



STAFF LEAVE POLICY

2022

PURPOSE:

The purpose of this policy is to:

- provide advice to staff members on leave entitlements and school procedures to be followed in the administration of leave matters.

The document identified the most common forms of leave available to staff but not necessarily all leave entitlements. For advice on leave not mentioned in this document staff members should seek specific advice from the Business Manager.

POLICY:

In developing the Baden Powell College Staff Leave Policy, the following principles have been established:

- Leave entitlements are a fundamental condition of employment that support equal employment opportunity, and support the balancing of work, family, and individual responsibilities.
- In considering applications for leave there shall be recognition of the rights and entitlements of staff, recognition of the interests of the school, a process which is fair, equitable, reasonable, impartial, and non-discriminatory and protection from arbitrary action or coercion.
- Processes are put in place for the handling of appeals and complaints concerning the granting or non-granting of leave.

CLARIFICATION:

For the purposes of this clause:

- **“immediate family”** includes:
 - (a) spouse or former spouse, de facto partner or former de facto partner, child (including an adult child), parent, grandparent, grandchild or sibling of the employee, or 1 41
 - (b) child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner).Subclauses (a) and (b) include step-relations (such as step-parents and step-children) as well as adoptive relations.
- **“medical certificate”** means a certificate issued by a registered health practitioner, other than a registered student, within the meaning of the Health Practitioner Regulation National Law (Victoria) Act 2009 (Vic);
- **“required document”** means:
 - (a) in respect of personal leave for illness or injury, a medical certificate, or, if it is not reasonably practicable for an employee to provide a medical certificate, a statutory declaration;
 - (b) in respect of personal leave for carer's purposes, a medical certificate, or a statutory declaration;
- **“service”** means service approved by the Employer;
- Unless otherwise specified, the entitlements of this clause apply on a pro-rata basis in respect of part-time service;
- Any leave granted to an employee does not extend beyond the date that person's employment would otherwise have ceased.

Annual Leave:

- 1) (a) An employee is entitled to 152 hours (20 days for a full time employee) annual leave in respect of each twelve months of service and accrues progressively during a year of service according to the employee's ordinary hours of work.
(b) In addition to annual leave accrued under subclause (1)(a) an education support class employee is entitled to additional paid leave of 228 hours (30 days). This entitlement is reduced by any leave purchased under subclause 20(8).
(c) Employees will take annual leave at such times as the Employer determines provided that the wishes of the employee concerned will be taken into consideration as far as practicable.
- 2) An employee who becomes ill or injured during a period of leave under subclause (1), and subject to satisfying the requirements of subclause (3), may be granted personal leave and have the relevant period re-credited to their entitlement under subclause (1).

Personal Leave:

- 1) Personal leave may be accessed in the event an employee is absent:
 - (a) due to personal illness or injury; or
 - (b) for the purposes of caring for an immediate family or household member who is sick or injured and requires the employee's care or support or who requires care or support due to an emergency.
- 2) An employee will be credited with 114 hours (15 days for a full-time employee) personal leave on full pay on commencement of employment and 114 hours (15 days for a full-time employee) personal leave on full pay for each year of service thereafter which accrues progressively from the commencement of employment and will be cumulative. Provided that:
 - (a) in the first year of employment an employee, who exhausts their personal leave credits, may access personal leave credits which would later accrue up to a maximum of 114 hours (15 days for a full-time employee);
 - (b) an employee employed for one or more fixed periods will not accrue more than 114 hours (15 days for a full-time employee) personal leave in any year.
- 3) (a) An employee may use personal leave credits to make up the difference between payments made by the Transport Accident Commission and the employee's full pay.
(b) Subject to subclause (17)(k), an employee will not be entitled to personal leave for personal illness or injury on account only of being pregnant but nothing in this clause will prevent such an employee being entitled to personal leave for an illness resulting from pregnancy or childbirth.
- 4) In any year where an employee has exhausted their personal leave credits, the employee will be granted further personal leave to care for an immediate family or household member with pay up to a maximum of 22.8 hours (three days for a full time employee).
- 5) (a) Applications for personal leave must be supported by a required document.
(b) A required document in respect of personal leave for injury or illness must state that the employee is unfit for duty for the period of leave.
(c) A required document in respect of personal leave for carer's purposes must state that the immediate family or household member requiring care or support is suffering from an illness or injury which requires care or support by another or requires care or support due to an emergency.
- 6) Notwithstanding subclause (7) and unless otherwise approved by the Employer:
 - (a) up to 38 hours (five days for a full time employee) personal leave may be granted in any one year without production of a required document subject to any one continuous absence not exceeding three days;
 - (b) notwithstanding subclause (a), the Employer may require an application for personal leave to be supported by a required document where:
 - (i) the absence occurs immediately before or after a school vacation period or a public holiday;
 - (ii) the Employer has occasion to doubt the authenticity of an illness or injury or the reason for absence.
- 7) Where personal leave is granted without the production of a required document in circumstances not covered by this clause such leave will be without pay unless otherwise approved by the Employer.
- 8) (a) Subject to subclauses (7) and (8), a casual employee is entitled to not be available to attend work, or to leave work:
 - (i) if they need to care for members of their immediate family or household who are sick or injured and require care and support, or who require care due to an emergency, or the birth of a child; or

(ii) upon the death in Australia of an immediate family or household member.

(b) The Employer and the employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 72 hours (ie three days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

(c) The Employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this subclause. The rights of an Employer to engage or not to engage a casual employee are otherwise not affected.

9) (a) Where the Employer reasonably believes that an employee's state of health may make the employee a danger to themselves or other employees or persons at the workplace, the Employer may require the employee to absent themselves from duty on personal leave until a medical practitioner approved by the Employer examines the employee and provides a report to the Employer.

(b) A direction by the Employer under subclause (a) of this clause must:

(i) state the reason(s) for the direction; and

(ii) not be for a period of more than 10 working days. Provided that where the employee unreasonably refuses to attend a medical examination under subclause (a), the Employer may direct the employee to absent themselves from duty on personal leave until the employee attends the medical examination or the Employer is otherwise satisfied that the employee is fit to resume duty.

(c) If the medical report discloses that the employee is unfit for duty, the employee will be granted such further personal leave as the medical report indicates is necessary.

(d) If the medical report discloses that the employee is fit for duty, the personal leave debited as a result of a direction under this clause will be restored and the employee repaid any salary or wages lost as a result of the direction under subclause (a).

It is expected that any staff member should advise of their Personal Leave absence by telephoning the staff absence line between 5.30pm and 9.30pm the previous night or from 6.30am-7.30am on day of absence. No later than 7.30am on the first day of any such absence and provide advice of the anticipated duration of the absence. Where the absence continues beyond the anticipated date advice must be provided to the school as soon as possible but no later than 7.30am as above.

Bereavement Leave:

- Leave on full pay of up to three days may be granted to an employee on the occasion of the death of a member of the employee's immediate family or household.
- Leave, with or without pay, in excess of that specified in subclause (a) may be granted if the Employer is satisfied that three days is inadequate.
- Documentation must be provided for this leave to be processed.

Absence for Parental Leave:

a) An employee is entitled to be absent from duty for up to a total of seven years following, or in conjunction, with the birth, adoption or otherwise becoming the legal parent of one or more children comprising one or more of the following forms of leave:

(i) Maternity leave

(ii) Other paid parental leave

(iii) Partner leave³

(iv) Family leave without pay being that portion of a parental absence not covered by paid leave

(v) Paid leave accrued under subclauses 26(1)(a) or (b) with respect to education support class employees

(vi) Long service leave

(b) Any period of long service leave granted during a parental absence will extend the maximum period of parental absence available under subclause (a).

(c) Subject to subclause (d), a parental absence may commence at any time after an employee submits satisfactory medical evidence that the employee is pregnant (but not later than the date of birth) or, in any other case, at any time up to six weeks prior to the birth or adoption of the child.

- (d) Unless otherwise approved by the Employer, an employee who is pregnant is required to be absent from duty for the period:
- (i) six weeks before the expected date of birth of the child until six weeks after the actual date of birth;
 - or
 - (ii) six weeks from the date of birth if the birth occurs earlier than six weeks before the expected date of birth of the child.
- (e) The Employer must permit an employee to attend for duty during any part of the period stated in subclause (d) provided that:
- (i) the employee will be fit to perform their normal duties for the relevant period (proof of which is to be by medical certificate supplied by the employee); and
 - (ii) the attendance sought by the employee is at a time employees ordinarily attend for duty.
- (f) A particular parental absence cannot extend beyond the seventh birthday of the child for whom the absence has been granted provided that:
- (i) the absence may be extended if this is necessary to permit resumption on the first school day of the following term;
 - (ii) the Employer may allow an employee a further parental absence in the event of any subsequent pregnancy;
 - (iii) the absence in respect of an adopted child can be extended beyond the seventh birthday of the adopted child up to a maximum of seven years or the sixteenth birthday of the adopted child whichever occurs first.
- (g) Excluding other paid parental leave and partner leave, only one parental absence may be approved for a particular child (or children in respect of a multiple birth) which must be a continuous absence. Provided that where two employees are eligible to be absent under this clause in conjunction with the birth, adoption or otherwise becoming the legal parent of the same child (or children in respect of a multiple birth):
- (i) each employee is entitled to a parental absence of seven years;
 - (ii) only one parental absence may be taken per employee per child;
 - (iii) excluding other paid parental leave and partner leave, or unpaid concurrent leave of eight weeks in accordance with the National Employment Standards, both employees may not be absent at the same time and the absences must be contiguous.
- (h) An employee may return to duty after a parental absence:
- (i) six weeks following the birth or placement of a child or the expiration of maternity leave if written notice of intention to return is given to this effect prior to commencement of the absence; or
 - (ii) on the first day of any term if written notice of intention to return is given by 1 October in the year preceding the intended date of return; or
 - (iii) at such other time as the Employer approves provided that applications on compassionate or hardship grounds will not be unreasonably refused.
- (i) (i) An employee with a child under school age may request to return to duty following a parental absence on a part-time basis to assist the employee in reconciling work and parental responsibilities.
- (ii) The Employer will consider the request under subclause (i) having regard to the employee's circumstances and the operational needs of the school, the Employer may only refuse the request on reasonable grounds.
- (iii) Where an employee returns to duty on a part-time basis under subclause (i) that employee will revert to the time fraction the employee was working immediately prior to the commencement of the employee's first period of parental absence when the last of the employee's children reaches school age.
- (j) (i) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at the employee's present work, the employee will, if there is an appropriate job available, be temporarily transferred to a safe job on the conditions attaching to that job for such period as is certified necessary by a registered medical practitioner.
- (ii) An employee temporarily transferred to a safe job under subclause (i) is entitled to be paid not less than the employee's substantive salary immediately prior to the temporary transfer.
- (iii) If temporary transfer to a safe job is not practicable, the employee may elect, or the Employer may

require the employee, to be absent on leave for such period as is certified necessary by a registered medical practitioner.

(k) An employee who is pregnant will be granted paid leave to a maximum of thirty-eight hours to attend routine medical appointments associated with that pregnancy, provided that the employee:

- (i) provides a medical certificate certifying the employee is pregnant;
- (ii) provides a certificate of attendance for each appointment; and schedules appointments, where possible, at times that minimise the requirement to engage replacement staff for the period of absence.

(l) An employee whose spouse is pregnant may access paid leave to a maximum of 15.2 hours for the period of the pregnancy to enable the employee's attendance at routine medical appointments associated with the pregnancy, provided that:

- (i) the employee provides a medical certificate certifying the employee's spouse is pregnant;
- (ii) the employee provides a certificate of attendance for each appointment; and
- (iii) appointments are scheduled, where possible, at times that minimise disruption to the school and/or the requirement to engage replacement staff for the period of the absence.

(m) Notwithstanding subclause (a), where the pregnancy of an employee terminates or results in a stillborn birth after more than 12 weeks, the employee will be entitled to an absence of six months following the termination, inclusive of any period of maternity leave, or such longer period as may be medically certified.

(n) (i) An employee is entitled to have superannuation contributions made in respect of the period of the employee's parental absence for which they are the primary caregiver which occurs on or after the commencement of this agreement.

(ii) The Employer will pay the superannuation contributions as a lump sum to the employee's fund.

(iii) The quantum of superannuation contributions payable under this clause will be calculated based on:

- the number of weeks of the employee's parental absence for which they are the primary caregiver, capped at 52 weeks;
- the employee's normal rate of pay; and
- the applicable contribution rate under the Superannuation Guarantee Administration Act 1992 at the time the payment is made.

(iv) Payment will be made at the conclusion of the 52-week period, provided the employee continues to be employed at that time. This does not preclude payments during the 52-week period where this is operationally more efficient for the Employer.

Maternity Leave:

An employee is entitled to maternity leave with or without pay for a continuous period of sixteen weeks commencing from the date the employee commenced an absence from duty under clause (17)(d). Where the pregnancy of an employee terminates more than twenty weeks before the expected date of birth, the employee has no entitlement to leave under this subclause but may be eligible for personal leave under clause (5)(b) or to leave under section 80 of the Fair Work Act 2009.

The employee is eligible for paid maternity leave if the employee has had 26 or more weeks qualifying service within the 52 weeks immediately preceding the date the employee commenced an absence from duty under subclause (17)(d). The period during which an employee attends for duty within the periods specified by subclauses (17)(d)(i) and (ii) will not be included as part of the 26 weeks qualifying service.

An employee may elect to take paid maternity leave on full or half pay or a combination of both. Provided that an employee who elects to take some or all of their paid maternity leave at half pay must notify the Employer of this intention prior to commencing leave unless otherwise agreed between the employee and the Employer.

For the purposes of subclause (b) qualifying service means:

- (i) any duty as an employee other than any period of employment on a casual basis;
- (ii) any leave with pay approved by the Employer;
- (iii) any leave without pay approved by the Employer to count as qualifying service;
- (iv) any other service approved by the Employer to count as qualifying service.

While on maternity leave with pay, an employee will be paid at:

- (i) the time fraction which the employee was working immediately before commencing maternity leave; or
- (ii) the time fraction immediately prior to commencing long service leave, if the employee ceases long service leave on half pay immediately before commencing the parental absence under subclause 17(c).

An employee who is eligible for paid leave under this subclause and subclause (13) in respect of a maternity leave absence is entitled to maternity leave with pay in accordance with this clause less the amount paid by way of weekly compensation under the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) and has no further entitlement to leave under subclause (13) during the maternity leave period.

An ongoing employee, other than an education support class employee, whose period of paid maternity leave expires during a school vacation period is entitled to receive their pay for the remainder of that vacation period provided the employee has provided notice under subclause (17)(h)(i) and returns to duty.

A fixed term employee, other than an education support class employee, whose period of employment concludes on or before the end of a school vacation period and after the period of paid maternity leave expires is entitled to receive pay for the remainder of the period of fixed term employment should that employee have no further offer of employment. Where there is a further offer of employment, which has been accepted, the employee has the option of resuming duty and receiving salary for the remainder of the school vacation period or continue their parental absence.

Long Service Leave:

An employee is entitled to long service leave in accordance with the provisions of section 2.4.25 of the Education and Training Reform Act 2006 (Vic) (or its successor) with long service leave accruing at the rate of 495.6967 hours (three months) after ten years full time service and at the rate of 247.84835 hours (one and a half months) for each completed five years of service thereafter.

In addition to the provisions of section 2.4.25 of the Education and Training Reform Act 2006 (Vic) (or its successor), an employee may access their long service leave entitlements on a pro-rata basis after seven years' service and is eligible for pay in lieu of the pro-rata entitlement on termination of employment.

An employee may elect to utilise some or all of their long service leave entitlement at half pay.

An employee may apply to commute a portion of long service leave credits to salary. Except in special circumstances such as financial hardship, commutation of long service leave credits to salary will only be available in conjunction with a long service leave absence of 228 hours (six weeks) or more.

Except where otherwise determined by the Employer, allowances payable under this agreement which meet the following criteria are payable during long service leave:

- (i) the allowance is of a continuing and ongoing nature; and
- (ii) the employee has been in receipt of the allowance for a continuous period of 12 months immediately prior to the commencement of the leave; and
- (iii) the employee would have continued to receive the allowance but for the employee's absence on leave.

Long service leave absences may be for any period not exceeding the long service 51 leave credits available to an employee.

Long service leave requests are to be put in writing directly to the principal providing six month's notice. Staff should not book travel arrangements prior to having the long service leave approved.

It is the responsibility of teaching staff to ensure that lesson planning is left for the replacement teacher and that all assessment and reporting deadlines are met prior to the commencement of the leave.

Leave Request

- Planned leave – medical appointments, family appointments etc. can be communicated in advance to the relevant member of the Principal Class Team.
- LSL or LWOP or Professional Leave is via direct approach to the Principal and can only be recorded on Leave Request once the Principal has approved this leave. It is your responsibility to record your absence on Edupay Self Service.
- Unexpected illness or Personal Leave where you contact Daily Organiser via the staff absence phone will be recorded by Daily Organiser on the day of your absence and your subsequent days if they occur. (Edupay is completed by you upon your return within three days of the absence).

COMMUNICATION

This policy will be communicated to our school community in the following ways:

- Available in the policy folder on the staff google drive
- Included in staff induction processes
- Included in our staff handbook/manual
- Hard copy available from school administration upon request

FURTHER INFORMATION AND RESOURCES

The Department’s Policy and Advisory Library (PAL):

<https://www.education.vic.gov.au/hrweb/Documents/VGSA-2022.pdf>

For information on all other Leave:

Please refer to the Victorian Government Schools Agreement 2022 for guidelines related to other forms of leave. i.e.

- War service sick leave
- Accident compensation leave
- Infectious diseases
- Bereavement Leave,
- Leave for jury service
- Partner Leave
- Spouse Leave
- Sabbatical Leave
- Cultural and Ceremonial Leave

EVALUATION:

- This policy is to be reviewed as part of the college’s three-year review cycle.

This policy was last ratified by School Council in....

November 2022