Published in November 2005 by the NSW Teachers Federation, 23-33 Mary St, Surry Hills NSW. Compiled by Assistant General Secretary (Communications and Administration) John Dixon and authorised by General Secretary Barry Johnson.

ISBN 1 875699 05 8

This booklet represents a summary and guide to the conditions that apply working as a temporary teacher in schools in the NSW public education system.

The information contained is not definitive and therefore members should check the appropriate sections of the Teachers Handbook or appropriate industrial award and determinations, some of which are posted in the Members Area of the Federation website at www.nswtf.org.au.

Members should also contact Federation for further advice pertaining to their individual circumstances.
Introduction

The following document is the result of extensive negotiations between the Department of Education and Training (DET) and the NSW Teachers Federation arising from the creation of the temporary teachers classification in the 2001 – 2003 salary award.

While it represents the salary and leave provisions that currently exist for temporary teachers, there are still some significant differences and disagreement between the Federation and the DET over some aspects of the award’s implementation, notably incremental progression, recognition of previous casual teacher service for advancement to the top of the incremental scale, the combination of permanent, temporary and casual teacher service for incremental progression and the period of time necessary before a part time, non permanent teacher gains temporary status.

These differences have been the subject of on-going discussions between the parties as both systemic and individual issues arise in the practical implementation of the award.

The Federation is seeking changes to these provisions.

The major principle of ‘temporary employment’ under the new award is the length of the engagement the teacher works, not the number of cumulative days the teacher works in the school year as it once did and the salary and working conditions are prospective, not retrospective, as were the previous provisions.

The Federation has put the entire working conditions of temporary teachers on the website at http://www.nswtf.org.au/TemporaryTeachers/

The following information is a summary of information and advice. Individual temporary teachers should refer to the document above for a full description of entitlements.
Pay

The formula for temporary school teachers is based on a five day formula (to give a pro rata weekend) of the equivalent of the permanent school teacher annual salary divided by 51.17857. In addition to the five day payment, or part thereof, temporary school teachers are also entitled to be paid a pro rata proportion of vacation pay and annual leave loading and a pro rata entitlement of all conditions.

Permanent teachers who resign or retire at the top of the scale or in a promotions position from 2005 automatically go to step 13.

Rates of pay per day — casual school teachers

<table>
<thead>
<tr>
<th>Steps</th>
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<th>1.1.07</th>
<th>1.1.08</th>
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<tr>
<td>4</td>
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</table>

From the first pay period on or after the operative date. 5YT trained casual school teachers commence on step 2 of the 4YT rates of pay.

Common Incremental Salary Scale

The following salary scale applies to permanent and temporary teachers; education officers (schools and TAFE); home school liaison officers; Aboriginal student liaison officers; counsellors (schools and TAFE); adult literacy officers, and assistant outreach coordinators:

<table>
<thead>
<tr>
<th>Steps</th>
<th>1.1.06</th>
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From the first pay period on or after the operative date.

Vacation pay

Vacation pay is paid on a pro rata basis based on the number of days worked each term and cumulative throughout the school year. In other words, if a temporary teacher is engaged for the entire year in one engagement or series of engagements they will be paid all the vacation days that would be paid to a permanent teacher, that is 11 weeks vacation.

The Teachers Federation has proposed and the DET agreed that temporary school teachers be given a choice as to whether they ‘cash out’ their vacation leave at the end of a temporary school teacher engagement or continue to receive fortnightly payments of their entitlement and/or their leave entitlement when due. (Permanent teachers and permanent part time teachers do not have entitlement to the pro rata of some vacation pay entitlements until specific future vacations.)

Annual leave loading

The Teachers Federation has proposed the same principle as with vacation pay: either a ‘cash out’ option on the termination of the temporary school teacher engagement or payment when the annual leave loading is due to permanent school teachers, that is, at the end of the school year.

Overpayments of salary

Federation has been alerted to a number of overpayments to individual teachers. This is largely caused by people being retrospectively placed on temporary status by the DET. This results in the Australian Taxation Office (ATO) requiring amended tax returns for any tax year that is affected by the retrospective conversion. DET has agreed that it will issue amended tax statements and defer recouping any amount in accordance with “Procedures for the Recovery of the Tax Component of an Overpayment made in the Preceding Financial Year”, as agreed with Federation. Members are advised to contact Federation for advice on the matter.

Sick leave

DET calculates a temporary school teacher’s regular sick leave entitlement for the specific temporary school teacher engagement at the commencement of each temporary school teacher engagement. The Department has confirmed that a temporary school teacher’s regular sick leave entitlements do not carry over from engagement to engagement. If the temporary school teacher is not sick in the specific temporary school teacher engagement, the regular sick leave is not held over until the next engagement, rather, a fresh calculation occurs at the beginning of the next specific engagement. However, temporary teachers do accrue accumulated sick leave like permanent teachers, on a pro rata basis.

The Federation proposed at the creation of the temporary teachers classification that, as a transitional provision for temporary school teachers that for those year-2000 casual school teachers with a year-2000 accumulated provision of up to 11 days, that these be added to the next year’s sick
leave provision. The temporary school teacher’s regular year-
2001 annual sick leave entitlement as a temporary school
teacher are accessed first and then if the teacher requires
any further days, their up to 11 cumulative days acquired
before 2001 could be drawn on at that point. DET accepted
the provision.

**Leave without pay**

Generally, temporary teachers will not be granted leave
without pay during a temporary engagement unless special
circumstances exist.

Leave without pay generally doesn’t count as service for
salary increases, however, five days or less of LWOP in
any incremental year will count as service for incremental
progression.

Leave without pay will likely result in a reduction of
vacation leave on a pro rata basis.

The special circumstances under which it may be considered
appropriate to grant short periods of leave without pay to a
temporary teacher are in cases of emergency or compassionate
circumstances or the circumstances listed below:

- holy days
- marriage leave
- NSW Teachers Federation relief officer positions
- parliamentary elections
- pre-natal classes
- sporting, cultural or educational association meetings.

Applications for leave in these circumstances are considered
on an individual basis and where appropriate should be
accompanied by documentary or medical evidence.

**Workers compensation**

Temporary teachers have the same entitlement to workers
compensation as permanent teachers.

**Maternity leave**

Service prior to 2001 is calculated in the same way for
temporary school teachers as it would have been were the
temporary school teacher a new permanent teacher. The
Teachers Federation raised the matter of a school teacher
engaged as both a temporary school teacher and a casual
school teacher who sought to take maternity leave as a
casual school teacher.

As to right of return, a temporary school teacher’s right
of return is assured if the ‘return’ is within the dates of the
temporary school teacher engagement dates.

The Federation has also objected with the DET’s
interpretation that maternity leave must occur within the
actual engagement and has put forward provisions that are
closer to that of a permanent teacher, particularly as they
relate to the end of the school year and an ‘anticipated date
of birth’ in the next school year.

**Locality and other allowances**

Locality allowances and other allowances are calculated at
the beginning of a temporary school teacher’s engagement.
Any temporary school teacher who takes up a series of
temporary school teacher engagements in a range of locations
is considered on a case by case basis.

**Long service leave**

Temporary school teachers will have their long service
leave calculated as it is calculated for permanent teachers
under the Teaching Services Act. A casual school teacher’s
long service leave is calculated under the Long Service
Leave Act. The Teachers Federation advises teachers to take
their long service leave as a permanent teacher or temporary
school teacher as the entitlement is calculated according to
the ‘status’ of the employee at the time at which the person
applies for the leave. The entitlements and the calculation
of an aggregation of entitlements are superior for
permanent school teachers and temporary school teachers
casual teachers.

**Teacher Employment
Priority Scheme**

The Department of Education and Training has confirmed that
all service as a temporary school teacher and casual school
teacher counts towards the accrual of entitlements under the
Teacher Employment Priority Scheme (TEPS).

**Minimum daily engagements**

The minimum engagement is one day, or half a day if added
to a day or days. Teachers can seek to have their periods of
work aggregated to days or half days. In addition, teachers
who are teaching in more than one school can have their
periods of work aggregated to have one temporary engagement
across two schools.

**Superannuation**

Superannuation stands as a legislative entitlement, currently
equivalent to nine per cent of salary paid by the employer.
Permanent teachers doing casual relief while on LWOP

These provisions are not affected by the proposals described here. They still work under the provisions of a Director-General’s determination (that is, 1/203 of annual salary to step 13 with access to accumulated leave entitlements from previous permanent service).

Incremental progression (transitional arrangements)

The Federation has put a position to the DET that would mean that individual teachers were not disadvantaged between the change over from the 100 day award to the temporary teacher provisions of the new award. For example, a teacher may have completed 180 days during 2000 and was engaged in 2001 as a temporary teacher. The Federation’s proposal was that temporary teachers should be able to add days worked as a temporary in 2001 to the days worked as a casual in 2000 to gain the next increment before their temporary incremental progression begins. The DET accepted this proposal as a transition arrangement.

However, the Federation is still in dispute with the DET over the creation of separate incremental clocks for casual and temporary work. The Federation’s position is that casual and temporary work should be able to be combined to gain 203 days of service to gain the next increment.

However, temporary and casual school teacher service is combined for determination of salary on appointment to a permanent or permanent part time school teacher position.

The maximum salary step available to temporary classroom teachers was increased gradually over the period 2001–2005 when temporary teachers became able to access the full 13 step common incremental salary scale that applies to permanent teachers.

The phase-in over this period was as follows:

- January 1, 2001 step 9
- January 1, 2002 step 10
- January 1, 2003 step 11
- January 1, 2004 step 12
- January 1, 2005 step 13

The year an individual teacher started temporary teaching determined their position on the incremental scale and the position from which further service is calculated.

Public holidays

The Department of Education of Training has confirmed that temporary teachers are paid for public holidays that occur in school term time and that the days will not constitute a break in service.

Public holidays in term time that occur during a temporary engagement are paid as days worked and count as service.

Where a temporary teacher ceases their temporary engagement on the day immediately prior to a public holiday, the temporary teacher is paid for the public holiday.

Part time temporary teachers whose regular work-day falls on a public holiday are not required to transfer duty to another day during the pay period.

Public holidays do not count as a break in service.
Common questions and answers

Do I have to complete any number of days in a position to become a ‘temporary school teacher’?

No. At the outset, the length of the engagement determines whether it is a ‘temporary’ or ‘casual’ engagement. You are a temporary school teacher when the engagement is greater than four weeks full time or from one to four days per week for two terms or more.

(This does not apply to permanent teachers on LWOP who “work casually”. These teachers will be paid under separate conditions.)

Will I be paid the same as a casual school teacher?

No, as a temporary school teacher you are paid a pro rata equivalent of a permanent teacher salary. You are paid a fortnightly salary in the same way a permanent part time teacher’s salary is calculated.

But my daily rate has gone down!

Your salary appears lower than the corresponding casual school teacher rates but you need to take into account that your salary includes pro rata weekend payment and you will receive vacation pay on a pro rata basis as opposed to an annual salary divided by 203. For example, if you work for one term full time as a temporary, you are paid pro rata vacation pay of two weeks plus a residual payment that would be paid at, or for the summer vacation.

If you work the whole year in one engagement or series of engagements as a temporary school teacher, you are paid for the days you worked plus all the vacations.

A temporary school teacher’s salary will equate with the annual salary of a permanent school teacher or permanent part time school teacher on the same salary step — fortnightly and term by term.

The maximum casual teacher’s salary is step 8 plus a five per cent loading in lieu of sick leave, short and special leave and annual leave loading, whereas a temporary school teacher, through service as a temporary school teacher, has access to the top of the salary scale.

Will I receive annual leave loading as a temporary school teacher?

Annual leave loading is a 17.5 per cent loading paid on ‘one month’s salary’. This is paid to temporary school teachers on the same basis as permanent school teachers and is based on the number of days worked from December 1 in a proceeding year to November 30 of a current school year. This would be approximately $640 before tax for a school teacher on step 9, assuming they worked the whole year.

Can the principal refuse to appoint me as a temporary school teacher?

If the period of the engagement is greater than four weeks full time or one to four days per week part time to two terms — no! To do so would contravene the award. The only reason a principal would not make the person a temporary school teacher is if the person engaged was a permanent school teacher on LWOP approved for relief duty. If a principal refuses to appoint you as a temporary school teacher, you should contact the Federation immediately.

How many days do I have to work as a temporary to qualify for sick leave?

There is no minimum number of days to qualify for sick leave. For example, if you have a temporary engagement of two terms or more you would have, pro-rata, the sick leave of a permanent full time school teacher, in this example, 11 days on full pay and 11 days on half pay. The length of the engagement determines the leave entitlement, for example, if you are employed for the entire school year your entitlement to sick leave would be the same as a full time permanent school teacher: 22 days on full pay, 22 days on half pay. Regular sick leave days not taken during the specific temporary engagement do not carry over, however, to a future temporary engagement.

Does my sick leave accumulate?

Yes, in the same way as for permanent school teachers. Under the previous award a casual school teacher’s ‘accumulated’ entitlement was a maximum of 22 full days and 22 half days of sick leave but this leave was extinguished when the casual school teacher reached 100 days or at the end of the next school year. As a temporary school teacher the maximum annual accumulation is 10 days per year (the same as a permanent school teacher) but there is no limit to an individual teacher’s accumulated sick leave and is not affected by ‘breaks in service’ between temporary engagements.

What about other forms of leave?

Generally a temporary school teacher is entitled to the same leave entitlements as a permanent school teacher. Currently the DET and the Federation, under the terms of the award, are involved in on-going discussions about the practical implementation of each ‘leave entitlement’.

What about long service leave?

From January 2001, temporary school teachers became entitled to long service leave under the same provisions as permanent school teachers under the Teaching Services Act. In summary, this means that 10 years of service equals two months entitlement to long service leave and each additional year of service equals 15 days of long service leave credit. (A casual school teacher is entitled to two months leave after 10 years but only six days per additional year of service.)

A break of service between engagements of temporary school teacher service does not negate the previous service for long service purposes. For example, an individual has completed three years of service as a temporary school teacher and takes 12 months off to go overseas and returns to either a permanent appointment or temporary school teacher position with the DET. The three years previous service would count towards the 10 years qualifying period. (Previously the DET would have negated the previous service for casual school teachers, as the break was greater then two months.)
Am I entitled to release from face to face teaching?
If you are engaged as a temporary school teacher in a primary school or the primary section of a central school, you are entitled to release from face to face teaching regardless of whether you are a full time or part time temporary school teacher. A full time temporary school teacher is entitled to two hours per week. A part time temporary school teacher is entitled to a pro rata release on the basis of 12 minutes per 0.1 of engagement. For example, a part time school teacher employed for two days per week would be entitled to 48 minutes per week of release from face to face.

What is my period load as a temporary school teacher?
If employed as a temporary school teacher in a secondary school or the secondary section of a central school you would have the same period load as a permanent school teacher or permanent part time school teacher. For example, if you are engaged full time, your period load would be up to 28 forty minute periods per week or its equivalent plus sport. (Note the provisions that operate under clause 21 still apply — the principal still requires your agreement to take two periods of face to face lessons in lieu of sport.)

Will I still be on the waiting list for a permanent appointment with the DET?
Yes. There is no change to the waiting list system. Temporary school teaching does not disqualify you from having your name on the permanent employment list. Of course, as has happened in the past, some casual school teachers placed themselves on the ‘inactive’ list so were not offered a permanent position when they were on a long block of casual employment, however, there is no requirement to do so.

What if I am offered a permanent appointment with the DET?
You would accept the appointment, inform the principal of your current school and enter on duty of your permanent appointment when required by the DET. Remember that if you refuse an appointment consistent with your stated school preferences while on the ‘active’ list, you will lose your current priority date. Your priority date would be relegated to the priority date of the day of the offer of a permanent appointment. Under a Letter of Understanding between the DET and the Teachers Federation, all service as a casual and temporary school teacher will count towards your salary and status review for your permanent teacher salary calculation.

Is the Teacher Employment Priority Scheme system still operating?
Yes. The Teacher Employment Priority Scheme (TEPS) gives casual school teachers accelerated progression towards permanent employment by adjustment of the ‘priority date’ for permanent employment. This operates for both casual school teachers and temporary school teacher engagements. For example, for each term worked as a temporary school teacher in a government school in NSW this equals either six months, 12 months or 18 months acceleration depending on the category of school.

Can I take leave without pay as a temporary school teacher?
This is restricted consistent with the ‘temporary’ nature of the engagement.

Will I be paid for public holidays in school time?
Yes. Public holidays in school time do not disrupt service provisions.

Can I aggregate two hours teaching per day to count as full days of temporary service?
No, the award provision is based on whole days or half days added to whole days for temporary school teacher engagements.

Will I be paid allowances?
Yes, on pro rata terms equivalent with permanent school teachers’ terms.

How are my maternity leave entitlements calculated?
Temporary school teachers have their maternity leave entitlement calculated as though they were a new permanent school teacher. Right of return is assured if right of return is within the dates of the specific temporary school teacher engagement.

Can I access personal and carers leave?
Yes, in pro rata terms and in the same way permanent school teacher access this provision.

What happens with superannuation and workers compensation?
Legislative provisions apply.