

C-5	LEAVE	
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POLICY STATEMENT

TWOOSH seeks to provide a work environment that acknowledges the importance of work life balance, and the value of an effective break from work. TWOOSH also acknowledges that from time-to-time, Educators may need time away from work to attend to unforeseen circumstances.

Under legislation, Educators who are permanent employees of TWOOSH are entitled to annual leave, personal/carer's leave, as well as, when eligible, parental leave, compassionate leave, community service leave and long service leave. We seek to have a best-practice approach in line with the legislation.

REFERENCES AND CONSIDERATIONS

- Fairwork Australia
- Service NSW
- 'OOSH people' HR Company
- Australian Government Department of Health
- Children Services Award 2012
- NSW Long Service Leave Act 1955
- Parental Leave Act 2012
- DJMIR

Related TWOOSH documents

- Educator's Handbook
- Employment contracts

PROCEDURES

Casual employees

- ◆ An Educator who is employed on a casual basis (referred to as casual Educators in this policy) is not entitled to any form of paid leave; instead they receive 25% loading in their wages.
- ◆ If necessary, a casual Educator may request for leave without pay; TWOOSH Management reserves the right to approve or deny such leave applications.
 - To assist with planning, TWOOSH would appreciate at least 2 weeks' notice for such leave requests.
- ◆ If a casual Educator is unwell/injured and is unable to attend their scheduled shift(s), the Educator must contact the Responsible Person for that shift and clarify the nature of the illness/injury.
 - If working in the morning, Educators must notify the appropriate person by 10pm the previous night, if possible.
 - If working in the afternoon, Educators must notify the appropriate person by 10am on the day.
 - If it is not practicable for the Educator to give prior notice of absence, the Educator must notify TWOOSH by telephone at the first opportunity.

- ◆ Casual Educators are also entitled to unpaid family and domestic violence leave, community service leave and compassionate leave. Casual Educators are to enter any type of required leave as 'Leave Without Pay' into the Employment Hero APP or Employment Hero Desktop system.

Permanent employees

Annual leave

- ◆ All Educators who are employed on a permanent basis (referred to as permanent Educators in this policy) are entitled to 4 weeks of annual leave for each completed year of service (pro-rata based on hours worked for part-time Educators). Leave is accrued progressively during a year of service.
- ◆ TWOOSH will only approve leave that has already been accrued. Paid leave in advance may only be granted in exceptional circumstances, solely at the Director's discretion.
 - Two (2) weeks of annual leave must be taken during the Christmas/New Year vacation period in conjunction with TWOOSH close-down period. Educators must ensure that they have sufficient paid annual leave credit for this purpose.
- ◆ Permanent Educators need to discuss their intentions to take annual leave with the Director prior to entering it the Employment Hero system. At least 4 weeks' notice is required, however, more is preferred where possible.
- ◆ TWOOSH will try its best to accommodate leave requests, but leave approval is subject to operational requirements of TWOOSH.
- ◆ If a permanent Educator accrues more than 6 weeks' annual leave, Management and the Educator will discuss and agree on a plan for the Educator to take some annual leave. If an agreement cannot be reached, Management reserves the right to direct the Educator to take their leave.
- ◆ If a permanent Educator needs to take further leave but have used up their annual leave entitlements, a request to take leave without pay will need be assessed on a case-by-case basis. Generally, applications for leave without pay are discouraged.
- ◆ At the end of their employment at TWOOSH, a permanent Educator's unspent accrued leave will be paid out.

Personal/carer's leave

- ◆ All permanent Educators are entitled to 10 days of personal/carer's leave per year of service (pro-rata based on hours worked for part-time Educators). Leave is accrued progressively during a year of service.
- ◆ TWOOSH will only approve leave that has already been accrued. Paid leave in advance may only be granted in exceptional circumstances, solely at the Director's discretion.
- ◆ A permanent Educator can take personal/carer's leave:
 - if they are unfit for work because of their own personal illness or injury, or
 - to provide care or support to a member of their immediate family or household because of a personal illness, injury or unexpected emergency affecting the member.
- ◆ If a permanent Educator is unable to attend their scheduled shift(s) because of illness or injury (their own or a family member – see preceding point), the Educator must contact the Responsible Person (via phone call or message) for that shift and state the nature of the illness/injury as well as how long they expect to be away from work.
 - If working in the morning, Educators must notify the appropriate person by 10pm the previous night, if possible.
 - If working in the afternoon, Educators must notify the appropriate person by 10am on the day.
 - If it is not practicable for the Educator to give prior notice of absence, the Educator must notify TWOOSH by telephone at the first opportunity.

- ◆ Wherever possible, planned medical or dental appointments should be made outside the Educator's normal working hours.
- ◆ Applications for personal/carer's leave must be accompanied by a medical certificate or other satisfactory evidence in the following circumstances:
 - Where the absence exceeds two consecutive days; or
 - The Educator has previously been absent for an aggregate of four days without producing a medical certificate during the 12 months immediately preceding the claim; or
 - Where the absence falls on a working day before or after a public holiday, a weekend, a rostered day off or an annual leave day.

The Educator may not be entitled to personal/carer's leave if a certificate is not provided. The medical certificate provided must be able to convince a reasonable person that the Educator was genuinely entitled to the leave.

- ◆ If an Educator takes more than 6 personal/carer's leave days in the 6-month bonus cycle, this may affect the bonus amount they receive.
- ◆ While an Educator's personal/carer's leave accrues from year to year, at the end of their employment at TWOOSH, an Educator's unspent personal/carer's leave is not paid out.

Medical certificates

- ◆ A medical certificate from a health professional stating that the Educator (or a person under their care) is suffering from a 'medical condition or personal illness' will only be accepted for occasional or short-term absences.
- ◆ For absences exceeding 2 days, or if an Educator's absence appears to be regular or patterned, or if an Educator has had more than an aggregate of 4 days' absence in the preceding 12 months, the following applies:
 - Due to the responsibility inherent in the work we do, and exclusion obligations on services dictated by the Department of Health, in these circumstances, the medical certificate must state the 'nature of the illness or injury suffered'.
 - Examples of the 'nature of the illness or injury suffered' may include back strain, abdominal complaint, a cold, flu, migraine or any other general description that will explain the condition that prevents you from working.
 - A medical certificate merely stating that the Educator is suffering from a 'medical condition or personal illness' will not be accepted.
 - It is an Educator's responsibility to ensure that their health professional is aware:
 - that the Educator works in Children's Service
 - of the requirement to state the 'nature of the illness or injury suffered' in the medical certificate
 - of the recommended exclusion periods for infectious diseases determined by the Australian Government National Health & Medical Research Council, and reflects this in the medical certificate.

Compassionate leave

- ◆ All permanent Educators are entitled to 2 days of compassionate leave per year regardless of employment duration, that can be taken when a member of an Educator's immediate family or household either dies or contracts/develops a life-threatening illness or injury, or as agreed by the Director.
- ◆ The compassionate leave can be taken as:
 - A single continuous 2-day period
 - 2 separate 1-day periods
 - Any separate periods that the employee and employer agree on.
- ◆ Compassionate leave does not accumulate from year to year and does not come out of an Educator's personal/carer's or annual leave balance. It can be taken any time an educator needs to take it.

Family and domestic violence leave

- ◆ All permanent Educators are entitled to 5 days of unpaid family and domestic violence leave each year.

Community service Leave

- ◆ All permanent Educators, can take community service leave for certain activities such as:
 - voluntary emergency management activities
 - jury duty (including attendance for jury selection).
- ◆ With the exception of jury duty, community service leave is unpaid.

Parental leave

- ◆ Parental leave includes maternity, paternity and adoption leave.
- ◆ Educators who have or will have primary responsibility for the care of a child (as a result of birth or adoption of a preschool-aged child) and who have completed 12 months continuous full-time, part-time or casual (regular and systematic) service with TWOOSH at the time the leave is commenced are entitled to 12 weeks parental leave pro-rata.
- ◆ The type and extent of parental leave depends on the length of continuous service with TWOOSH.
- ◆ The paid parental leave entitlement is based on the Educator's rate of pay at commencement of the period of parental leave.
- ◆ Primary carers are those who have full-time primary responsibility for taking care of the child, as defined in the Act.

Length of continuous full time services (or part time equivalent)	Carer	Paid leave entitlement
Less than 52 weeks	Primary or secondary carer	Nil
52 weeks or more	Primary carer	12 weeks of paid leave (pro-rata based on regular weekly hours). Amount paid by TWOOSH will be the gap between government payments and Educator's regular wage.
52 weeks or more	Secondary carer	3 weeks of paid leave (pro-rata based on regular weekly hours). Amount paid by TWOOSH will be the gap between government payments and Educator's regular wage.

Paid parental leave for subsequent children

- ◆ Paid parental leave as set out in this policy is only available for subsequent pregnancies if an Educator has returned to work for at least 36 weeks (9 months), or equivalent, between parental leave periods.
- ◆ Eligible Educators will be offered the same paid leave entitlements set out in the table above.

Unpaid parental leave

Educators are entitled to unpaid parental leave as prescribed by the National Employment Standards. Educators are eligible for up to 52 weeks' unpaid parental leave if they have either:

- ◆ been employed on a regular and systemic basis for a period of 52 weeks or more; and
- ◆ would have reasonable expectation of continuing employment on a regular and systemic basis.

Commencing parental leave

Unless agreed otherwise with TWOOSH, parental leave must be taken:

- ◆ within 12 months from the birth of the child or the official date of adoption/placement
- ◆ in a continuous block.

A pregnant Educator may commence leave associated with the birth of a child 4 weeks before the expected date of birth of the child. The Educator may request to commence leave at an earlier or later date, but must provide to the employer a medical certificate stating:

- ◆ the Educator is unfit for work; or
- ◆ if the Educator is fit for work, whether it is advisable for the Educator to continue to work in their present role.

Applying for parental leave

Application for parental leave must be made at least 3 months before commencing parental leave using the appropriate application form. The application must be made in writing to the TWOOSH Director or, in the case of the TWOOSH Director, to the TWOOSH Management Committee setting out:

- ◆ the due date of the pregnancy or adoption
- ◆ date the parental leave is to be commenced
- ◆ a nominated return date.

Changes to period of leave

- ◆ An Educator who wishes to request an extension of parental leave must give at least 2 months' written notice before the original return date nominated by the Educator. This must be agreed to in writing by TWOOSH Management.
- ◆ Leave may be shortened only with the consent of TWOOSH and the Educator must make the request in writing with at least 2 months' notice.

Including annual and long-service leave

- ◆ An Educator may take any annual or long service leave entitlements as part of their parental leave providing the total leave period is not more than 52 weeks. Any accrued annual leave or long service entitlements to be taken will be paid at commencement of your parental leave. No leave can be taken from the middle of the unpaid portion of a person's parental leave.
- ◆ Sick leave cannot be taken while an Educator is on parental leave.

Returning after parental leave

- ◆ An Educator must provide written notice to TWOOSH at least 2 months before the nominated parental leave return date to advise TWOOSH of their intention to return (or not return) to work following parental leave.
- ◆ If an Educator requests to return to work under a different arrangement (e.g. full time to part time), approval of the application is at the absolute discretion of the Employer. If approval is granted, the Educator may be required to enter into a different Employment Agreement noting the new arrangement.

Special unpaid parental leave

- ◆ A pregnant Educator who is eligible for unpaid parental leave can take special unpaid parental leave if:
 - she has a pregnancy-related illness, or

- her pregnancy ends after 12 weeks because of a miscarriage, termination or stillbirth.
- ◆ If an Educator takes special unpaid parental leave because of a pregnancy-related illness, the leave will end when the pregnancy or illness ends, whichever is earlier. If she takes leave because of a miscarriage, termination or still birth, leave can continue until she is fit for work.
- ◆ Special unpaid parental leave will not reduce the amount of regular unpaid parental leave that an Educator can take.

Special paid parental leave

- ◆ An Educator is eligible for special paid parental leave in the event of a miscarriage, termination or still birth after 22 weeks' pregnancy.
- ◆ This special paid parental leave will be paid at the Educator's regular full pay for a period of 2 weeks.
- ◆ If required, special paid parental leave can be taken before or after special unpaid parental leave.

Long-service leave

Length of continuous full-time service (or part time equivalent)	Employee	Paid leave entitlement
Less than 5 years	All staff, including permanent (full-time or part-time) and casual	Nil
More than 5 years but less 10 years		May be entitled to pro-rata long-service leave if the Educator: <ul style="list-style-type: none"> • resigns on account of illness, incapacity, domestic or other pressing necessity, or • Is dismissed for any reason except serious or wilful misconduct.
More than 10 years		2 months (8.667 weeks) of paid leave (pro-rata based on regular weekly hours).
Each additional 5 years beyond 10 years		1 month (4.3 weeks) of paid leave

Continuous service

- ◆ Continuous service includes any educator who is employed by TWOOSH as a full-time, part-time, or casual employee, that has completed regular and systematic service at TWOOSH for a period of 10 years or more.
- ◆ In certain circumstances e.g. parental leave, a break will not affect the continuity of an Educator's service but will not count when calculating the length of service. Additionally, there are other breaks that won't affect the continuity or calculation of service, e.g. personal/carer's leave.

Taking long service leave

Long service leave cannot be paid out as a lump sum while the Educator is still employed. The long service entitlement must be taken as leave or paid on termination.

Long service leave can be taken in one continuous period or if the Director and Educator agree, as follows:

- ◆ Where leave owing is less than 8 weeks – in two separate periods.
- ◆ Where leave owing is between 8 weeks and 19.5 weeks – in 2 or 3 separate periods.
- ◆ Where the leave exceeds 19.5 weeks – in 2, 3 or 4 separate periods.

Public holidays

If a public holiday occurs during educator's long-service leave, an extra day will be added if it is a day the Educator would have usually worked, had they not been on long-service leave.

Revisions

Date of next review: March 2022

Date	Reviewer	Approved by
29 March 2021	MK, LL	TWOOSH Management Committee
