigation in terms of any law;
  - At inquest proceedings; or
  - Before any commission or committee appointed by the State or before any committee or institution instituted by, or in terms of any Act
- Appears as a defendant or co-defendant in civil proceedings arising from his/her official duties and in which the State or any statutory body or institution has a direct interest;
  - Is taken into custody or must appear in any court on a criminal charge and the offense he/she is charged with is withdrawn or if he/she has been acquitted of such an offense.
  - Attends or participates in a training programme required by the employer or the professional body, with which he/she is required to register in order to remain registered, or with the approval of the employer, attends or participates in a training programme or other activity that is in the employer's interest.
- e) All leave applications must be submitted on the prescribed form (Form Z1)

#### **7.1.5 Annual Leave Entitlement of Institution-Based Educators**

- a) "Institution-based educator" means an educator who is employed at an education institution and whose normal duties are discontinued during institution closure periods.
- b) An institution-based educator will be regarded as being on annual leave during institution closure periods that are outside of scheduled working days. The Minister determines working days that fall within institution-closure periods as indicated on the annual school/college calendar. Further working days will annually be scheduled during institution-closure periods for the purposes of an in-service in accordance with measures that exist in this regard. The remainder of the school closure periods will be regarded as annual leave for institution-based educators. No application for such leave is

required and such leave is also not recorded. Due to the nature of an institution-based educator's annual leave, any other form of leave that coincides with it will not have an effect on the educator's annual leave entitlement.

- c) Should an institution-based educator be officially appointed to perform overtime duty during the abovementioned annual leave periods, he/she will be remunerated additionally for the performance of such duties in terms of the applicable measures in Chapters D or E of the Personnel Administration Measures. The categories of work for which overtime remuneration is provided are-
- Supervisory duties at hostels
  - Tuition (e.g. Winter Schools)
  - Public examination-related work; and
  - Education supervisory duties performed at schools dealing with learners committed in terms of the Child Care Act
- d) The appointment of an educator for any of the abovementioned categories of overtime must be made in writing and approved by the District Manager.
- e) All other duties performed by an educator during school closure periods will be regarded as part of his/her normal duties or as voluntary and will not qualify for additional remuneration.
- f) Institution-based educators, who were in service before 1 January 2002, may have accrued annual leave that has been capped for payment at retirement. These educators may only be allowed to utilize this leave during a school/college term on days that would not disrupt the educational programme of the institution. Applications for such leave must be submitted to the District Manager, and approved, prior to the taking of such leave.
- g) Save for leave accrued prior to 1 July 2000, an institution-based educator does not accrue any leave credit for purposes of

payments, for carry over to a next leave cycle, or for extending other forms of leave.

#### **7.1.6 Annual Leave Entitlement of Office-Based Educators**

- a) The main purpose of annual leave is to provide periods of rest for an office-based educator but, subject to these measures, may also be used to extend periods of other categories of leave, as provided for in these measures.
- b) Application for annual leave may not be unreasonably refused, taking into consideration service delivery requirements.
- c) The full-year entitlement of an office-based educator is-
  - 22 working days in respect of an educator with less than 10 years of service;
  - 26 working days in respect of an educator with more than 10 years of service; and
  - 28 working days in respect of educators appointed prior to 1 July 1996.
- d) An educator who is appointed after the commencement of an annual leave cycle, or whose service is terminated during a leave cycle shall, in respect of such cycle, be entitled to annual leave calculated as one twelfth of the full year entitlement for each completed month of service.
- e) Temporary educators appointed for a fixed period shall be granted annual leave that is proportional to their terms of employment at a rate of one twelfth of their full year entitlement per month of service.
- f) Educators appointed in a part-time or shared capacity shall be granted annual leave that is proportional to their appointment.
- g) For each 15 consecutive days leave taken without pay, the educator's annual leave entitlement will be reduced by one twelfth.

- h) For the purpose of granting annual leave, working days mean Monday to Friday, excluding public holidays.
- i) At least 10 working days must be taken as leave days during the annual leave cycle.
- j) Annual leave should, as far as possible, be taken as consecutive working days.
- k) The remaining leave days (if any) must be taken no later than 6 months after the expiry of the relevant leave cycle. Leave not taken by the expiry date will be forfeited.
- l) The educator will be cautioned timeously if, at the end of the relevant leave cycle, he/she has not utilized his/her full leave entitlement.
- m) If, due to the Department's service delivery requirements, an educator's application for leave is denied and cannot be rescheduled, such leave must, upon request be paid out to the educator at the end of the 6-month period referred to in paragraph l) above. An educator's request must be:
  - In writing
  - Accompanied by written proof of refusal of the leave by the employer, or of an instruction to report for duty, as the case may be; and
  - Lodged by no later than the end of the relevant 6-month period.
- n) The Head of the Department will, at the end of the relevant 18-month period, report to the Legislature on the number of educators denied annual leave, reasons for such denial and the amount paid in this regard.

### 7.1.7 Payout of Unused Leave Credit

- a) Office-based educators will be paid the cash value in respect of unused leave credits on termination of service and in terms of paragraph n) above. Other than cases of termination of service referred to in paragraph 7.1.9 c below, the payment will be limited to a maximum of 22 working days.
- b) Payment of annual leave credits will be calculated on the basis of the educator's basic salary (excluding benefits).
- c) When an office-based educator's employment is terminated for any reason other than death, retirement (including early retirement) or medical boarding, and at the expiry of the 6-month period mentioned in paragraph n) above, leave payouts will be computed in terms of the following formula:

$$\frac{[(A-B)+(C-D)] \times E}{261}$$

Where:

- |   |   |  |
|---|---|--|
| A | = | Educator's pro rata leave entitlement in respect of the previous leave cycle   |
| B | = | Leave taken in the previous leave cycle  |
| C | = | Pro rata leave entitlement in the current leave cycle.   |
| D | = | Leave taken in the current leave cycle   |
| E | = | Educator's annual basic or pensionable salary as at the last day of duty, or at the end of the 6 month period mentioned in paragraph n) above, whichever is applicable |

Note:

- If an educator has been in service for the full leave cycle, his/her pro rata leave entitlement will be equal to the full year entitlement.
- After 30 June, A-B=0

**7.1.8 Annual Leave Accrued Prior to 1 July 2000 and During the Period 1 July 2000 to 31 December 2001**

- a) Educators shall retain all audited leave credits accrued prior to July 2000.
- b) The number of accrued leave days prior to 1 July 2000 shall be converted to working days by multiplying such accrued days by 5 and divided by 7. During the periods 1 July 2000 to 31 December 2000 and 1 January 2001 to 31 December 2001, all institution-based educators accrued 5 and 10 working days respectively on a pro rata number of such days calculated in accordance with paragraph 7.1.7 e. Any of these days that were not granted to the educator since 1 July 2000 shall be added to the number of leave days accrued prior to 1 July 2000.
- c) The payouts in respect of such leave will be made in the event of –
  - Death
  - Retirement, including early retirement; or
  - Medical boarding
- d) The leave payout of leave credits in respect of an educator whose services are terminated in terms of paragraph c) above is calculated as follows:

$$\frac{[(A-B)+(C-D)+F] \times E}{261}$$

Where:

A = Educator's pro rata leave entitlement in respect of the previous leave cycle

B = Leave taken in the previous leave cycle

C = Pro rata leave entitlement in the current leave cycle

D = Leave taken in the current leave cycle

E = Educator's annual basic or pensionable salary as at the last day of duty

F = Accrued leave credits in terms of paragraph 7.1.4 a above, less all leave Taken by the educator from these accrued leave credits since 1 July 2000.

Note:

- If an educator has been in service for the full leave cycle, his/her pro rata leave entitlement will be equal to the full year entitlement
  - After 30 June, A-B=0
  - The sum total of A-B and C-D may not exceed 22 days
- e) The Head of the Department shall determine whether there are periods that are unaudited and in such instances, the educator's leave payout shall be paid on the basis of 6 days per completed year of service, up to a maximum of 100 days in respect of the unaudited leave period. The formula to be used for calculating the payout in respect of these days will be as indicated in paragraph 7.1.8 c above.
- f) The Head of the Department shall determine procedures and measures in keeping with service delivery needs, on how educators will be allowed to utilize their leave credits accrued prior to 1 July 2000, over and above the normal vacation entitlements.

**7.1.9 Unpaid Leave for Continuity of Service(Institution-Based Educators)**

- a) Unpaid leave for a maximum of 120 consecutive days may be granted to an institution-based educator who was previously employed as an institution-based educator by the same or another education department for the purpose of retaining the continuity of the educator's service.
- b) The unpaid leave shall commence on the day immediately following the date on which the educator last received salary from his/her previous employer and shall expire on the day preceding the date of assumption of duty with the new employer.
- c) The limitation of 120 days shall not apply to an educator in cases where the period concerned extends from the day immediately following the last day of a term to the day immediately preceding the first day of the term after a full term has elapsed.



- d) Where unpaid leave for continuity of service has been granted to an educator, the service of the educator is regarded as continuous for all purposes of determining his/her period of service.

**7.1.10 Special Leave for Professional and Personal Development and for Religious Observances(Institution-Based Educators)**

- a) Special leave with full pay may be granted to an institution-based educator:
- To engage in activities aimed at his/her professional development
  - To engage in activities aimed at his/her personal development where such personal development is also in the interest of the employer; or
  - For religious observances
- b) The total number leave days granted to an institution-based educator in terms of this provision may not exceed three (3) working days per annual leave cycle.
- c) Applications for this category of leave must be submitted at least 2 weeks prior to the intended leave days.

**7.1.11 Special leave for Study Purposes**

- a) Special leave may be granted to an educator for an approved course of study and for a period approved by the employer, on conditions as approved by the employer, including leave on full or partial pay, or without pay.
- b) If special leave with full or partial pay for study purposes is granted to an educator, in terms of the provision above, the employer may call for periodic progress reports in respect of the educator's studies. The educator shall enter into agreement with the employer in an agreement approved by the employer. In terms of this agreement, the educator undertakes to serve the employer immediately after completion of the period of special leave for study

purposes for a period (hereafter referred to as the service period) equal to at least the period for which special leave for study purposes on full pay has been granted, or for a period proportional to the educator's pay (as the case may be) during the period of special leave for study purposes.

#### **7.1.12 Special Leave in Extraordinary Circumstances**

- a) Subject to section 14 of the Act and notwithstanding any disciplinary measures that may apply, unauthorised absences by an educator shall be regarded as special leave in extraordinary circumstances and shall be without pay, unless the employer in a specific case determines otherwise.
- b) If, in the opinion of the Head of Department, circumstances justify it, he/she may grant or place an educator on special leave in extraordinary circumstances for any reasonable purpose and for any reasonable period, and such leave shall be without pay unless the employer determines otherwise.

#### **7.1.13 Arrest, Imprisonment or Appearance in a Court of Law**

- a) Educators will be granted unpaid leave in all cases of absence from duty due to arrest, imprisonment or appearance in a court of law on a criminal charge that leads to conviction.

#### **7.1.14 Family Responsibility Leave and Special Leave for Urgent Private Affairs**

- a) An educator will be granted 3 days leave per annual leave cycle if:
  - The educator's spouse or life partner gives birth to a child; or
  - The educator's child, spouse or life partner is ill
- b) An educator will be granted 5 days leave per annual leave cycle if:
  - The educator's child, spouse or life partner dies; or
  - A member of the educator's immediate family dies.

- c) Supervisors must satisfy themselves of the authenticity of the circumstances in order to prevent abuse of these provisions.
- d) An **institution-based educator** may, during a scheduled working period, be granted special leave to attend to an urgent private matter. The nature of the urgent private matter will have to be such that the educator's presence is urgently required somewhere else. Evidence is required to verify that the situation may cause serious problems if the educator is not allowed to attend to it immediately. If circumstances allow, the District Director must approve such leave. The Principal must be able to confirm the urgency of the circumstances and recommend the granting of the leave. The number of leave days taken by an **institution-based educator** in terms of **family responsibility and urgent private affairs** shall not exceed twelve (12) working days in an annual cycle.
- e) An **office-based educator** may, during a scheduled working period, be granted special leave to attend to an urgent private matter, the nature of which is such that, in the opinion of the employer, it warrants such an educator's absence from work. The number of leave days taken in terms of family responsibility and urgent private affairs shall not exceed five (5) working days in an annual leave cycle.
- f) Educators who have used all their available family responsibility and urgent private matter leave during an annual leave cycle may, subject to approval from the Head of the Department, or delegated authority, apply for:
  - Use of available annual vacation leave; or
  - Use of unpaid leave, to a maximum of 184 days.

#### **7.1.15 Marking of Examination Papers**

- a) Educators (both institution-based and office-based) are allowed to mark examination papers without having to utilize annual vacation leave.

- b) Such absences may be regarded as absence from duty with full pay on special leave.
- c) Such absences may only be approved by the Head of Department.
- d) Application for absences from duty with full pay must be:
  - Accompanied by the necessary proof of the examinations; and
  - On the prescribed leave form for special leave for the marking of examination scripts.
- e) Approval must be obtained before the commencement of the marking process. Applications for leave for the marking of examination scripts must reach the Head Office by 15 October of each year.

#### **7.1.16 Normal sick leave**

- a) Educators are entitled to 36 working days sick leave with full pay during a three-year cycle. Unused sick leave will lapse at the expiry of the three-year cycle.
- b) An educator who is unable to report for duty due to sudden illness must immediately notify his/her manager of his/her inability to report for duty. Where conditions do not permit, this must be done as soon as possible. The onus lies with the educator to prove that conditions did not permit, failing which, leave without pay will be applied.
- c) Educators who apply for three or more sick leave days must submit a certificate from a registered and recognized medical practitioner (as defined by the Health Professionals' Council of South Africa), the certificate must cite the reason and duration of the absence.
- d) In certain instances where a pattern of sick leave days is established, a certificate may be required for absences of less than three working days.

- e) For every 15 consecutive days leave taken without pay, an educator's sick leave entitlement will be reduced by 1/36<sup>th</sup> of the sick leave entitlement.
- f) If an educator falls ill during annual vacation leave on full pay, such leave can be converted to sick leave, provided that a certificate from a registered and recognized medical practitioner (as defined by the Health Professionals' Council of South Africa), is submitted to substantiate the indisposition.
- g) In the event of an educator having to:
  - Consult a doctor, therapist, etc for reasons related to the educator's health/wellness; or
  - Undergo training related to a disability (e.g. a blind employee who has to undergo training with a guide dog); or
  - Go for maintenance work for equipment used as a result of a disability, the Department may grant such employees time off in terms of the sick leave provisions.
- h) Where an educator is absent for part of a day, these absences must be recorded until a full day has been recorded. This period (full day) is then recorded as sick leave.
- i) Should an educator's normal sick leave be exhausted, temporary incapacity leave may be considered. It is recommended that proof be required in order for the utilisation of sick leave to be properly monitored.

#### **7.1.17 EIGHT WEEK RULE**

- a) The Minister of Public Service and Administration has determined that from 1<sup>st</sup> April 2005, an employee in his/her first 36 days normal sick leave period, who has been absent from work on more than 2 occasions within an eight-week period, must regardless of the duration of the sickness or injury submit a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury. The eight-week period shall be a calendar period and commences on the first day of an

employee's absence due to sickness or injury. Any subsequent day of absence due to sickness or injury after the above-mentioned period must then be regarded as the first day of the next eight-week period. If the employee fails to submit the required medical certificate, the head of the Department must notify the employee that if the prescribed medical certificate is not received within 2 (two) working days, the sick leave period will be deemed to be leave without pay. If the employee fails to submit the medical certificate on time, the relevant absence must be covered by annual leave (with the employee's consent) and/or unpaid leave if insufficient annual leave credits are available and if the employee failed to notify the Head of the Department of his/her choice. Failure by the employee to submit his/her medical certificate within the stated period must be viewed in a serious light and disciplinary steps against the employee should be taken.

- b) The eight week period will be treated as a 2 calendar month, and will start on the 1<sup>st</sup> day of an employee's absence due to illness or an injury.

#### **7.1.18 Use of Annual Leave for the Treatment of Substance Abuse**

- a) If an educator:
- Has completed one year satisfactory service; and
  - Abuse alcohol or another drug,

He/she may utilize current vacation leave credits and/or probable future vacation leave for relevant treatment.

- b) After at least 12 months have elapsed since the commencement of the treatment, if expert evidence indicates that, the educator has been rehabilitated, the Department may return to the educator the leave used during the period of treatment.
- c) Such concessions will be granted **once** only.

#### **7.1.19 Leave for Occupational Injuries and Diseases**

- a) Educators who, as a result of their work, suffer occupational injuries or contract occupational diseases, will be granted occupational and disease leave for the duration of the period they cannot work.
- b) An educator who suffers a work-related injury as a result of an accident involving a third party will be granted occupational injury leave, provided the educator:
  - Brings a claim for compensation against the third party; and
  - Undertakes to use the compensation received (in terms of the Compensation for Occupational Injuries and Diseases Act, 1993) to cover, as far as possible, the cost arising from the accident.
- c) The Department will assist the educator to claim compensation in accordance with the prescripts and procedures.

#### **7.1.20 Maternity Leave**

- a) Educators are entitled to 4 consecutive calendar months' maternity leave, to commence:
  - At least 14 days before the expected date of birth, but not later than the actual date of birth in the case of a premature confinement; or
  - On a date certified by the attending medical practitioner as necessary for the educator's health, or that of the unborn child.
- b) No educator may commence with normal official duty for at least six weeks after the birth, unless the attending medical practitioner certifies that the educator is fit to do so. Where it is practical or feasible, and subject to the provisions in paragraph 7.1.20 a) above, the Department may allow an educator to interrupt her maternity leave by allowing her to return to work temporarily if the baby is hospitalized due to premature birth or illness for a period longer than a month during the period of maternity leave.

- c) Maternity leave may be extended, on application by the educator, by:
- The granting of sick leave as a result of a medical complication;
  - The granting of a maximum of 184 calendar days unpaid leave; and
  - The granting of annual vacation leave
- d) Educators who, during the third trimester of the pregnancy, experience a miscarriage, stillbirth, termination of the pregnancy on medical grounds, or should the new-born child die within six weeks of the confinement, will be eligible for six consecutive weeks maternity leave (the leave to begin after the miscarriage, stillbirth or termination of the pregnancy), where after sick leave can be granted, in the event of a medical complication.
- e) The provisions contained in paragraph 7.1.20 d) above will also apply to an educator who experiences a miscarriage, stillbirth or termination of pregnancy on medical grounds after commencement of maternity leave. The period prior to the miscarriage, stillbirth or termination of pregnancy on medical grounds will be regarded as special leave with full pay.
- f) An educator must notify the employer in writing, unless the educator is unable to do so, of the date on which she intends:
- Commence maternity leave; and
  - Return to work after maternity leave
- g) The notification must be given at least 4 weeks before the educator intends to commence the maternity leave. If this is not reasonably practical, notification must be given as soon as possible.
- h) A medical certificate must be attached to the application for maternity leave, the certificate to indicate the period of maternity leave and the expected date of delivery.

#### **7.1.21 Adoption leave**

- a) An educator who adopts a child that is younger than 2 years will qualify for adoption leave to a maximum of 45 working days, where after the leave may be extended, on application by the educator, by:
- The granting of maximum of 184 calendar days unpaid leave; or
  - The granting of annual vacation leave



- b) If both spouses or life partners are employed in the Public Service, both partners will qualify for adoption leave, provided that the combined leave taken does not exceed 45 working days.
- c) All applications for adoption leave must be accompanied by the following documents:
  - Proof of adoption
  - Proof of employment of spouse/life partner; and
  - Commencement with formal registration of the child

#### **7.1.22 Leave for Office Bearers or Shop Stewards of Recognised Employee Organisations**

- a) Office bearers or shop stewards of recognised educator organisations will receive a maximum of 10 working days paid leave per annual leave cycle, for activities related to his/her union position.
- b) All applications for leave for these purposes must be submitted in writing, together with the supporting documentation. The application must be submitted at least 5 working days before the leave is taken.
- c) Registers must be maintained of educators who utilize this leave provision.
- d) Unions must, at the beginning of each year, submit the names of office bearers or shop stewards who will be entitled to utilize this leave provision.
- e) The number of educators who will qualify for this leave provision for each registered union will be determined in accordance with Chapter III, Part A of the Labour Relations Act, 1995.

#### **7.1.23 Application for Leave for Special Purposes**

- a) Special leave for study purposes may be granted in the circumstances outlined below, on condition that the Head of the Department is satisfied that the educator's study field, preparatory work, etc is in the interest of the Public Service.
- b) The following principles will apply to special leave for study purposes:
  - Educators must be appointed in a permanent capacity
  - Study leave may be granted for a maximum period of one calendar year, but not for a period shorter than 30 days.

- Educators must study at a recognised educational institution within the Republic of South Africa or abroad.
- Study in a direction which requires the performance of practical work, or practice teaching for a particular period annually.
- Special leave for study purposes may be considered for research work and/or the writing of an essay or thesis for a post-graduate qualification.
- The applications received from educators who already have the necessary qualifications/category division for promotion to the next post level will be considered only after all the applications received from educators with lower qualifications have been assisted, and where no other applications have been received.
- If more than one application is received from the same school/institution, and all applicants qualify for study leave, preference will be given to the educator with the longest service and/or the lowest qualification.
- The choice of educational institution is left to the educators. The course and qualification registered for must meet the requirements of the Department.
- Study leave is granted to follow a specific course or qualification. The approved course or qualification may not be changed without the prior approval of the Department.
- The Department retains the prerogative to cancel study leave of educators if their progress and/or attendance of classes is not satisfactory.
- Educators must submit proof of registration within one month of commencing studies.
- Study leave must be granted with due consideration for the availability of funds for the relevant financial year.
- Applications for study leave received late will be rejected and any absences from duty will be regarded as leave without pay.
- Study leave for specialized fields or scarce subjects will also be considered.

- The closing date for applications for study leave is 30 September of each year. This includes all forms of study leave, including the attendance of classes during office hours.
- Applications for study leave must be accompanied by the following:
  - A covering letter containing details of the qualification to be pursued and the major subjects to be registered for
  - Completed undertaking form
  - Completed leave form
- Applications that are not fully completed will not be considered
- Representatives from the District Offices will be invited during the last quarter of each year to attend a meeting at which all the applications will be presented.

#### **7.1.24 Attendance of Classes during Office Hours**

- a) An educator who studies part-time, or by means of correspondence at a recognised educational institution and who, as a result of his/her studies is required to be absent from his/her place of work, may be released from duty, on condition that he/she takes a day's vacation leave with full pay (if he/she has the available leave credits) or leave without pay (if he/she does not have the necessary leave credits) for every full 8 hours (7 hours if a six-day or longer working week is observed) he/she is released from duty.
- b) An educator who serves in a rank in which candidates are normally appointed with a view to training in specific fields, and who failed to attain the matriculation standard in those subjects required for admission to the training course(s), and who attends part-time classes at a recognised educational institution in order to bring his/her knowledge of those subjects up to a matriculation standard, may be released from duty for not more than 8 hours (7 hours if a six-day or longer working week is observed) per working week.
- c) An educator who serves in a rank in which candidates are normally appointed with a view to training in specific fields who study part-time at a technical college, technikon, university or other recognised educational institution, may be released from duty to the extent required by his/her studies.
- d) An educator who repeats a course, or part thereof may, with the approval of the Head of the Department, be released from duty, on condition that 1 day's vacation leave with full pay (if he/she has the available leave credits) or leave without pay (if he/she does not

have leave credits) for every full 8 hours (7 hours if a six-day or longer working week is observed) he/she is released from duty.

- e) The granting of leave privileges, as set out herein, is subject to the Head of Department being satisfied that the studies are in the interests of the Public Service.
- f) Applications for leave to attend classes during office hours must be approved before the educator registers for the course/qualification.
- g) If a course/qualification is offered by an institution offering distance education, approval to attend such a course during office hours will only be granted in extremely exceptional cases and for only 1 course at a time.

#### **7.1.25 Special Leave for Examination Purposes**

- a) An educator may be granted special leave for examination purposes with full pay for each day that he/she sits as a candidate for an examination approved for this purpose by the employer, plus one additional day of special leave for study purposes for each day of examination, which may be taken on the working day immediately prior to the day of examination.
- b) An original of a certified timetable must be submitted with the application for leave. This document must indicate the name of the institution, the name of the registered student and the student number.

#### **7.1.26 Special Leave for Participation in Sporting, Cultural and Local Council Events**

- a) Special leave with full pay may be granted to an educator when he/she is selected by a recognised amateur sports organisation to:
  - Take part, as a member of an organized sports group, in a tour outside the Republic of South Africa, whether as a competitor, coach or manager; or
  - Represent the Republic of South Africa (not merely at club or Provincial level) as a competitor, coach or manager at international sporting events within the borders of the Republic; or
  - Accompany a foreign national team visiting the Republic as a representative of the South African Sports Association organizing the tour; or
  - Serve as referee, an official or a judge at an organized amateur sports meeting at international level, inside or outside the boundaries of the Republic of South Africa.
- b) Special leave with full pay may be granted to an educator when he/she is selected by a recognised amateur sports organisation to take part in sports events within the Republic at a inter-provincial

level, a level between provincial level or a level lower than national level, against an international team.

- c) Special leave with full pay may be granted to an educator when he/she is selected by a national or provincially registered cultural organisation to take part in, represent or accompany a group in an official capacity in an event.
- d) Special leave may be considered for participating as a councilor in local elections, attending a conference, meeting or other event approved by the Department.
- e) The general leave measures will apply and all educators will submit a leave form in advance of the period of absence requested. Detailed motivation and proof of the event must be submitted.

#### **7.1.27 Special Leave for Transfer Purposes**

- a) Special Leave with full pay will be granted to an educator to supervise the packing, loading and/or unloading and/or unpacking of personal effects.
- b) If the educator is transferred at state expense from one station to another, one day's special leave on full pay can be granted for supervision during packing and loading of personal effects.
- c) An additional day's special leave may be granted for the supervision of unloading and unpacking at the new station.

#### **7.1.28 Special Disability Leave**

- a) In the case of unforeseen circumstances (e.g. lifts in building not operating) special leave can be granted to educators with physical disabilities
- b) Special leave may be granted if a visually impaired educator has to attend a recognised training course for the handling of guide dogs.

#### **7.1.29 Quarantine leave**

- a) Special leave with full pay may be granted if an educator was absent from duty as a result of separation or isolation on medical instruction because he/she had been in contact with someone suffering from a contagious or infectious disease.
- b) Leave for this purpose will only be granted if a registered medical practitioner has indicated the period of quarantine and the reason for the separation or isolation on a medical certificate.

#### **7.1.30 Special Leave for Natural Disasters**

- a) Educators qualify for special leave if the area in which he/she is working/residing is struck by a natural disaster and the Head of the Department is satisfied that it is impossible for the educator concerned to continue with his/her official duties at the time concerned.

#### **7.1.31 Special Leave for Military Purposes**

- a) Special Leave with full pay may be granted to an educator if he/she is instructed, in writing, or called up in terms of the Defence Bill No.22543, 2001 or any regulation made thereunder, to perform military service, provided that the Head of the Department has granted permission for the educator to enroll for military service.

### **7.2 FORMS**

All forms as prescribed in the system and applicable to this policy will be utilized.

### **7.3 ROLES AND RESPONSIBILITIES**

#### **7.3.1 Educators**

Educators must ensure that the leave entitlement is used responsibly and with due regard for the service delivery programme of the Department. Educators will also ensure that applications for leave are submitted timeously and that appropriate authority has been granted.

#### **7.3.2 Managers**

Managers will not refuse the granting of leave without valid and substantial reasons. Leave utilized by educators must, also, be administered with due regard for the service delivery programme of the Department. Accurate and up-to-date records of educators' leave will be maintained and made available for audit purposes, when required. All relevant information pertaining to leave (e.g. circulars) must be cascaded to educators. In order for this policy to be effective, managers must cultivate the qualities of fairness, reasonableness, unselfishness, loyalty, honesty, tolerance and discipline in the working environment.

#### **7.3.3 Human Resource Component**

The Human Resource component will evaluate requests for leave in an equitable and non-prejudicial manner. Records of leave taken will be

accurate and up-to-date and an audit of all leave records will be undertaken at least once per leave cycle.

## **8. IMPLEMENTATION AND EFFECTIVE DATE**

This policy becomes effective on approval by the Head of Department of the Northern Cape Department of Education.

## **9. POLICY REVIEW**

This policy shall be reviewed at least annually to ensure that it is aligned with all the relevant legislation and complies with all adequate internal control requirements.

**Approved By:**



\_\_\_\_\_  
**G.T PHARASI**  
**HEAD OF DEPARTMENT: EDUCATION**

11/10/31  
\_\_\_\_\_  
**DATE**