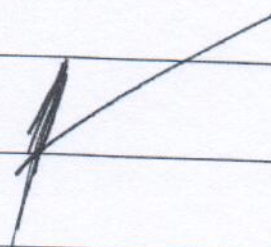




## higher education & training

Department:  
Higher Education and Training  
REPUBLIC OF SOUTH AFRICA

### LEAVE POLICY

<b>POLICY CUSTODIAN</b>		Human Resource Management and Administration
<b>POLICY VERSION</b>		2 <sup>nd</sup> version
<b>APPROVAL DATE</b>		
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## A. Acronyms

ACRONYM	DEFINITION
AHPCSA	The Allied Health Professions Council of South Africa
BCEA	Basic Conditions of Employment Act, Act 75 of 1997, as amended
CET	Community Education and Training
COIDA	Compensation for Occupational Injuries and Diseases Act of 1993, as amended
DDG	Deputy Director-General
DHET	Department of Higher Education and Training
DPSA	Department of Public Service and Administration
EEA	Employment of Educators Act, Act 76 of 1998, as amended
ESS	Employee Self-Service System
FRL	Family Responsibility Leave
GPSSBC	General Public Service Sector Bargaining Council
HPCSA	Health Professions Council of South Africa
HR	The Human Resources Department
LRA	Labour Relations Act, 1995 (Act 66 of 1995), as amended
MIS	Management Information System
MMS	Middle Management Services
MPSA	Ministry for Public Service and Administration
OID	Occupational Injuries and Diseases
PERSAL	Personnel Salary System
PILIR	Policy and Procedure on Incapacity Leave and Ill-health Retirement
PSA	Public Service Act, 1994 (promulgated under proclamation 103 of 1994, as amended)
PSCBC	Public Service Co-ordinating Bargaining Council
SANC	The South African Nursing Council
SMS	Senior Management Services
TUR	Trade Union Representative
TVET	Technical and Vocational Education and Training
UPA	Special Leave for Urgent Private Affairs



## B. Glossary of Terms

TERM	DEFINITION
<b>ABSCONDMENT</b>	<p>Section 17 (5) of the PSA: an Employee who is absent from work for longer than one Calendar Month, and has failed to make his/her Employer aware of his/her whereabouts, is in breach of his/her contract, and as such, the Employer will be entitled to terminate his/her services, after following a fair procedure.</p> <p>Section 14 (1) of the EEA: an Educator appointed in a permanent capacity who is absent from work for a period exceeding 14 Consecutive Days without permission of the Employer, shall, unless the Employer directs otherwise, be deemed to have been discharged from service on account of misconduct, with effect from the day following immediately after the last day on which the Educator was present at work.</p>
<b>ACADEMIC CALENDAR</b>	Calendar as determined by the DHET for Lecturers in the Public Colleges.
<b>ANNUAL LEAVE CYCLE</b>	1 January until 31 December
<b>CALENDAR DAY</b>	Is a 24-hour day from midnight to midnight denoted on a calendar. It refers to all days in a month, including weekends and Public Holidays.
<b>CALENDAR MONTH</b>	Is a period from the 1 <sup>st</sup> day in a month to the last day of a month, both days inclusive.
<b>CAPPED LEAVE</b>	Annual leave accrued due to an employee prior to 1 July 2001.
<b>CASUAL WORKER</b>	A person employed on a day-to-day basis who is paid a daily wage and who does not work more than 24 hours a month.
<b>CHILD</b>	A person who is under 18 years of age.
<b>COMPONENT</b>	A part that makes up the Department at various levels, i.e. Head Office, Regional Offices and Colleges.
<b>CONSECUTIVE DAY</b>	Days following one another in uninterrupted succession or order.
<b>CONTRACT WORKER</b>	A person employed on a temporary basis and excludes Casual Workers.
<b>DELEGATED AUTHORITY</b>	The allocation of a power conferred or a duty imposed on a Director/Principal Functionary to a Delegated Official – to entrust a power or duty to somebody else.



<b>DELEGATED OFFICIAL</b>	Any incumbent of a post to whom a power has been delegated or who has been delegated or who has been authorised to perform a duty in terms of a formal delegation. This includes an official who lawfully acts in the capacity of the Delegated Official.
<b>DEPARTMENT</b>	Department of Higher Education and Training consisting of Head Office, Regional Offices and College components.
<b>DEPENDANT</b>	A person who relies on another, especially a family member, for financial support.
<b>DEPARTMENTAL CLOSURE</b>	Is the scheduled period that the DHET closes at the end of each year.
<b>EMPLOYEE</b>	<p>A person appointed in terms of the Public Service Act, 1994 as amended, excluding an Independent Contractor, who works for another person or for the State and receives, or is entitled to receive remuneration.</p> <p>A person appointed in terms of the Employment of Educators Act, 1998.</p> <p>A person appointed by the Public College Council.</p>
<b>EMPLOYER</b>	<p>DHET for Employees appointed on PERSAL.</p> <p>College Council for College Employees.</p>
<b>EXECUTIVE AUTHORITY</b>	Minister of the Department of Higher Education and Training
<b>HEALTH RISK MANAGER</b>	Refers to the consortium of medical doctors/specialists appointed by the DPSA for PILIR administration. Currently SOMA.
<b>IMMEDIATE FAMILY MEMBER</b>	Refers to parents, adoptive parents, spouse/life partner, parents-in-law, child, adopted child, step-child, grandchild, siblings, sister-in-law, brother-in-law and grandparents.
<b>INCAPACITATED</b>	The inability to perform some or all of one's assigned functions as a result of incapacity.
<b>INCAPACITY</b>	Physical or mental inability to do something or to manage one's affairs. It is also the failure or inability to work according to the requirements of the job.
<b>INSTITUTION CLOSURE PERIOD</b>	Is the scheduled period that education institutions close at the end of each term and during which period teaching and learning activities are discontinued.



<b>INSTITUTION-BASED EDUCATOR</b>	An educator who is employed at an education institution and whose normal duties are discontinued during institution closure periods.
<b>INTERN</b>	An unemployed, inexperienced graduate appointed in the Public Service or directly by the College Council under an Internship programme, under the auspices of the Minister of Labour or the Minister for the Public Service and Administration.
<b>LECTURER</b>	Any person, who teaches, educates or trains other persons or who provides professional educational services at a College.
<b>LIFE PARTNER</b>	A person with whom the Employee has a committed and serious relationship, akin to a marriage based on objective criteria of mutual dependency and a shared and common household, irrespective of the gender of either party, provided that this is not in contravention of the Constitution of South Africa.
<b>LINE MANAGER/ SUPERVISOR</b>	A person with direct managerial responsibility for a particular Employee.
<b>MONTH</b>	As defined in Section 1 of the PSA, i.e. a period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days inclusive.
<b>NATURAL DISASTER</b>	A geophysical event over which man has no control and is usually of such magnitude as to cause disruption to, or loss of human life.
<b>OFFICE-BASED EDUCATOR</b>	An educator who is not an institution-based educator.
<b>OFFICE BEARER</b>	A person who holds office in a trade union.
<b>OVERTIME</b>	Work in excess of the hours of work per day/week of the month that an employee is contracted to perform.
<b>PERMANENT DISABILITY</b>	An Employee's degree of disability has been certified by a registered medical practitioner as permanent.
<b>PERSONAL DEVELOPMENT</b>	Activities aimed at developing the knowledge, skills and attributes of an Employee that are agreed to be necessary to achieve the output of the job.
<b>PRINCIPAL</b>	The accounting officer of the College.
<b>REGISTERED MEDICAL PRACTITIONER</b>	Practitioners and persons who are certified to diagnose and treat patients, and who are registered with the following professional councils established by an Act of Parliament: HPCSA, AHPCSA and/or SANC.



	A person entitled to practise as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) – BCEA.
<b>SCHEDULED WORKING TIME</b>	<p>In respect of institution-based educators means:</p> <ul style="list-style-type: none"> <li>• all the time during a College term/DHET official working hours, both during and outside the formal College day, that institution-based educators must perform duties in terms of the measures in Chapter A; and</li> <li>• days during an Institution Closure Period that have been scheduled by the Minister, in accordance with the National Education Policy Act 27 of 1996, for these educators to report for administrative duties or by the head of a provincial department for these educators to report for in-service training in terms of paragraph 3.2 of Chapter A of these measures.</li> </ul>
<b>SHIFT WORKER</b>	Refers to security guards or officers.
<b>SICK LEAVE CYCLE</b>	A 3-year period.
<b>SPOUSE</b>	Usually known as a husband or wife, this is the person an Employee is married to or has a life partnership with.
<b>TEMPORARY EMPLOYEE</b>	Refers to Contract Employees. Contracts that have a start date and end date.
<b>TIME AND ATTENDANCE SYSTEM</b>	The formal recording process for all aspects of leave within the DHET.
<b>TRADE UNION</b>	A registered Trade Union, or two or more registered Trade Unions acting together who are admitted to the GPSSBC.
<b>TRADE UNION MEMBER</b>	Means an Employee in respect of whom a valid membership form has been completed and submitted for the deduction of membership fees.
<b>TRADE UNION REPRESENTATIVE</b>	Means a member of a Trade Union who is elected to represent Employees in their dealings with the Employer and recognised in terms of Clause 8 of the GPSSBC Resolution No.3 of 2014.
<b>TRADITIONAL HEALER</b>	A person who uses traditional healing methods to cure diseases or ailments, e.g. sangoma, traditional doctor, faith healer et cetera.
<b>WORK DAY</b>	Equates to the Employee's number of daily official working hours.
<b>Z1(a) FORM</b>	Application for Leave of Absence or the leave form.



## **1. BACKGROUND AND INTRODUCTION**

### **1.1 Policy Statement**

The establishment of the DHET brought new challenges to the educational landscape of South Africa. It is therefore imperative that both organisations, the DHET and Public Colleges meet the Department's objectives by ensuring that its workforce is active and present in order to provide quality education and training. This can only be achieved by policies which are fair to both the Employee and Employer, and are strictly adhered to.

Absenteeism is the most crippling factor to the smooth and effective functioning of an organisation and is therefore one of the major challenges that needs to be addressed and managed appropriately. It is essential that Line Managers manage and monitor leave as part of their daily activities.

### **1.2 Legislative Framework**

- 1.2.1 Occupational Health and Safety Act, Act 85 of 1993, as amended;
- 1.2.2 Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993, as amended;
- 1.2.3 Public Service Act of 1994, as amended;
- 1.2.4 Labour Relations Act, Act 66 of 1995, as amended;
- 1.2.5 Constitution of the Republic of South Africa Act, Act 108 of 1996;
- 1.2.6 Basic Conditions of Employment Act, Act 75 of 1997, as amended;
- 1.2.7 Personnel Administration Measures (PAM) in terms of the Employment of Educators Act 1998 (the Act) and the Regulations made in terms of the Act (Regulations);
- 1.2.8 ELRC Resolution 7 of 2001;
- 1.2.9 Public Service Regulations 2001, as amended;
- 1.2.10 Senior Management Service Handbook in the Public Service 2003;
- 1.2.11 Children's Act, Act 38 of 2005;
- 1.2.12 Continuing Education and Training Act, Act 16 of 2006, as amended (formerly known as the Further Education and Training Act, Act 16 of 2006, as amended);
- 1.2.13 PSCBC Resolution 1 of 2007;



- 1.2.14 Department of Public Service and Administration Determination and Directive on Leave of Absence in the Public Service 2018;
- 1.2.15 PSCBC Resolution 1 of 2012;
- 1.2.16 ELRC Collective Agreement 1 of 2013;
- 1.2.17 GPSSBC Resolution 3 of 2014; and
- 1.2.18 DHET Delegations of Authority according the Public Service Act, Act 103 of 1994 and Public Service Regulations of 2016 as amended.

## **2. POLICY PURPOSE, OBJECTIVES AND PRINCIPLES**

### **2.1 Purpose**

The purpose of this Policy is to provide a fair and justifiable basis for the administration and management of leave entitlement to all employees.

### **2.2 Objectives**

The main objectives of this Policy are to:

- 2.2.1 Regulate the leave of Employees and to outline the procedure to be followed for the granting and taking of leave;
- 2.2.2 Promote punctual and regular attendance;
- 2.2.3 Provide the Employer with standard procedures for recording, managing and monitoring Employee leave;
- 2.2.4 Assist Employees to utilise and manage leave responsibly and with circumspect;
- 2.2.5 Advise on types of leave and circumstances under which the Employer may consider authorising an Employee's leave of absence from work;
- 2.2.6 Ensure that Supervisors/Line Managers and Employees share a common understanding in dealing with matters of leave of absence in the workplace;
- 2.2.7 Implement monitoring tools in terms of minimising the costs associated with absence.



## **2.3 Principles**

The key principles underpinning this Policy are as follows:

- 2.3.1 Fairness and Transparency;
- 2.3.2 Flexibility;
- 2.3.3 Confidentiality;
- 2.3.4 Professionalism;
- 2.3.5 Consistent ethical conduct;
- 2.3.6 Credibility; and
- 2.3.7 Integrity.

## **3. SCOPE OF APPLICATION**

This Policy applies to all employees of the Department.



## **4. POLICY PROVISIONS**

### **4.1 General**

- 4.1.1 Supervisors/Line Managers are responsible for maintaining separate leave registers for Employees within their respective Components/Units and should ensure that it is up to date at all times.
- 4.1.2 The leave entitlement of Employees must be managed responsibly. The Employer is entitled to negotiate Annual Leave dates in order to limit the negative impact on the day-to-day operations of the Department and to ensure operational continuity.
- 4.1.3 Employees shall not be paid any monies in lieu of any leave except on termination of employment and as required by the law (DPSA Determination of Leave, 2018, paragraph 9, ELRC Resolution 7 of 2001).
- 4.1.4 Employees may not take Annual Leave once a notice of termination of employment has been tendered to avoid an impact on leave gratuity and more days than it is supposed to.
- 4.1.5 Any leave granted erroneously must be recouped from the Employee. Employees should be notified in writing by the HR Unit and the necessary arrangements made to recover the leave.
- 4.1.6 Failure to comply with the DHET's Leave Policy will constitute misconduct and the necessary disciplinary measures shall be initiated in line with applicable legislation and policies.

### **4.2 Operational Rules**

- 4.2.1 Annual Leave must be requested by the Employee one week in advance, as stipulated in paragraph 4.4.7, and approved by the relevant Supervisor/Line Manager prior to leave being taken.
- 4.2.2 Under exceptional circumstances such as death or serious illness, leave may be sanctioned retrospectively for emergency purposes.
- 4.2.3 Requests for a half-day (0.5) of leave, or same-day requests will only be considered if a genuine emergency exists.



- 4.2.4 Emergency requests must be accompanied by a signed letter motivating the case and are also subject to approval by the Supervisor/Line Manager.
- 4.2.5 The Employer has the right to request for documentary proof in respect of the following:
- (a) Adoption and Surrogacy Leave;
  - (b) Family Responsibility Leave and Urgent Private Affairs, e.g. affidavit, receipt et cetera;
  - (c) Maternity Leave;
  - (d) Occupational Injuries and Diseases Leave;
  - (e) Pre-Natal Leave;
  - (f) Normal Sick Leave;
  - (g) Special Leave for Quarantine Purposes;
  - (h) Temporary and Permanent Incapacity Leave;
  - (i) Leave considered to be on Official Duty; and
  - (j) Paternity Leave.

#### **4.3 Leave Register and Annual Leave Schedule**

- 4.3.1 Accurate record-keeping is essential for the management and administration of the leave entitlement of Employees. Inaccurate and poor record-keeping can lead to financial benefits to which Employees are not entitled and qualified audit outcomes.
- 4.3.1 The following principles must be applied in record-keeping:
- (a) Leave Registers are to be implemented, checked and maintained by the Supervisor/Line Manager of each Component/Unit within the DHET on a weekly basis.
  - (b) Supervisors/Line Managers are to ensure that all leave forms have been submitted and that the leave is correctly indicated in the Time and Attendance System (Registers) utilised by the Employer and the Leave Register.



- (c) Supervisors/Line Managers are required to keep an up-to-date and accurate Leave Register of the number of days and all types of leave taken by each Employee in the Leave Cycle under their supervision to ensure that leave is not taken in excess of what is available. SMARTHET have been implemented in Head Office and some Regional Offices.
- (d) Supervisors/Line Managers are responsible for ensuring compliance with the Leave Policy and that the leave forms are timeously signed and submitted to the Delegated Authority which in return must ensure that such leave documents are submitted to the HR Unit for processing. TVET and CET colleges have access to PERSAL to capture leave applications.
- (e) Supervisors/Line Managers are responsible for ensuring that leave applications by Employees are done on the prescribed Z1(a) Leave form as approved by the MPSA/Employer.
- (f) Accurate leave records, Leave Registers and copies of the leave forms are to be filed for each Employee by the Supervisors/Line Managers and HR.
- (g) When necessary or for audit purposes, each Component may be requested by HRMA Directorate and/or the Auditor General to make available the Leave Register for validating against the internal Leave MIS or PERSAL records.
- (h) An Annual Leave schedule, which indicates when an Employee plans to take Annual Leave, shall be submitted to their Line Managers in January each year.
- (i) In the event of a change in dates, the schedule shall be amended and the Supervisors/Line Managers informed timeously.

#### **4.4 Leave Form**

- 4.4.1 A Z1(a) Form as gazetted by the MPSA in February 2013 and amended June 2015 shall be completed when an Employee takes leave or is absent from work.



- 4.4.2 Lecturers are not required to complete a Z1(a) Form in respect of Annual Leave, as they are not entitled to such leave.
- 4.4.3 In the event of Sick Leave in excess of thirty-six (36) days, the PILIR application form must be used instead of the Z1(a) Form:
- (a) "Annexure A - Application Form for Temporary Incapacity Leave Short Periods";
  - (b) "Annexure B - Application Form for Temporary Incapacity Leave Long Periods".
- 4.4.4 It is the responsibility of both the Employee and Supervisors/Line Managers to ensure that the leave application process is complied with and time frames, as stipulated in this Policy, are strictly adhered to in order to qualify for leave.
- 4.4.5 No Employee may be absent for any period during a working day without completing a Z1(a) Form and obtaining permission from his/her direct Supervisor/Line Manager. The onus then remains on the absent Employee to submit documentation to substantiate why the period(s) of absence should not be leave without pay (Unpaid Leave).
- 4.4.6 Prior to submitting to HR for processing, the Z1(a) Form requires **recommendation and approval** by the Delegated Authorities. Such Delegated Authorities must ensure that they indicate when signing the form whether they approve such leave with/without full payment and indicate the date on which they have approved such leave application. Except under extraordinary circumstances, such as death or serious illness, an Employee shall not absent him-/herself from reporting for duty unless an application for leave has been lodged in writing and approved by the relevant Supervisor/Line Manager or the Supervisor/Line Manager has been informed in advance.
- 4.4.7 Supervisors/Line Managers must ensure that the Z1(a) Form is submitted for all absences, (except for PILIR applications) and any outstanding leave forms are obtained from the Employee.

## 4.5 The Approval Process

- 4.5.1 An Employee's direct Supervisor/Line Manager/Delegated Authority is responsible for recommending the leave application **within two (2) days** of receipt of the Z1(a) Form.



- 4.5.2 The Delegated Authority is responsible for approving the leave application within **three (3) days** of receipt of the Z1(a) Form.
- 4.5.3 The Director/Principal/Delegated Authority is responsible for approving the following Categories of leave:
- (a) All Categories of Leave except those covered in the Special Leave Policy;
  - (b) Pay-out for Annual Leave declined due to operational reasons;
  - (c) Temporary and Permanent Incapacity Leave;
  - (d) Unpaid Leave; and
  - (e) Unpaid Leave for Continuity of Service.
- 4.5.4 Failure to comply with the time frame by the Supervisor/Line Manager/Delegated Authority may result in disciplinary procedures being instigated against them.

#### **4.6 Departmental Closure Period**

- 4.6.1 In accordance with the DPSA Determination and Directive on Leave of Absence in the Public Service, June 2018 as amended, an Employee should take at least ten (10) consecutive Working Days leave in a Leave Cycle. In order to ensure that Employees take leave and service delivery requirements are not adversely affected, the Employer closes for a specified period over the festive season in December each year, as determined by the Department. Employees are to be informed of the closure date well in advance in order to manage their leave accordingly and must ensure they have sufficient leave credits to cover the specified period.
- 4.6.2 Only Employees who perform critical functions and are requested in writing by the Delegated Authority to be on duty during this period are exempt from this arrangement.
- 4.6.3 In accordance with the DPSA, leave for the period of the Departmental closure is captured programmatically by PERSAL early in the year. All Employees within the DHET will be notified through means of a Memorandum/Circular/Newsflash on the dates which the Department will close for the Festive Season each year.



- 4.6.4 Employees who are appointed after 30 June within the Annual Leave Cycle will not have sufficient leave credits, pro-rata, to cover the full period of the closure of the Department and will be accommodated as follows:
- (a) All pro-rata leave credits will be captured for the period of the closure of the Department and the balance of the days will be deducted from the annual leave credits of the following year. This is a once off arrangement and all future cases of insufficient leave will be considered as Unpaid Leave.
  - (b) Employees who start the next year with fewer days as a result of the above, have to take the days necessary for the next Departmental Closure Period into consideration when managing their available credits during the year.
- 4.6.5 Leave days captured for the Departmental Closure Period which were not taken due to operational requirements will be reinstated provided that written authorisation is received from the Delegated Authority.

#### **4.7 Time and Attendance System**

- 4.7.1 In keeping with the DHET Working Hours, it is imperative that an effective and efficient administrative procedure and system is followed in order to monitor Time and Attendance of all Employees.
- 4.7.2 Taking into account cost, resource and infrastructure factors, the Employer must implement (but is not limited to) any of the following options:
- (a) Attendance registers;
  - (b) Clocking systems; or
  - (c) Access control systems, e.g. smartcard, key fob or biometric systems.
- 4.7.3 Paragraphs 4.6.2(b) and 4.6.2(c) may be integrated to a software system that allows for easier management of Time and Attendance information.
- 4.7.4 All Employees are required to record their time of arrival at and departure from their place of duty, through a system as prescribed by the Employer. Note the wording "time of arrival at and departure from". It entails that when an employee arrive at work at 08:00, he/she must sign on 08:00.
- 4.7.5 Alternatively, an Employee must complete an itinerary which must be approved by the Supervisor/Line Manager/Delegated Authority.



- 4.7.6 The completion of itineraries in paragraph 4.6.5, are only applicable to those Employees who are required to perform official duties away from their work stations as approved by the relevant Supervisor/Line Manager/Delegated Authority. A monthly itinerary must be completed and submitted a week before the commencement of the relevant month.
- 4.7.7 The monthly itinerary must be reviewed on a weekly basis and must be submitted to the Supervisor/Line Manager/Delegated Authority on or before the first Working Day of the relevant week.
- 4.7.8 If an Employee is unable to use the prescribed system on any particular day, he/she must revert to the manual option and sign a register instead.
- 4.7.9 Supervisors/Line Managers and HR are responsible for monitoring and maintaining the Time and Attendance information and where applicable, the itineraries.
- 4.7.10 On a daily basis Supervisors/Line Managers/Delegated Authorities are to countersign or validate that the Time and Attendance information:
- (a) has been reviewed;
  - (b) contains additional information or reasons, where applicable; and
  - (c) is accurate before submitting to HR for administrative purposes.
- 4.7.11 Reports reconciling late coming or absenteeism for the week should to be submitted to HR by the Supervisor/Line Manager/Delegated Authority on the last day of the month.
- 4.7.12 Employees are required to offer an explanation to the Supervisor/Line Manager/Delegated Authority or HR for any anomalies identified.
- 4.7.13 The Director/Principal, as well as Supervisor/Line Manager/Delegated Authority is required to ensure that the necessary disciplinary action is taken against an Employee who fails or refuses to comply with the Time and Attendance procedures, and failure to do so, may result in disciplinary action being instituted against the Director/Principal and/or Supervisor/Line Manager/Delegated Authority.

## **4.8 Annual Leave**

### **4.8.1 Support Staff and Office-Based Lecturers**

- (a) Annual Leave should be planned and scheduled at the start of the Annual Leave Cycle, e.g. beginning of January of each year to assist with the planning of the Department.



- (b) In order for the Supervisor/Line Manager to grant Annual Leave, Working Days will be from Monday to Friday, unless an Employee is scheduled to work in terms of a roster where Saturdays and Sundays are also required.
- (c) An Employee will be entitled to Annual Leave with full pay during each Leave Cycle which commences on 1 January of each year.
- (d) An Employee, who has been appointed after 1 January of each year, will have his/her Annual Leave entitlement proportionally calculated in relation to each full month of service.
- (e) For the purposes of pro-rata calculations, an Employee is only entitled to the full accrual if appointed on the 1st of the month. In other words, if an Employee is appointed after the 1st of the month, he/she will not qualify for a pro-rata entitlement for that month but will accrue from the next month onwards.
- (f) The Annual Leave entitlement will be calculated at a rate of 1.83 working days per month if entitled to twenty-two (22) working days (for Employees with less than ten (10) years' of service), 2.25 working days per month if entitled to twenty-seven (27) working days (Support staff – College based) and 2.5 working days per month if entitled to thirty (30) working days (for Employees with ten (10) years' or more of service, including Support staff at College level). Office-based educators fall within the category of 22/30 days.
- (g) The Employee must take at least ten (10) working days during the Annual Leave Cycle. Annual Leave should, as far as possible, be taken as consecutive working days (refer to paragraph 4.6).
- (h) In the case of an institution based support staff member, at least twenty-two (22) Working Days of the 27 or 30 days Annual Leave, whichever is applicable to an employee, must be taken during the period in which the college closes for the holidays. The remaining five (5) or eight (8) working days, whichever is applicable, may be taken when the college is in operation.
- (i) The Employee shall only carry over the remaining five (5) or eight (8) Working Days, if any, no later than six (6) months after the expiry of the relevant Leave Cycle, where-after unused leave



credits shall be forfeited. In other words, leave not utilised by the end of June will be forfeited.

- (j) The Delegated Authority should ensure that his/her decisions are based upon the principles of fairness and equality in determining the leave roster for those Employees concerned.
- (k) With due regard to the principles of fairness and equality:
  - (i) Annual Leave and holidays constituting time off should be planned and scheduled for at least at the beginning of the Leave Cycle, i.e. January of each year.
  - (ii) As for periods of time off during Department holidays, the following could be taken into account:
    - If an Employee is not required during the holidays, the Employer may not require from that Employee to report for duty, except in extenuating circumstances which have a direct bearing on operational/service delivery requirements of that Department/Component.
    - Attention needs to be given to activities or services that need to take place or be delivered during the period when the Department closes for holidays.
    - It could be considered to schedule and present formal training for all non-teaching Employees during some of these periods.
    - A roster of time off should be developed to give each Employee a fair opportunity to time off, in the event where activities are to take place or services have to be rendered.
    - Tasks should as far as possible be rotated between non-teaching Employees and retain where possible only a minimum service delivery staff complement if their services are required during the period when the Department closes for holidays.
    - Delegated Authorities should ensure that duties and responsibilities assigned to the Employees concerned (during these holidays) may only relate to their normal assigned duties and responsibilities as contemplated in



their job descriptions, unless arranged by mutual consent.

- It is important to make sure that non-teaching Employees are retained on duty during Department holidays, only for valid official duty.

4.8.2 In the event of an Employee resigning within the first six (6) months of a year, he/she will be paid out for leave carried over from the previous Annual Leave Cycle, as well as the pro-rated entitlement for the current Leave Cycle on condition the number of days are limited to an employee's annual leave entitlement. Upon resignation, an Employee will not be paid out for Capped Leave, where applicable.

*Table (i)*

Leave Period	Notice required
≤ five ( 5) consecutive working days	Two (2) weeks. If unplanned Annual Leave needs to be taken, the Employee may apply for such on the same day if circumstances warrant it, but it must be subject to an agreement (verbal or written) with the Supervisor/Line Manager (together with the acceptance of the Z1(a) Form).
More than five (5) consecutive working days	One (1) month

4.8.3 For each fifteen (15) consecutive Calendar Days leave taken without pay, an Employee's Annual Leave entitlement shall be reduced by 1/24<sup>th</sup>. This translates to a reduction of 1.125 Working Days (if entitled to 27 days of Annual Leave) or 1.25 Working Days (if entitled to 30 days of Annual Leave).

4.8.4 Since the aim of the leave application process is to balance organisational needs with the personal rights of Employees, the



duration of leave desired determines the amount of notice required and when an application for Annual Leave needs to be submitted:

- a) A verbal message from a relative, fellow Employee or friend will only be acceptable if the nature or extent of the unforeseen circumstance prevents the Employee from personally informing the Supervisor/Line Manager.
- b) An Employee must submit the application for Annual Leave personally, or through a relative, fellow Employee or friend, if the nature or extent of the unforeseen circumstances prevents the Employee from doing so personally, within five (5) Working Days after the first day of absence.
- c) If the Employee fails to submit the Z1(a) Form on time, as in paragraph 4.2.1 or does not provide compelling reasons why the application cannot be submitted, the Supervisor/Line Manager must immediately:
  - (i) notify the Employee that if such application is not received within two (2) Working Days, the leave period will be regarded as Unpaid Leave; and
  - (ii) inform HR, should the Employee default on the notification referred to in paragraph 4.2.1 then the relevant authority shall approve such absence as Unpaid Leave.
- d) The Employee's Supervisor/Line Manager/Delegated Authority must within two (2) Working Days from receiving the Z1(a) form either Recommend/Not Recommend and/or Approve/Not Approve the Annual Leave application and submit it to the relevant HR office (College or DHET). Clear indication must be given on whether Annual Leave is granted with/without full pay.
- e) If the Employee fails to submit the Annual Leave application form within the stipulated time period and/or the Supervisor/Line Manager/Delegated Authority has not properly managed the leave application process, the Employer will take the necessary disciplinary action either against the Employee or the Supervisor/Line Manager/Delegated Authority.



- f) Employees must be cautioned timeously if, at the end of the relevant Leave Cycle, they have not utilised their leave entitlements.
- g) An Employee's application for Annual Leave should not be unreasonably refused. An application for Annual Leave should take the service delivery requirements of the Department into account. In other words, Annual Leave may be declined due to operational requirements.
- h) Any refusal of Annual Leave must be confirmed in writing, stating the reasons and arrangements for rescheduling of the Annual Leave, and a copy of the Z1(a) form placed in the Employee's file.
- i) If, due to the Employer's service delivery requirements, an Employee's application for leave is denied and not rescheduled, such leave must, upon request, be paid out to the Employee at the end of the 6 month period (end June).
- j) Employee requests for payment of unused leave credits must be:
  - (i) in writing; and
  - (ii) accompanied by written proof of refusal of leave by the Supervisor/Line Manager/Delegated Authority or instruction to report for duty as the case may be;
  - (iii) lodged by no later than the end of the relevant 6 month period.
- k) HR shall at the end of the eighteen (18) month period report to the Delegated Authority on the:
  - (i) number of Employees that were denied Annual Leave;
  - (ii) reasons for such denial; and
  - (iii) amount paid in this regard.

#### **4.8.5 Lecturers**

- (a) A Lecturer is not entitled to Annual Leave, but will be regarded as being on leave during Institution Closure Periods that are outside of scheduled working time. However, regarding the



workload, duties and responsibilities of a Lecturer, it may be required that a Lecturer has to perform some of his/her normal duties, such as preparation for the new College term or the marking of internal examination scripts during such periods. A Lecturer will however, not be required to report at any work place to perform any of these duties.

- (b) If, after sufficient notice, a Lecturer is required by the Employer to report for official duty during an Institution Closure Period outside the scheduled working time, he/she may be remunerated additionally for the performance of such duties in terms of the applicable measures as defined by the DHET's Overtime Policy. Such remuneration will not apply in respect of the voluntary performance of duties by a Lecturer during an Institution Closure Period.
- (c) A Lecturer does not accrue any leave credit for purposes of payments, carry over to the next Leave Cycle and/or for extending other forms of leave.

#### **4.8.6 Temporary Employees and Interns/Trainees**

A Temporary Employee or Intern/Trainee shall at the beginning of the contract period be granted Annual Leave that is proportional to the term of employment at a rate of one-twelfth of the Annual Leave credit, per Calendar Month of service.

### **4.9 Normal Sick Leave**

Employees are encouraged to utilise their Sick Leave responsibly and wisely.

#### **4.9.1 Staff, Office-Based Lecturers and Lecturers**

- a) An Employee is entitled to thirty-six (36) Working Days of Sick Leave in a three (3)-year cycle.
  - (i) The current cycle for Sick Leave commenced on 1 January 2019.



- (ii) Unused Sick Leave days prescribed for a particular cycle shall lapse at the end of that cycle and shall not be carried forward to the next cycle.
- (iii) An Employee must submit an application for Sick Leave in respect of a clinical procedure in advance, unless the treating registered medical practitioner certifies that such procedures have to be conducted as an emergency.
- (iv) When an Employee has to undergo medical tests, e.g. blood tests, eye test etc. Annual Leave and not Sick Leave should be taken. When the Employee produces a medical certificate from a registered medical practitioner, the Annual Leave can then be converted into Sick Leave.
- (v) If an Employee falls ill whilst on Annual Leave with full pay, such leave may be converted into Sick Leave provided that a medical certificate from a registered medical practitioner is provided irrespective of how many days Sick Leave is taken. If an Employee falls ill whilst on Annual Leave in December during the Departmental Closure period, such leave may be converted into Sick Leave. Annual Leave that was granted without pay (Unpaid Leave) cannot be converted into Sick Leave.
- (vi) If an Employee is overcome by a sudden illness or injury, the Employee must personally notify (verbally or in writing) the Supervisor/Line Manager immediately at least one (1) hour before he should report for duty. A notification to the Employee's Supervisor/Line Manager by a relative, fellow Employee or friend is only acceptable if the nature or extent of the illness or injury prevents the Employee from notifying the Supervisor/Line Manager personally.
- (vii) It is required that the Employee must produce a medical certificate, signed by a registered medical practitioner, in respect of illness or injury for every three (3) or more days of absence .
- (viii) An Employee must submit an application for Sick Leave personally or through a relative, fellow Employee or friend within five (5) Working Days after the first day of absence.



The Employee's Supervisor/Line Manager must within two (2) Working Days from receipt of the leave application form Recommend/Not Recommend the application and submit to the Delegated Authority for final approval and to HR for record keeping.

- (ix) If the Employee does not comply with the stipulated time frame for submitting the Z1(a) Form, the Employee's Supervisor/Line Manager must notify the Employee immediately, and if the application is not received within two (2) Working Days, then the Sick Leave of the Employee will be converted to Annual Leave, if the Employee consents, otherwise it will be Unpaid Leave.
- (x) If the Employee fails to submit his/her application form within the stated period or the Supervisor/Line Manager/Delegated Authority has not properly managed the process, it must be viewed in a serious light and disciplinary steps should be taken.
- (xi) If the Employer establishes a pattern/trend in the Employee's utilisation of Sick Leave for example being sick on Mondays, Fridays, immediately prior to or after a Public Holiday and on paydays, the Employer may require a medical certificate from a practitioner for sick absences of less than three (3) Working Days.
- (xii) Employees who have been absent from work on more than two (2) occasions during an eight (8)-week period, must regardless of the duration of the sickness or injury submit a signed medical certificate stating that the Employee was unable to work for the duration of the Employee's absence on account of sickness or injury (also referred to as the "8-Week Rule"). If the Employee fails to submit the required medical certificate, the Supervisor/Line Manager must notify the Employee that if the prescribed medical certificate is not received within two (2) Working Days the Sick Leave period will be regarded as Annual Leave, if the Employee consents, else it will be Unpaid Leave.



- (xiii) The eight (8)-week period shall be a calendar period and commences on the first day of an Employee's 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 (8)-week period. If the Employee has been absent on more than two (2) occasions within an eight (8)-week period, the Employee is required to submit a medical certificate for the third occasion onwards irrespective of the duration of Sick Leave taken. For example, if an Employee has been absent for one day on the third occasion of absence, he/she is required to produce a medical certificate.
- (xiv) Employees who have utilised fifteen (15) consecutive Calendar Days leave without pay (Unpaid Leave) will have their Sick Leave entitlement reduced by 1/72<sup>nd</sup> (for Support Staff) and 1/36<sup>th</sup> (for Lecturers) per Sick Leave Cycle. This translates to a reduction of half a day (0.5) or one (1) day of Sick Leave respectively.
- b) In the event where an Employee has to:
- (i) consult a doctor, therapist et cetera for reasons related to the Employee's health/wellness; or
  - (ii) go for training related to a disability, for example a blind Employee who has to undergo training with his/her guide dog; or
  - (iii) go for maintenance work for equipment used as a result of his/her disability (e.g. wheelchair);
- the Employer may grant such Employees time off in terms of the Sick Leave provisions.
- c) Where an Employee is absent for a part of the day, the Employer should manually record such time off until a full day is completed as Sick Leave.
- d) The Employer may require the necessary proof of such events or occurrences to properly monitor the utilisation of Sick Leave.



- e) A DHET Employee shall retain his/her Sick Leave credits in respect of a particular Sick Leave Cycle, when he/she:
  - (i) is transferred within a Department or between Departments (in the Public Service); or
  - (ii) is appointed in terms of the PSA, without a break in service.

#### 4.9.2 Temporary Employees and Interns/Trainees

- a) A Temporary Employee or Intern/Trainee shall at the beginning of the contract period be granted Normal Sick Leave that is proportional to the term of employment at a rate of one (1) day Normal Sick Leave per Calendar Month of service. Sick Leave may be granted in respect of absence from duty of an Employee owing to illness.
- b) All other Normal Sick Leave provisions in paragraph 4.1 shall apply.

#### 4.10 Temporary Incapacity Leave

4.10.1 Temporary Incapacity Leave is applicable to permanent Support Staff and Lecturers but **excludes** Temporary Employees and Interns/Trainees.

4.10.2 Incapacity Leave is not an unlimited number of additional sick leave days at an Employee's disposal. Incapacity Leave is additional sick leave granted conditionally at the Employer's discretion, read with PILIR for DHET Employees or in keeping with the procedures outlined in accordance with item 10(1) of Schedule 8 of the LRA for College Council appointed Employees.

4.10.3 An Employee who has exhausted his Normal Sick Leave (paragraph 4.9), during the prescribed Sick Leave Cycle and who according to the relevant registered medical practitioner, requires to be absent from duty due to a temporary incapacity, may apply for Temporary Incapacity Leave with full pay on the applicable application form prescribed in terms of PILIR in respect of each occasion. To



illustrate, an absence of a single day will be considered as Temporary Incapacity Leave and a medical certificate from a registered medical practitioner is required.

4.10.4 The maximum of thirty (30) Working Days with full pay may be conditionally granted to the Employee, during which period an investigation must be conducted into the nature and extent of the incapacity.

4.10.5 An Employee must apply for Temporary Incapacity Leave with full pay on the relevant application form, as per paragraph 4.10.2.

4.10.6 For an Employee's application for Temporary Incapacity Leave to be considered, the:

- (a) Employee must submit sufficient proof that he/she is too ill or injured to perform his/her work satisfactorily;
- (b) application form must, regardless of the period of absence, be accompanied by a medical certificate issued and signed by a registered medical practitioner that certifies his condition as Temporary Incapacity and if the Employee has consented, the nature and extent of the illness or injury .
- (c) Employee in accordance with item 10(1) of Schedule 8 of the LRA, is afforded the opportunity to submit together with his/her application form:
  - (i) any medical evidence related to the medical condition of the Employee, such as medical reports from a specialist, blood test results, X-ray results or scan results obtained at the Employee's expense; and
  - (ii) any additional written motivation supporting his/her application.
- (d) Employee is requested to give consent that medical information/records be disclosed to the Employer and/or Health Risk Manager and/or independent medical practitioner, and to undergo further medical examinations in terms of the assessment process described in PILIR.

4.10.7 An Employee must submit his application for Temporary Incapacity Leave at least five (5) days in advance in respect of clinical procedures, unless the treating medical practitioner certifies that such procedures have to be conducted as an emergency.



- 4.10.8 If overcome by a sudden illness or injury, the Employee must personally notify his/her Supervisor/Line Manager/Delegated Authority immediately. A verbal message to the Supervisor/Line Manager/Delegated Authority by a relative, fellow Employee or friend will only be acceptable if the nature and/or extent of the illness or injury prevent the Employee from doing so personally.
- 4.10.9 The Employee must submit an application for Temporary Incapacity Leave personally or through a relative, fellow Employee or friend, if the nature and/or extent of the illness or injury prevents the Employee from doing so personally, within five (5) Working Days after the first day of absence. The Employee's Supervisor/Line Manager/Delegated Authority must within two (2) Working Days from receipt of the leave application form, Recommend/Not Recommend and/or Approve/Disapprove the application and submit the documentation to HR.
- 4.10.10 If the Employee fails to submit the application form within the period indicated in paragraph 4.11.8, the following arrangements apply:
- (a) The Employee's Supervisor/Line Manager/Delegated Authority must immediately notify the Employee that if such application is not received within two (2) Working Days, the sick leave period will be regarded as Annual Leave, if the Employee's consent, else it will be Unpaid Leave. If the Employee fails to submit the application on time or provide compelling reasons as to why an application cannot be submitted, the Supervisor/Line Manager/Delegated Authority must immediately inform HR and the relevant authority shall approve such absence as Annual Leave, if the Employee consents, else it will be Unpaid Leave. The Employee's Supervisor/Line Manager/Delegated Authority must, within two (2) Working Days from receipt of the leave application form, Recommend/Not Recommend and/or Approve/Not Approve the leave application and submit to HR.
  - (b) If the Employee fails to submit his/her application form within the stated period or the Supervisor/Line Manager/Delegated Authority has not properly managed the process, it must be viewed in a serious light and disciplinary steps should be taken.



4.10.11 The Delegated Authority must within five (5) Working Days from receiving the Employee's application for Temporary Incapacity Leave:

- a) conditionally grant a maximum of thirty (30) consecutive Working Days Temporary Incapacity Leave with full pay subject to the outcome of the investigation into the nature and extent of the Employee's illness or injury; and
- b) refer the application, with all the supporting evidence immediately to its Health Risk Manager or independent medical practitioner for assessment and advice on:
  - (i) whether the Employee's illness or injury justifies the granting of Incapacity Leave; and
  - (ii) which steps, if any, in accordance with the procedures contained in item 10(1) of Schedule 8 of the LRA, read with clause 7.5.1 of PSCBC Resolution 7 of 2000, as amended by PSCBC Resolutions 5 of 2001 and 15 of 2002, are necessary.

4.10.12 The Delegated Authority may request the Employee, if he/she has consented thereto in his/her application form, as part of the process contemplated in paragraph 4.10.11 (b), to subject him/herself for one or more medical examinations by registered medical practitioners of the Employer's choice and for the Employer's account. If the Employee fails to honour the appointments for such medical examinations, the Employee shall be held responsible for any fruitless expenses incurred.

4.10.12.1.1 The Delegated Authority must within thirty (30) Working Days after receipt of both the application form and medical certificate approve or refuse the Temporary Incapacity leave granted conditionally. In making a decision, the Delegated Authority must apply his/her mind to the medical certificate (with or without describing the nature and extent of the illness or injury) (if the Employee consented to disclosure), the Health Risk Manager's/independent registered medical practitioner's advice, the information supplied by the Employee, and all other relevant information available to the Delegated Authority and based thereon approve or refuse the



Temporary Incapacity Leave granted conditionally, on conditions that the Delegated Authority may determine, for example to return to work, etc.

4.10.14 The Delegated Authority may on the basis of medical evidence gathered during its investigation approve the granting of additional Incapacity Leave days on conditions that he/she shall determine. The Delegated Authority may for this purpose grant conditionally further Temporary Incapacity Leave.

4.10.15 The Delegated Authority, if applicable and as soon as possible after the receipt of the Health Risk Manager's/independent registered medical practitioner's advice, must decide on the possibility of securing alternative employment for the Employee, or adapting his/her duties or work circumstances to accommodate his/her incapacity or alternative employment and, as soon as possible, approve and implement an action plan for this purpose.

4.10.16 If the Delegated Authority:

- a) approves the Temporary Incapacity Leave granted conditionally, such leave must be converted into Temporary Incapacity Leave; or
- b) refuses the Temporary Incapacity Leave granted conditionally, he/she must notify the Employee in writing:
  - (i) of the refusal;
  - (ii) of the reasons for the refusal;
  - (iii) that the Employee must notify the Delegated Authority in writing within five (5) Working Days of the date of notice to him/her, whether or not the period of conditional Incapacity Leave must be covered by Annual Leave (to the extent of the available Annual Leave credits) or Unpaid Leave and that, if the Employee fails to notify the Delegated Authority of his/her choice, the period will be covered by Unpaid Leave; and
  - (iv) that if the Employee is not satisfied with the Line Manager's decision, the Employee may lodge a grievance in terms of Section 35 of the PSA.



4.10.16.1 The Employer must cover the period of absence in accordance with the Employee's written notification or, if the Employee fails to notify the Employer in terms of that paragraph or the Annual Leave credits are insufficient, the relevant period of absence must be covered by Unpaid Leave.

4.10.17 If an Employee passes away after submitting an application for Temporary Incapacity Leave, a decision on such application must be made where the information provided is sufficient. However, where a decision cannot be made due to a lack of information the Delegated Authority must approve such application for Temporary Incapacity Leave and close the application. Any decision must take into account the recommendation from the Health Risk Manager/independent registered medical practitioner.

#### **4.11 Permanent Incapacity Leave**

4.11.1 Permanent Incapacity Leave is applicable to Support Staff, Lecturers but excludes Temporary Employees and Interns/Trainees.

4.11.2 An Employee shall not directly access or apply for Permanent Incapacity Leave. The Delegated Authority may grant an Employee up to a maximum of thirty (30) Working Days paid Permanent Incapacity Leave once he/she has, following the assessment and investigations contemplated in paragraph 4.11.10 (b), determined that the Employee's condition is of a permanent nature.

4.11.3 The Delegated Authority must during the period referred to in paragraph 4.11.1 and in accordance with the advice from its Health Risk Manager or independent medical practitioner ascertain the feasibility of and implement its plan of action contemplated in paragraph 4.11.1, in respect of:

- a) alternative employment for the Employee; or
- b) adapting duties or work circumstances to accommodate the Employee.



- 4.11.4 An Employee whose degree of incapacity has been certified as permanent but who can still render a service, may be transferred to an alternate appropriate vacant post without a reduction in benefits.
- 4.11.5 If the transfer necessitates reallocation to a job of a lower grading, such will be explained well in advance and the continued utilisation of such an Employee should in this regard be with consent.
- 4.11.6 In instances where the Employee's redeployment entails retraining, the Employer must take requisite resources (time and financial) and potential returns into consideration before approving the transfer.
- 4.11.7 The transfer of an Employee should ensure optimal utilisation of his/her competencies and must not compromise the service delivery of the Department.
- 4.11.8 If both the Employer and Employee are convinced that the Employee will never be able to render an effective service at the required level or rank, the Employer/Employee may proceed with the process of termination of service on account of continued ill health in terms of Section 17(2)(a) of the PSA.
- 4.11.9 The Employer may extend the period of Permanent Incapacity Leave referred to in paragraph 4.11.1 by a further thirty (30) Working Days in order to finalise processes already commenced. If the processes set out is not completed within the sixty (60) Working Days, the Employer must report the case to the Director-General: Public Services and Administration or Delegated Authority, together with a report explaining the reasons for the delay.

#### **4.12 Unpaid Leave**

Unpaid Leave is applicable to Support Staff and Lecturers in the following instances:

- 4.12.1 If an Employee has utilised all his/her Annual Leave with full pay, the Delegated Authority may grant Unpaid Leave.
- 4.12.2 The Employer may grant Unpaid Leave up to a maximum of one hundred and eighty four (184) Calendar Days in a period of eighteen (18) Calendar Months.
- 4.12.3 Only in exceptional cases shall the Delegated Authority grant the Employee more than one hundred and eighty four (184)



Calendar Days of Unpaid Leave in a period of eighteen (18) months.

- 4.12.4 The granting of Unpaid Leave in excess of one hundred and twenty (120) Calendar Days does not place the Employer under any obligation to meet its contribution towards the pension fund, should representations be made for such Unpaid Leave period to be recognised as pensionable service.
- 4.12.5 Unpaid Leave is calculated in terms of Calendar Days.
- 4.12.6 All applications for Unpaid Leave shall be approved by the Delegated Authority before the Employee goes on leave.
- 4.12.7 Absences from work due to arrest, imprisonment or appearances in court on a criminal charge that leads to a conviction will be regarded as Unpaid Leave.
- 4.12.8 For each fifteen (15) consecutive Calendar Days leave taken without pay, the Employee's Annual Leave entitlement shall be reduced by 1/24<sup>th</sup>.
- 4.12.9 For each 15 consecutive Calendar Days leave taken without pay, the Employee's Sick Leave entitlement shall be reduced by 1/72<sup>nd</sup> per Sick Leave Cycle.

#### 4.13 Unpaid Leave For Continuity Of Service

Unpaid Leave for Continuity of Service is applicable to **Lecturers only**.

- 4.13.1 Unpaid Leave for a maximum of one hundred and twenty (120) Consecutive Days may be granted to a Lecturer who was previously employed as an Institution-based Educator by an Education Department for the purpose of retaining the continuity of the Lecturer's service.
- 4.13.2 Unpaid Leave shall commence on the day immediately following the date on which the Lecturer last received a salary from his/her previous Employer and shall expire on the day preceding the date of assumption of duty with the present Employer.
- 4.13.3 The limitation of one hundred and twenty (120) Consecutive Days referred to in paragraph 4.13.1 shall not apply to a Lecturer 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.

4.13.4

Where Unpaid Leave for Continuity of Service has been granted to a Lecturer, the service of the Lecturer is regarded as continuous for all purposes of determining his/her period of service.

**4.14 Pre-Natal Leave**

Pre-Natal Leave is applicable to Support Staff, Lecturers, Temporary Employees and Interns/Trainees.

**4.14.1 Support Staff, Office-Based Lecturers and Lecturers**

- (a) A pregnant Employee is entitled to eight (8) Working Days Pre-Natal Leave, per pregnancy. This is to allow the Employee to attend medical examinations by a registered medical practitioner and tests related to the pregnancy.
- (b) An Employee can utilise a full day or part of a day for Pre-Natal Leave. The Supervisor/Line Manager shall maintain a system to record instances where the Employee utilised part of a day. One (1) day's Pre-Natal Leave shall be deducted once the duration of absences equates to the Employee's prescribed daily Working Hours.
- (c) An Employee must submit her application for Pre-Natal Leave in advance, unless unforeseen circumstances prevent her from doing so.
- (d) An application for Pre-Natal Leave should be supported by reasonable proof (medical certificate) confirming that the Employee attended a doctor's appointment and/or went for tests related to her pregnancy.
- (e) In the event that an Employee requires more than eight (8) Working Days Pre-Natal Leave then the circumstances will be discussed with the Supervisor/Line Manager and the Employee will be required to apply for Annual Leave. If the Employee's Annual Leave and Capped Leave, (where applicable) has been exhausted, it will be Unpaid Leave.



- (f) Absences related to medical complications during the pregnancy will be covered by Sick Leave.

#### **4.14.2 Temporary Employees and Interns/Trainees**

A Temporary Employee or Intern/Trainee who is pregnant shall qualify for Pre-natal Leave at a rate of one (1) Working Day paid leave for each Calendar Month of her term of contract up to a maximum of eight (8) Working Days per pregnancy.

### **4.15 Maternity Leave**

Maternity Leave is applicable to Support Staff, Lecturers, Temporary Employees and Interns/Trainees.

#### **4.15.1 Support Staff, Office-Based Lecturers and Lecturers**

- (a) A pregnant Employee is entitled to four (4) consecutive Calendar Months' Maternity Leave with full pay. This period includes Public Holidays, weekends and Department closure periods.
- (b) Maternity Leave may commence:
  - (i) for Support Staff, at any time from four (4) weeks before the expected date of birth, and for Lecturers, at least fourteen (14) days prior to the expected date of birth, but not later than the actual date of birth in the case of a premature confinement; or
  - (ii) on a date from which the attending medical practitioner certifies that it is necessary for the Employee's health or that of the unborn child.
- (c) It is preferable that an Employee commences her Maternity Leave at least two (2) weeks prior to the expected date of birth. However, the service delivery requirements of the Employer may require different arrangements with regards to the period and stage at which Maternity Leave, with due consideration of the Employee and her unborn child's health and safety, should commence.
- (d) An application for Maternity Leave must be at least three (3) months prior to the expected date of birth as stated by the medical



practitioner, in order to enable the arrangement of a substitute or temporary replacement, where applicable.

- (e) For at least six (6) weeks after the birth, no Employee may commence with normal official duty unless the attending medical practitioner certifies that the Employee is fit to do so. This includes when an Employee chooses to interrupt her Maternity Leave less than six (6) weeks after the birth.
- (f) Where it is practically feasible and subject to paragraph 4.16.1 (e), the Employer may allow an Employee to interrupt her Maternity Leave by letting her return to work temporarily if the baby:
  - (i) is born prematurely and is hospitalised during Maternity Leave; or
  - (ii) becomes ill and is hospitalised for a period longer than a month during the Maternity Leave.
- (g) If an Employee referred to in paragraph 4.16.1(f), chose to interrupt her Maternity Leave and failed to return to work after the six (6) weeks, such a period must be covered with Annual Leave, where applicable or Unpaid Leave if she does not have sufficient Annual Leave available.
- (h) Maternity Leave may be extended upon application by granting one or more of the following:
  - (i) Sick Leave as a result of a medical complication;
  - (ii) Unpaid Leave up to the maximum of 184 Calendar Days per 18 month cycle, if the Employee's Annual Leave and Capped Leave has been exhausted; or
  - (iii) Annual Leave, where applicable.
- (i) An Employee who, during the third trimester of her pregnancy, experiences a miscarriage, still birth or termination of the pregnancy on medical conditions, shall be eligible for six (6) consecutive weeks Maternity Leave, (leave to commence after the death), where after (h)(i) shall apply in the event of a medical complication.
- (j) Provisions in 4.16.1(f) shall also apply to an Employee who experience a miscarriage, stillbirth or termination of pregnancy on medical conditions after the commencement of Maternity Leave.



- (k) The period prior to the miscarriage, stillbirth or termination of pregnancy shall be regarded as Special Leave with full pay, and will not form part of the six (6) weeks Maternity Leave for an Employee.
- (l) If the baby passes on within the four (4) months of Maternity Leave, the Employee qualifies for six (6) weeks Special Leave with full pay from the date of death. In such a case, FRL will not be granted in addition to the six (6) weeks Special Leave.
- (m) For the purposes of calculating length of service, Maternity Leave shall not be deemed to constitute a breach in service.
- (n) Any disciplinary action taken against the Employee during the period commencing before proceeding to Maternity Leave shall be carried forward to the date of resumption of her duties after completing her Maternity Leave, and the leave shall not be included in calculating the period of application of any disciplinary action as stipulated in the DHET's disciplinary code and procedure.

#### **4.15.2 Temporary Employees and Interns/Trainees**

A Temporary Employee or Intern/Trainee shall be granted paid Maternity Leave that is proportional to her term of contract at a rate of ten (10) Calendar Days Maternity Leave with full pay calculated at each completed Calendar Month of her term of contract to a maximum of four (4) Calendar Months, where after Maternity Leave without Pay shall be granted. The total period granted in respect of Maternity Leave shall not exceed four (4) consecutive Calendar Months.



#### **4.16 Adoption And Surrogacy Leave**

Adoption and Surrogacy Leave is applicable to Support Staff, Lecturers, Temporary Employees and Interns/Trainees.

##### **4.16.1 Support Staff, Office-Based Lecturer and Lecturers**

- a) An Employee who adopts a child that is younger than two (2) years, shall qualify for Adoption Leave to a maximum of forty-five (45) Working Days.
- b) If both spouses/Life Partners are employed in the Public Service and/or by the College Council, both partners will qualify for Adoption Leave provided that the combined leave taken does not exceed the forty-five (45) Working Days.
- c) For the purpose of this leave, specific attention is drawn to Section 228 of the Children's Act, which stipulates that the child is adopted if the child has been placed in the permanent care of a person in terms of a court order that has the effects contemplated in Section 242 of the Children's Act, which stipulates, amongst other things that:
  - (i) An adoption order, amongst others confers:
    - full responsibilities and rights in respect of the adopted child upon the adoptive parent; and
    - the surname of the adoptive parent on the adopted child, except when otherwise provided for in the order.
  - (ii) An adopted child must, for all purposes, be regarded as the child of the adoptive parent and the adoptive parent, must for all purposes, be regarded as the parent of the adopted child.
  - (iii) An Employee who is adopting a child younger than two (2) years of age shall notify the Supervisor/Line Manager, in advance, (preferably at least two (2) months prior to the date of the child's expected arrival in his/her care), in writing of the date on which the child is expected to be



placed in his/her permanent care and the date the leave shall commence.

(iv) Applications for Adoption Leave must be supported by documentary evidence in respect of the following:

- a certified copy of the adoption order issued by the court of law, a certified copy of the child's birth certificate and any other relevant documents; and
- in instances where both spouses/Life Partners are employed in the Public Service and/or by the College Council, a written declaration from the spouse/Life Partner of the applicant confirming he has not applied for the leave, and where the leave has been applied for, the number of days so applied.

- d) A commissioning parent in terms of a surrogate motherhood agreement is entitled to four (4) consecutive calendar months paid leave commencing from the date of the birth of the child. A certified copy of the surrogacy court order issued by the High Court must accompany the application for Surrogacy Leave.
- e) In the event that an Employee requires more than forty-five (45) Working Days for Adoption and four (4) consecutive calendar months for Surrogacy Leave, then the circumstances will be discussed with the Supervisor/Line Manager and the Employee may apply for available Annual Leave (where applicable), or Unpaid Leave if the Employee's Annual and/or Capped leave has been exhausted. Lecturers may not utilise UPA for this purpose.
- f) Disciplinary action shall be instituted against Employees who submit false or incorrect information in respect of Adoption and Surrogacy Leave.



#### 4.16.2 Temporary Employees and Interns/Trainees

- a) A Temporary Employee or Intern/Trainee who adopts a child that is younger than two (2) years, shall qualify for Adoption Leave at a rate of four (4) Working Days paid leave for each month of his/her term of contract to a maximum of forty-five (45) Working Days.
- b) Temporary Employee or Intern/Trainee who is a commissioning parent in a surrogate motherhood agreement, shall qualify for Surrogacy leave at a rate of ten (10) days per completed month to a maximum of four (4) calendar months.

#### 4.17 Family Responsibility Leave And Special Leave For Urgent Private Affairs

- 4.17.1 Family Responsibility Leave is applicable to Support Staff, Lecturers, Temporary Employees and Interns/Trainees. **Special Leave for UPA** is applicable to **Lecturers only**.
- 4.17.2 An Employee shall be granted five (5) Working Days FRL per Annual Leave Cycle for utilisation, if:
  - a) their spouse/Life Partner gives birth to a Child; or
  - b) their Child, spouse/Life Partner or immediate family is sick; and
- 4.17.3 Five (5) Working Days per Annual Leave Cycle for utilisation, if:
  - a) the Employee's Child, spouse or Life Partner dies; or
  - b) an Employee's Immediate Family Member dies.
- 4.17.4 A Lecturer may during a scheduled working period be granted Special Leave to attend to an urgent private matter, the nature of which is such that it warrants the Lecturer to be absent from work in order to prevent possible damage, financial loss or other serious problems from occurring.
- 4.17.5 A number of leave days taken by a Lecturer in terms of 4.18.1, 4.18.2 and 4.18.3 shall not exceed fourteen (14) working days in an Annual Leave Cycle, unless special circumstances related to paragraph 4.18.1 and 4.18.2 warrant further leave at the discretion of the Delegated Authority.
- 4.17.6 Unused leave days in respect of 4.18.1 and 4.18.2 for Lecturers, as well as the remaining days not exceeding the maximum of fourteen (14)



working days may be utilised as UPA, the nature of which is such that it warrants absence from work.

4.17.7 Applications for FRL must be accompanied by the relevant supporting documentation:

- a) birth certificate for when a Child is born;
- b) medical certificate from a registered medical practitioner for sickness;
- c) death certificate in the event of a death, as stipulated in 4.18.2; and/or
- d) letter, affidavit or other necessary documentation stating the reasons in the case of UPA.

4.17.8 The FRL entitlement is allocated per Annual Leave Cycle and not per incident.

4.17.9 The granting of FRL/UPA will take due consideration of the Employee's cultural responsibilities.

4.17.10 FRL/UPA may be taken for part of a day. For example, an Employee who takes three hours off to attend to a family responsibility would only use three hours of their FRL entitlements.

4.17.11 For purposes of utilising FRL/UPA entitlements, fractions or decimals must be utilised as they are. In other words fractions or decimals must not be rounded off.

4.17.12 The Supervisor/Line Manager and HR must keep manual records of the utilisation of FRL/UPA taken for part of a day. After reaching the prescribed daily number of working hours of attendance, the Employee must complete and submit the Z1(a) Form.

4.17.13 An employee who has children with severe special needs shall be granted five (5) working days family responsibility leave per calendar year:

- a) For purposes of paragraph 4.18.12, a child with severe special needs is a child who has a mental, emotional or physical disability, certified by a medical practitioner, which requires health and related services of a type or amount beyond that required by children generally. For the purposes of this provision "child" means the employee's son or daughter of any age.



- b) An application for family responsibility leave should be supported by reasonable proof to demonstrate the severe special needs of the employee's child.

4.17.14 Employees who have used all their FRL/UPA may, subject to the approval of the Supervisor/Line Manager/Delegated Authority, apply to use:

- a) available Annual Leave (excluding Lecturers); or
- b) up to one hundred and eighty four (184) Calendar Days of Unpaid Leave, if the Employees Annual Leave and/or Capped Leave, where applicable, has been exhausted.

4.17.15 Unused FRL/UPA will lapse at the end of the Annual Leave Cycle.

4.17.16 When an Employee's service is terminated for whatever reason, no payment will be made in respect of any unutilised FRL/UPA.

#### **4.18 Paternity Leave**

4.18.1 An employee shall be granted **three (3) working days** paternity leave per calendar year for utilisation if the employee's spouse or life partner gives birth to a child or adopts a child older than 2 years of age.

4.18.2 Employees who have used all their Paternity Leave may, subject to the approval of the Supervisor/Line Manager/Delegated Authority, apply to use:

- a) available Annual Leave (excluding Lecturers); or
- b) up to one hundred and eighty four (184) Calendar Days of Unpaid Leave, if the Employees Annual Leave and/or Capped Leave, where applicable, has been exhausted.

4.18.3 An application of Paternity Leave shall be supported by reasonable proof.

#### **4.19 Occupational Injuries And Diseases Leave**

OID Leave is applicable to Support Staff, Lecturers, Temporary Employees and Interns/Trainees.

4.19.1 An Employee who as a result of his/her work, suffers an occupational injury or contracted an occupational disease, shall be granted OID Leave for the duration of the period he/she cannot work.



- 4.19.2 If an Employee suffers a work-related injury as a result of an accident involving a third party, the Employer shall grant OID Leave provided that the Employee:
- a) brings a claim for compensation against the third party; and
  - b) undertakes to use the compensation (in terms of the COIDA) received to recompense as far as possible for the Employer's contribution, to the cost arising from the accident.
- 4.19.3 The Employer shall take reasonable steps to assist an Employee to claim compensation according to paragraph 4.19.1.
- 4.19.4 When an Employee is injured on duty or has contracted an occupational disease, the Compensation Commissioner must pay the Employee's medical expenses in terms of the COIDA. The Employer may, depending on the circumstances, recover certain expenses in the event where a third party was involved in the accident.
- 4.19.5 Compensation benefits will not be paid if:
- a) an Employee reported the accident to the Employer more than 12 months after the accident or death, or after the disease was diagnosed;
  - b) an Employee is totally or partially disabled for less than three (3) days;
  - c) the accident resulted from the Employee's own negligence or wrong doing (unless the Employee is seriously disabled or dies in the accident, then the Fund will still pay compensation); and/or
  - d) an Employee unreasonably refuses or wilfully neglects to have medical treatment.



**Note:** Paragraph 4.20 should be read in conjunction with the DHET's Health and Safety Policy.

#### **4.20 Special Leave For Quarantine Purposes**

4.20.1 Special Leave for Quarantine Purposes is applicable to Support Staff and Lecturers.

- a) Special Leave with full pay may be granted to Employees who have been exposed to (but not contracted) a medical condition that requires such Employee to be placed under quarantine.
- b) An application for Special Leave for Quarantine Purposes must be accompanied by a certificate from a registered medical practitioner stating the period of quarantine, as well as the reasons necessitating such leave.

#### **4.21 Extraordinary Circumstances**

4.21.1 Subject to Section 15 of the DHET Labour Relations Manual and notwithstanding any disciplinary measures that may apply, unauthorised absence by an Employee shall be regarded as Special Leave in Extraordinary Circumstances and shall be without pay unless the Employer in a specific case determines otherwise.

4.21.1 If, in the opinion of the Employer, circumstances justify it, it may grant or place an Employee 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.



## **5. ROLES AND RESPONSIBILITIES**

### **5.1 Director-General**

Accountable for effective implementation and adherence to the policy.

### **5.2 Director: HRMA**

5.2.1 Responsible for effective implementation, adherence and compliance to the policy; and

5.2.2 Leave compliance oversight.

### **5.3 Employees**

5.3.1 Sign attendance register daily;

5.3.2 Apply for leave in advance together with relevant documentary proof and in case of absence due to illness, submit within 2 days of return;

5.3.3 Use sick leave responsibly.

## **6. POLICY MONITORING AND EVALUATION**

This Policy shall be monitored by the Directorate responsible for HRM.

## **7. POLICY REVIEW**

This Policy shall be reviewed every three years, unless changes to Legislation and Ministerial Directives dictates otherwise.

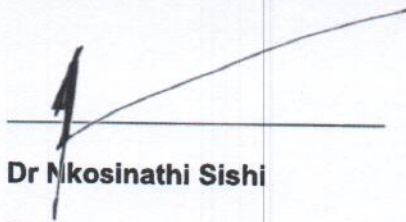
## **8. DISPUTE RESOLUTION**

Any dispute arising out of the interpretation and/or application of this Policy shall be dealt with in terms of the DHET Labour Relations Manual.



**9. POLICY APPROVAL SIGNATURE**

Signed at Pretoria on this 25 day of February 2022

A handwritten signature in black ink, appearing to be 'N. Sishi', is written over a horizontal line. The signature is stylized with a large initial 'N' and a long, sweeping horizontal stroke.

**Dr Nkosinathi Sishi**

**Director-General: Department of Higher Education and Training**