



LEAVE CONDITIONS ENHANCEMENTS

From 2006 teachers won more generous leave provisions as part of the Government's settlement of the Federation's salaries claim. The enhanced conditions are available to TAFE teachers*.

Paid Parental Leave

Paid parental leave of up to one week on full pay or two weeks on half pay is available to employees who:

- meet the requirements for taking parental leave;
- apply for parental leave within the time and the manner determined by the department;
- prior to the expected date of birth or taking custody of a child, have completed not less than 40 weeks' service.

The period of paid leave does not extend the core entitlement of up to 12 months unpaid parental leave, but is part of it.

The Family Provisions Test Case (FPTC) enhancements also add to these enhancements (see below).

Parental leave is available to male and female teachers. Part time parental leave is also an entitlement.

Paid Maternity and Paid Adoption Leave

The core entitlement and conditions attached to paid maternity and adoption leave remain unchanged, except that the number of weeks of paid leave is 14 weeks equivalent full time instead of nine weeks' paid leave.

Leave may be taken as 14 weeks at full pay, 28 weeks at half pay, a combination of full and half pay or as a lump sum. Unlike unpaid maternity leave, paid maternity leave may not be taken earlier than nine weeks before the anticipated date of birth of the child and can commence as late as the anticipated date of birth of the child.

Paid adoption leave commences on the date of taking custody of the child.

From 2003 adoption leave has applied to the adoption of children up to 18 years of age.

Part time adoption leave and part time maternity leave are also entitlements.

The Family Provisions Test Case enhancement adds to these enhancements (see below).

Extended Leave (Long Service Leave) after Seven Years' Service

Permanent employees and TAFE Temporary teachers* with seven years' service or more will be entitled to take (or be paid out on resignation) extended leave in the usual manner.

The amount of leave available is that which would have applied if pro rata leave were granted.

Permanent TAFE teachers have an entitlement to 44 working days after 10 years service (pro rata, 30.8 days after seven years) and 11 working days per year thereafter.

There is no requirement for an employee with seven or more years of service to have been terminated (or to have left employment because of illness, incapacity or domestic or other pressing necessity) to claim an entitlement to extended leave. No repayment will be required if an employee does not attain 10 years of service.

Double Pay Extended Leave (Long Service Leave)

A permanent employee and TAFE Temporary employees* with an entitlement to extended leave (Long Service Leave) may elect to take leave at double pay.

The additional payment will, for the closed superannuation funds, but not First State Super, be made as a non-superable taxable allowance payable for the period of the absence from work. The employee's leave balance will be debited for the actual period of the absence from work and the equivalent number of days as are necessary to pay the allowance.

A TAFE teacher with 50 working days leave wishing to take 25 days extended leave at double pay will reduce their extended leave balance by 50 working days.

Other leave entitlements where applicable, such as annual holiday leave, sick leave, and extended leave, will accrue at the single time rate where an employee takes extended leave at double pay. Where an employee elects to take extended leave at double pay, a minimum period of absence of one week is required to be taken, that is one week's leave using two weeks of accrued leave.

Public Holidays while on Extended Leave (Long Service Leave)

Previously, public holidays which fell during an employee's extended leave were deducted from the employee's accrued extended leave entitlement.

From 1 January 2006, public holidays that occur during an employee's period of extended leave will be paid and not debited from an employee's leave entitlement.

In respect of public holidays that occur during a period of double pay extended leave, an employee will not be debited the leave on a public holiday. The employee's leave balance will, however, be reduced by an additional day to fund, where applicable, the non-superable taxable allowance.

Family Provisions Test Case Enhanced Leave Provisions

NSW Industrial Relations Commission Family Provisions Test Case enhanced leave provisions are additional to those settled for the 2006 awards.

Changes as a result of the IRC Family Provisions Test Case 2005 for permanent and TAFE Temporary* employees:

- an obligation for the employer to communicate with an employee on parental leave about the employee's position if the employee's job is likely to be significantly affected;
- the right to request up to two years' unpaid parental leave with, where expressed, a right of return to the employee's substantive position;
- the right to request up to eight weeks' simultaneous unpaid parental leave. This extends the period to which the child's parents might take parental leave together;
- the right to request to return to work part time until the child reaches school age;

- teachers who receive specific annual holidays leave are permitted to take up to 10 single days to provide care and support to a family member.

For part time casuals:

- regular casual employees are entitled to unpaid parental leave in the legislated terms;
- an employer must not fail to reengage an employee who meets the definitions of a regular casual employee because the employee or the employee's spouse/partner is pregnant or the employee is or has been immediately absent on parental leave;
- casual employees who are not entitled to personal leave (see ** below) are able to not be available to attend work (up to two days unpaid) without fear of reprisal, if they need to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency or the birth of a child, or upon the death in Australia of an immediate family or household member.

Note: The enhanced leave provisions will be provided, where applicable, in School Teacher Determinations, TAFE Teacher policy, awards and enterprise agreements and in the Public Service Conditions award.

Revised Procedures for Adoption, Maternity and Parental Leave in TAFE NSW will be placed on the Department's website at:

<https://det.nsw.edu.au/humanresources/tafepoli/permain.htm>

Authorised by John Irving, General Secretary, NSW Teachers Federation, July 2006

*** TAFE Temporary Teachers should note their entitlements can often only be taken within engagement periods**

**** TAFE Part Time Casual Teachers and Coordinators who have sick leave entitlements can use it for personal/carer's and bereavement leave**