

Leave Without Pay

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Functional Sub group Personnel/Workforce - Conditions of employment
Personnel/Workforce - Leave

Summary Consolidated leave without pay policy on the conditions applicable to leave without pay, including the effect leave without pay has on the accrual of other forms of leave and incremental progression.

Replaces Doc. No. Leave Without Pay - Employees of Second and Third Schedule Hospitals [PD2005_009]
Long Service Leave - Leave Without Pay - Public Hospitals [PD2005_437]

Author Branch Employee Relations

Branch contact Employee Relations 9391 9357

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health

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Director-General

Compliance with this policy directive is mandatory.

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1. INTRODUCTION

This policy directive sets out provisions regarding leave without pay.

The Determination of Conditions of Subsidy requires (to the extent permitted by law) non-declared affiliated health organisations to comply with policy directives issued by the Department dealing with the terms and conditions of employment of staff employed in the NSW Health Service.

Employees may also be entitled to, or may have the right to request, full time or part time unpaid maternity, adoption or parental leave. Industrial awards and the policy directive on maternity, adoption and parental leave should be referred to in relation to those leave types as they contain comprehensive information on the entitlements and other relevant conditions.

2. SCOPE

This policy directive covers staff employed in the NSW Health Service. The policy directive sets out provisions under which staff may be granted leave without pay and details the effect of leave without pay on incremental progression and the accrual and/or entitlement to other forms of leave.

3. PURPOSE

The purpose of this policy directive is to ensure staff employed in the NSW Health Service are aware of the provisions for and effects of leave without pay.

4. DEFINITIONS

Employer means any person authorised to exercise the functions of the employer of staff to which this policy directive applies.

Public health system includes area health services, declared affiliated health organisations in respect of their recognised establishments or services, statutory health corporations, the Ambulance Service of NSW, Institute for Medical Education and Training, Health Technology, Health Support and any administrative unit or division under the control of the Director-General or Health Administration Corporation in which staff of the NSW Health Service are employed.

The **NSW Health Service** consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown. For the purposes of this policy directive, members of the Health Executive Service are excluded.

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5. ACCOUNTABILITIES

Entities within the public health system are responsible for the implementation of this policy directive, particularly in relation to the correct adjustment of incremental dates and other types of leave as a consequence of leave without pay.

6. RELATED POLICIES

- Annual Leave (PD2006_089)
- Displaced Employees – Managing (PD2005_104)
- Long Service Leave (PD2006_092)
- Maternity, Adoption and Parental Leave (PD2006_043)
- Sick Leave Management – Policy, Procedures and Eligibility (PD2006_063)

7. GRANTING OF LEAVE WITHOUT PAY

Staff employed in the NSW Health Service may be granted up to three years' leave without pay subject to the following conditions:

- Good and sufficient reason for the leave must be shown and the employer must be satisfied that the employee intends to resume duty on the expiration of his/her leave. The grant of such leave is in all cases subject to the convenience of the employer.
- In the case of superannuation contributors, satisfactory arrangements must be made for the employee to pay his/her own contributions to the relevant Superannuation Fund where required. It is emphasised that staff seeking leave without pay in excess of six months who are contributors to the State Authorities Superannuation Scheme and the State Superannuation Scheme are required to pay not only their own contributions but the employer's liability for the whole period of leave without pay. The relevant superannuation fund should be advised of approvals for the grant of leave without pay in excess of six months to superannuation contributors.
- Employees with annual leave and/or long service leave to credit may conserve such leave when granted leave without pay.
- The conduct and services of an applicant for leave without pay should be satisfactory.
- Where leave without pay is taken, salary is to be reduced by the monetary equivalent of the actual hours rostered.
- Where a public holiday or proclaimed local holiday occurs during an employee's period of absence on leave without pay, the employee shall not be credited with the holiday.

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8. EFFECT ON SALARY INCREMENTS

Salary increments are subject to deferral by the full amount of leave without pay taken where the period of such leave exceeds 28 consecutive calendar days.

This provision also applies when an employee takes sick leave without pay and maternity, adoption or parental leave without pay.

9. EFFECT ON LEAVE ENTITLEMENTS

9.1 Long Service Leave

Leave without pay in excess of six months duration does not count as service for the accrual of long service leave.

For an employee with less than ten years service, leave without pay of less than six months does not count as service towards long service leave.

Once an employee has completed ten years net service (ie excluding any leave without pay), leave without pay of less than six months duration counts as service for long service leave.

This provision applies to leave without pay taken after the commencement of the current long service leave provisions. The date of commencement varies between Awards and the long service leave provisions of each Award should be examined to ascertain the relevant date.

These provisions also apply when an employee takes sick leave without pay and maternity, adoption or parental leave without pay.

9.2 Other Leave

Leave without pay in excess of 28 consecutive calendar days does not count as service for the purposes of leave entitlements for which a condition of eligibility is a period of service eg sick leave, annual leave, paid maternity, adoption and parental leave.

This provision also applies when an employee takes sick leave without pay and maternity, adoption or parental leave without pay.

It should be noted that in relation to eligibility for paid maternity, adoption or parental leave, once an employee has completed 40 weeks continuous service, any subsequent leave without pay does not affect the employee's eligibility for paid leave except if they take more than 40 weeks leave without pay, in which case they are required to again work the 40 weeks continuous service to be eligible for paid maternity, adoption or parental leave. In this context, leave without pay does not include sick leave without pay, maternity, adoption or parental leave without pay or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act*.

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10. EFFECT ON SALARY MAINTENANCE

Displaced employees who take a period of approved leave without pay and who are subject to three year salary maintenance provisions, are to have the salary maintenance period extended by the period of the approved leave without pay. This does not apply to employees who apply for leave without pay for the purposes of undertaking alternate paid employment. Further details can be found in the policy directive on managing displaced employees.

11. ENQUIRIES

Any enquiries regarding this policy directive should be directed to the human resource personnel in the relevant health service. Only human resource personnel in the health service are to contact the Department.