

HR Policy and Procedures

Section: D34

Title:	Special Leave Policy
Purpose:	To provide a consistency of approach to the granting of reasonable leave of absence whether paid or unpaid for all staff .
Operational contact:	YourHR Operational Team & Schools Nominated Officer
Policy contact:	Faye Parrett, HR Services, 01384 814986, faye.parrett@dudley.gov.uk
Supersedes:	D34 - Model Paid Leave of Absence Policy for all staff in School
Consultation:	This policy has been formulated in consultation with the NUT, NASUWT, ATL, ASCL, NAHT, GMB and Unison and agreed with NUT, NASUWT, ATL, ASCL, NAHT, GMB and Unison.

Policy Revision History

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02	April 2016	Update	Faye Parrett

Policy adoption

Policy adopted by the Governing Body of:	
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D-49 Special Leave Policy – April 2016

Section Update	Options	Committee Decision and Rationale	Delegation of Authority	Comments
5.2	Decision Making 1. Who requests for special leave should be submitted to 2. Who the decision maker will be 3. Which committee will consider requests from the Headteacher			

Name of Committee Panel	Personnel Committee
Signed	
NAME IN CAPITALS	
Date	

Full Governing Body Ratification	
Signed	
NAME IN CAPITALS	
Date	

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1.0 Purpose

The purpose of this policy is to provide a consistent and fair approach to the authorisation of requests for leave of absence whether paid or unpaid.

This policy is in place to support staff and show the value that we place on our staff by recognising the everyday issues, pressures and challenges they may face whilst in employment, but also balancing those personal needs fairly and consistently whilst meeting the needs of the School/Academy.

2.0 Scope of the Policy

This policy applies to all employed staff in this School /Academy.

Where “annual leave” is stated throughout this policy this relates to employees that are on an all year round contract (52 weeks per year) and their contract of employment provides an annual leave entitlement to be booked, not to employees on term-time only contracts of employment where periods of annual leave are fixed.

The entitlements detailed in this policy are based on an employee working full-time. Where an employee works part-time all entitlements are on a pro-rata basis. Staff working on a term-time only basis will be considered as being full or part-time in relation to their contracted hours per week.

3.0 Principles/Aims of the Policy

The policy enables a process in school for the School/Academy to consider requests for leave of absence in a manner that shows transparency and fairness for all staff employed in the School/Academy. The School/Academy should develop a procedure to approve, record and monitor all leave of absence taken within an establishment, thus ensuring equity. A suggested template is attached in Appendix 2.

4.0 Legal Context

Throughout the application of this policy the School/Academy will comply with the legal framework of relevant employment legislation that affects all employees and includes:

- Equality Act 2010
- The School Staffing (England) Regulations 2009 and associated guidance and updates
- Data Protection Act 1998
- Employment Rights Act 1996

- The Employment Relations Act 1999
- Any other relevant employment legislation

5.0 Guidance on Special Leave

Some types of leave have set clear limits and criteria whilst others rely on managerial discretion. Where discretion is required, it is important that the School/Academy consider consistency and fairness when making decisions.

Where an annual limit is set in relation to the amount of leave that can be granted within this policy, this applies to a rolling 12 month period.

For most types of leave, other than those relating to emergencies or arise unexpectedly, employees should provide as much notice of their request for leave as possible. This is to enable the School/Academy to prepare for the absence. If an amount of notice that is reasonable in the circumstances is not provided to enable this, the request may be refused.

The School/Academy should endeavor to consider requests promptly, particularly where the employee indicates that they need to know the outcome quickly.

Where leave is paid, this will be contractual pay. Where leave is paid for a whole or part day, the employee will only receive up to a maximum of their standard day.

5.1 Pension Implications

Staff taking any unpaid leave of absence must be aware of the pension implications.

For members of the Local Government Pension scheme, any period of unpaid leave will not count for pension purposes unless the employee chooses to pay back the pension contributions for the unpaid period to make it count. It is the employee's responsibility to inform YourHR that you wish to take you this option.

For members of the Teachers' Pension Scheme, any period of unpaid leave will not count for pension purposes and there is no option to pay back pension contributions to make up the loss.

If taking unpaid leave, the contractual relationship will continue, which will guarantee continuous service.

5.2 Decision Making

In this School/Academy any requests for special leave should be submitted to **Kirsty Bell/School Business Manager**

In this School/Academy **Joel Marshall/Headteacher** will make the decision regarding any requests for Special Leave, they will be further known in this policy as the nominated officer.

Any requests made by the Headteacher will be considered and agreed by **the Chair of Governors**

6.0 Family, Personal and Compassionate

The School/Academy's scheme for time off in these categories relies on trust, whether applied to immediate relationships or discretionary cases. The School/Academy trusts that the need is genuine and that the employee is not seeking leave because a more appropriate relative does not have access to such leave or indeed does not work. Any breach of this trust may result in disciplinary action.

The amount of time allowed to be taken should be a 'reasonable' amount of time based on the individual circumstances, therefore, each request will need to be treated on its own merits.

6.1 Paid Compassionate Leave

Up to 3 days compassionate leave with pay may be granted in connection with any single instance of death or serious illness of a close relative. The number of days approved for either compassionate or dependency leave combined must not exceed 7 in any 12 month rolling period. There is no automatic entitlement to the maximum of 3 days leave in any single instance or 7 in any 12 month rolling period. The School/Academy should allow a period, which seems reasonable in the circumstances.

A 'close relative' in this context means:

- Spouse, partner, child (including foster/step child), parent, parent-in-law, grandparent, grandparent-in-law, grandchild, brother, sister;
- Any relative living with the employee;
- Any situation where the employee is not related but has responsibility for personal affairs.

Employees are generally expected to accommodate absence relating to family illness within their unpaid or annual leave entitlement, or in some circumstances within the dependency leave provisions (see paragraph 6.2). However, compassionate leave is to enable time off to

be granted in more serious situations. Factors to be considered by managers include:

- The seriousness of the illness
- The trauma of the circumstances
- The closeness of the relationship and the degree of responsibility for caring
- The suddenness of onset of illness

Where an employee wishes to take an extended period of time off to care for a sick or elderly dependant that cannot be accommodated within any of the current provisions, the School/Academy may consider a period of unpaid leave (see paragraph 12). This would be subject to the needs of the service.

6.2 Paid Dependency Leave

Paid dependency leave should be considered for **emergency and unforeseen** situations, where the employee is unable to take annual leave. Examples where paid dependency leave may be granted are as follows (this list is not exhaustive):

- Sudden accident or severe injury to a child/adult
- Sudden illness of child/adult (no other carer is able to look after them).

The decision to award paid dependency leave is the decision of the nominated officer. This should not exceed the 7 days (including compassionate leave) in a rolling 12 month period.

The 7 days **is not an entitlement** and should only be utilised in unforeseen and exceptional circumstances; routine appointments or individuals taking the 7 days each year will be monitored to ensure there are no patterns of behaviour forming. If a pattern is forming then early intervention in the form of an informal discussion with the individual should be undertaken. If the pattern continues then more formal action under the School/Academy Disciplinary Policy may be required.

6.3 Unpaid Dependency Leave

This is emergency unpaid leave, normally taken at short notice to deal with a sudden crisis related to dependents when other avenues of paid dependency leave within this policy have been exhausted. The Employment Relations Act 1999 introduced a right for employees to take a reasonable amount of unpaid leave to deal with domestic incidents involving a dependent.

For example, where an accident has occurred to a parent or child and emergency hospital treatment is required to look after a sick dependent where other arrangements cannot be made or have broken down or where eldercare or childcare arrangements unexpectedly breakdown.

Dependents in this context means:

- Spouses and Civil Partners
- Partners living together
- Dependent Children (including foster/step children)
- Parents
- Someone who lives with the employee, for whom the employee is the main carer

Dependency leave (paid or unpaid) should not be used where an employee knew about a situation beforehand. For example an employee should not be approved dependency leave to take their child to hospital for a pre-arranged appointment, they may be approved unpaid parental leave instead, which is detailed in the Family Friendly Policy.

Under normal circumstances either paid or unpaid dependency leave would not last, in terms of duration more than 1 day in order to make alternative arrangements for dependent care. If more than 1 day is required the employee must contact the nominated officer on the 1st day of dependency leave for a discussion/agreement.

The amount granted will be determined by the individual circumstances however, the number of days for compassionate leave and dependency leave combined would not be expected to exceed 7 days in any academic year.

6.4 Time off for Festivals, Events or Pilgrimage Related to Religion or Belief

In this context, 'Religion or belief' is defined as being any religion or belief as per the Equality Act 2010. Further guidance can be found in the Department for Education Guidance on the Equality Act.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf

Factors such as collective worship, a clear belief system, and a profound belief affecting way of life or view of the world are indicative of a religion or belief in this context. It is likely that in most cases, it will be clear what is or is not a religion or similar belief.

Employees may request annual leave or unpaid leave in connection with their religion or belief. For example, this might be to celebrate a

festival or attend a ceremony. Requests should be made with advance notice and managers should consider them sympathetically.

Some people's belief or religion requires that they make a pilgrimage. This may be at a specific time and take longer than any annual leave entitlement. Every effort should be made to accommodate such a request as long as the employee provides enough notice and it does not impact on the provision of education to the pupils of the School/Academy. For example, this could be through the use of a combination of their annual leave entitlement and unpaid leave.

A request for time off can be refused if the needs of the service genuinely cannot be met. The Equality Act 2010 requires that for refusal to be lawful, it must be "sufficiently justified by the need to meet a proper business requirement that cannot be achieved by some other means".

7.0 Health

7.1 Routine GP, Opticians and Dental Appointments

In the first instance, all appointments should be made out of working hours. Time off with pay will normally only be granted if the appointment is an emergency and not pre-planned.

Where an employee works fixed hours, any time taken to attend appointments during their normal working hours should be authorised by the nominated officer with agreement reached that enables the employee to make up any such time lost.

If this is not possible then the time will be unpaid and a deduction from pay will need to be arranged.

If the need to attend medical or dental appointments becomes regular and routine, then alternative working arrangements, either permanent or temporary, must be considered which enables such attendance outside normal working hours.

If a doctor's appointment is required because of service needs, leave with pay will be granted for an appointment during work hours. An example of this might be if an employee needed to receive a vaccination for Hepatitis-B because they are employed in a job deemed by the Department of Health to be at higher risk of contracting the disease.

7.2 Hospital Appointments

In the first instance all appointments should be made out of working hours, however if requested and the timing of a hospital appointment is

beyond the control of an employee and they have produced an appointment card/letter to verify this then paid leave should be granted. The employee must provide the nominated officer with as much notice as possible of the appointment. The amount of time provided should be relevant to the appointment.

7.3 *Emergency Medical and Dental Appointments*

In the case of a medical or dental emergency the employee will be allowed sufficient paid leave to receive initial appropriate treatment. In all such cases the employee should contact the nominated officer as soon as possible so that appropriate support and guidance can be provided and cover arranged.

Employees who attend emergency medical or dentist's appointment will not be recorded as being on sickness absence leave for the period of time that they need to be absent in order to attend an appointment.

If following the emergency the employee is unable to attend work due to sickness the whole period, including the treatment time will be recorded as sickness absence and normal procedures apply.

Any follow up appointments will be dealt with in accordance with section 7.1.

7.4 *Medical Screening*

Employees are entitled to paid leave where necessary for the purpose of cancer screening. This applies where there is a national screening programme in place, such as for breast, prostate or cervical cancer. Evidence of the appointment may be required.

7.5 *Medical Procedures or Surgery*

Surgery that is not considered to be medically necessary, which includes cosmetic surgery is concerned with the enhancement of appearance through surgical and medical techniques, e.g. face-lifts. It also includes other medical procedures such as laser eye treatment, vasectomies and breast implants.

Time off for surgery of this type will be unpaid and at the discretion of the School/Academy. There is no automatic right to be paid during periods of time off work to undergo surgery that is not medically necessary. Any unpaid leave granted, will be subject to the availability of staff to cover the employee's period of absence.

Any employee who wishes to take advantage of this policy must:

- Inform the nominated officer as soon as their plans to undergo surgery have been confirmed;

- Provide a statement from a qualified practicing medical practitioner that surgery has been approved and giving the likely duration of recovery;
- In agreement with the nominated officer, arrange surgery at a time that will cause the minimum amount of inconvenience to the School/Academy; and
- Provide a minimum of 3 months' notice of the day on which the surgery will take place.

Any information provided to the nominated officer will be maintained in strict confidence. The reason for the employee's absence will be disclosed only on a "need-to-know" basis and in consultation with the employee. The employee may give consent to disclose the reason for the absence to work colleagues.

Where the outcome of the surgery is unexpected and the employee suffers an injury, the School/Academy's adopted sick pay policy will apply, following receipt of the relevant fit note certificate or hospital certificate.

If there is any doubt about whether a particular procedure is conducted for the health of the individual then the School/Academy may refer the employee to Occupational Health for their medical opinion.

7.6 *Employees with Disabilities*

If an employee has a disability as defined under the Equality Act 2010 and the appointment is as a result of or relates to that disability, refusal to allow leave could be considered as failure to make a 'reasonable adjustment' and could constitute unlawful discrimination.

Where such appointments are regular and routine consideration must be given to alternative working arrangements, either permanent or temporary, which enable such attendance outside normal working hours.

7.7 *Fertility Treatment*

If an employee requests time off work to receive/participate in fertility treatment, this will be treated with sensitivity and the strictest confidence by the nominated officer.

Up to 10-days special leave with pay in a rolling 12 month period will be granted for employees to undertake fertility treatment. If further time off is required, this will be through the use of annual leave or unpaid leave.

If, following the fertility treatment, the employee is unable to attend work due to sickness, the whole period, including the treatment time will be recorded as sickness absence and normal procedures apply. If,

the employee becomes successful in becoming pregnant following the fertility treatment and is unable to attend work due to pregnancy related sickness absence immediately after the fertility treatment then the whole period of sickness absence will be discounted (as the sickness absence is pregnancy related) and the absence would not be counted for trigger purposes but must be recorded for statistical monitoring.

Employees who request to accompany a partner/spouse at fertility treatment must request annual leave or unpaid leave in the normal way unless they are requesting leave to participate in their partner/spouse's treatment (e.g. sperm donation) in which case, the time of for fertility treatment policy will apply.

8.0 Work-Related

8.1 Time off to Attend Interviews

A reasonable amount of paid leave, as agreed with the nominated officer will be allowed for employees to attend interviews for an appointment with organisations included in the Redundancy Modification Order; this includes the Fire Service and Police Forces.

For further information on which Public Bodies are Modification Order Bodies, contact YourHR.

8.2 Time off for Training

If an employee attends a training day that has been authorised by the School/Academy, the employee will be given paid leave to attend.

Where possible, the employee should attend their normal place of work before and after a training course. This will be dependent on the start/finish times and location.

The employee will be entitled to claim a maximum of a standard day.

8.3 Time off to Attend Examinations

Employees attending School/Academy sponsored further education are entitled to the following paid time off:

- Time off to attend examinations

8.4 Time off to accompany a fellow worker at a Disciplinary, Capability, Grievance or Voluntary Alteration in Hours Meeting/Hearing

An employee who has agreed to accompany a fellow worker employed by the School/Academy at a formal meeting is entitled to a reasonable

amount of paid time off to fulfill this responsibility. Such time off will need to be reasonable to cover any actual meeting/hearing and also a reasonable amount of time to confer with the employee who is the subject of the hearing. This time should be agreed with the nominated officer.

8.5 Schools/Academy Supported Volunteer Schemes

In certain circumstances, the School/Academy uses employees volunteering for schemes in addition to their contractual duties.

Before an employee volunteers they must find out how much time they are expected to be away from their normal place of work in order to carry out the duties and attend any necessary training.

The employee must then discuss all the implications with the nominated officer and obtain their permission before volunteering.

These schemes are important to the School/Academy. Therefore, there must be a genuine operational reason for refusing the request.

All supported volunteer schemes, are voluntary and do not form part of the employment contract.

9.0 Trade Union Activities

Time off for Trade Union Activities is covered separately in the Trade Union Facilities Agreement. Schools/Academies who have not elected to adopt the traded services facilities agreement must ensure they have their own trade union facilities agreement which has been consulted upon with the relevant trade unions.

10.0 Public Duties

10.1 Serving on Public Bodies or Undertaking Approved Public Duties

All employees have a right for a reasonable amount of time off if they are:

- a magistrate (also known as a justice of the peace)
- a local councillor
- a school governor
- a member of any statutory tribunal (e.g. an employment tribunal)
- a member of the managing or governing body of an educational establishment
- a member of a health authority

- a member of a school council or board in Scotland
- a member of the General Teaching Councils (in Wales),
- a member of the Environmental Agency or the Scottish Environment Protection Agency
- a member of the prison independent monitoring boards (England or Wales) or a member of the prison visiting committees (Scotland)
- a member of Scottish Water or a Water Customer Consultation Panel
- a trade union member (for trade union duties)

All employees are free to stand for Parliament, but must resign from the School's/Academy's employment if elected. However, any employee considering such a move must inform the nominated officer at a very early stage that they are considering standing for Parliament or playing a public part in Parliamentary elections and assure the School/Academy that these activities can be exercised without conflict with their duties as an employee.

An employee who is engaged in Public Duties may apply for a reasonable amount of paid time off to attend relevant meetings or participate in other approved activities. The maximum amount of paid time off that the School/Academy will allow an employee in any one year is:

- 24 full days or 48 half days (pro-rata for part-time employees)

This is the maximum total amount of paid time off that may be granted, even if the employee is engaged in more than one type of Public Duty.

Any employee wishing to take time off in order to fulfill these activities must give as much advance notice of their request as possible. Details must be provided of the duty being performed and the specific activity for which time off is considered necessary.

There is no automatic right to time off. In determining if an employee is eligible for time off and how much time off from work is reasonable the nominated officer will take account of the following: -

- The School/Academy requirements and the effect of the employee's absence upon the Team.
- The nature of the duties of the office or as a member of the body in question.
- The amount of time off which has already been permitted for other public duties.
- Any minimum attendance levels or any compulsory activity requirements stipulated by the public office or body.
- Any other specific factors relevant to the request for time off.

Payment is not made for carrying out, or travelling to Public Duties outside of normal working hours.

10.2 Jury Service

Employees called for Jury Duty are obliged to attend under the requirements of the Juries Act 1974.

Where requested to attend Court as a juror, employees will normally be granted time off to attend. However, where, in the School/Academy's view the release of an employee for Jury Service raises major staffing or organisational problems, assistance by the School/Academy will be provided to the employee in order to appeal to the Court to re-arrange the dates of service.

Employees being asked to attend for Jury Service must notify the nominated officer immediately.

Where jury service lasts for half a day or less, the employee must return to work for the remainder of the day.

During attendance at the Court, employees should claim from the Court any travel expenses both to and from the Court.

While on Jury Duty, the employee will receive normal average contractual earnings from the School/Academy. The employee will receive a form from the Court that must be sent to Payroll via their Headteacher. Payroll will complete the form detailing the employee's earnings details.

If the employee is informed of a short-term break in their call for Jury Duty of half a day or more, the employee will return to work for each of the half days off from Jury Duty.

If the employee is a shift worker they will be paid at contractual earnings of their original contracted shift.

10.3 Attendance at Court as a Witness

In circumstances where the School/Academy require the employee to attend court as a witness they will be granted time off with pay.

In circumstances where the court case is unconnected to the School/Academy, employees will be granted time off where they are **required** to attend Court as a witness. However, they must notify the nominated officer of the request at the earliest opportunity. Employees are required to present written evidence of the requirement to attend.

During attendance at the Court, employees should claim from the Court, any travelling expenses both to and from the Court, together with compensation for any loss of earnings, whenever possible. Following attendance in Court, the employee will receive a statement from the Court detailing what they have been paid. This must be sent to Payroll via the Headteacher. Payroll will then deduct any fee (not the expenses) paid to them by the Court.

An employee attending as a witness of their own choice will be allowed time off but will not be paid, unless annual leave is taken by prior agreement. This also applies to an employee acting as a hostile witness in a case involving the employer.

11.0 Other

11.1 *Volunteer Reserve Forces*

There is no statutory right for individuals to have time off to undertake Territorial or Reserve Force duties. However, the School or Academy arrangements for time off and some payment exist.

Employees would be allowed, as volunteers, with a number of Volunteer Reserve Forces. These include:-

- Army Reserve (TA)
- Royal Navy Reserve
- Air Force Reserve

Employees will be granted a maximum of two working weeks leave of absence with contractual pay to attend their annual camp. In exceptional circumstances a further 2 weeks may be granted. Should any additional attendance be required, employees must take annual leave or unpaid leave.

Payment during any leave will be calculated using normal average contractual pay. When the annual training camp is complete, the employee will receive a statement detailing what they have been paid. The School/Academy will decide whether to claim any repayment for the expenses or allowances paid to the participant by the Volunteer Reserve Force. If a claim is made this must be sent to Payroll via the Headteacher. Payroll will then deduct any allowances (not the expenses) paid to them by the Volunteer Reserve Force.

Should the employee be placed on a long-term assignment, they need to provide evidence that they have no alternative other than to take up the assignment. This is usually in the form of a letter from the Volunteer Reserve Force. In these circumstances the employee will be granted excused unpaid leave of absence, which will guarantee continuous service. Arrangements need to be made by the employee to maintain

their contributions to the Teachers Pension Scheme or the Local Government Pension Scheme if they wish to do so.

Should an employee volunteer for such an assignment, the individual will be deemed as terminating their employment by resignation with the School or Academy.

12.0 Unpaid Leave

The School/Academy has the discretion to grant unpaid leave for a period reasonable in all the circumstances. This can be used to supplement paid time off that is already covered by specific arrangements.

Examples of instances where unpaid leave **may** be granted at the discretion of the Headteacher:

- Moving House
- Own Driving Test
- Getting Married where annual leave has been exhausted
- Weddings for Relatives Abroad

This list is not exhaustive.

In wholly exceptional circumstances that are not dealt with under this policy please contact YourHR.

13.0 Unauthorised Absence

If an employee takes a leave of absence without prior consent of the nominated officer, the reason for the absence will be ascertained. If, the reason for absence is not satisfactory and therefore merits further investigation, this will trigger an investigation under the School/Academy Disciplinary Policy.

Record of Special Leave

Name:

Payroll ID:

School/Academy:

Date	Number of days taken	Type of leave taken	Reason for leave	Authorised by	Paid or Unpaid

Nominated Officer (NAME IN CAPITALS): _____

Nominated Officer Signature: _____

Date: _____

THIS FORM IS SPECIFICALLY FOR RECORDING SPECIAL LEAVE IN SCHOOLS AND ACADEMIES AND IS TO BE KEPT ON FILE IN THE SCHOOL/ACADEMY ONLY

Template Request for Special Leave Form

This form is for requesting special leave in Schools/Academies and is to be kept on the individual employee's personnel file.

Name:

Payroll ID:

School/Academy:

Date	Number of days requested	Type of leave requested	Reason for leave	Paid or Unpaid

This is to confirm the above request for Special Leave and if the request is for unpaid leave I agree to ____ days unpaid leave.

Employee Signature: _____

Date: _____

This is to confirm I approve the request for Special Leave.

Nominated Officer Name: _____

Nominated Officer Signature: _____

Date: _____

ANY AUTHORISED REQUEST FOR SPECIAL LEAVE MUST BE ENTERED ONTO YOURSELF TO ENSURE PAYMENT IS CORRECT.