

PERSONNEL ADMINISTRATIVE MEASURES (PAM)

- H.8.1 An educator is entitled to 4 consecutive months' maternity leave on full pay to commence at least 14 days prior to the expected date of birth but not later than the actual date of birth in a case of a premature confinement.
- H.8.2 Maternity leave may be extended upon application by one or more of the following:
- H.8.2.1 The granting of sick leave as a result of a medical complication.
- H.8.2.2 The granting of up to 184 consecutive days unpaid leave.
- H.8.2.3 The granting of annual leave, including leave accrued in terms of paragraph H.4.5 if applicable.
- H.8.3 An educator who, during the third semester of her pregnancy, experiences a miscarriage, still birth or termination of the pregnancy will be eligible for six consecutive weeks paid maternity leave, where after paragraph H.8.2.1 will apply in the event of a medical complication.
- H.8.4 Provisions in H.8.3 will also apply to an educator who experiences a miscarriage, still birth or termination of the pregnancy after starting paid maternity leave. The period prior to the miscarriage, stillbirth or termination of pregnancy will be regarded as special leave with full pay.
- H.8.5 For at least six weeks after the birth, no educator may commence with normal official duty unless the attending practitioner certifies that the educator is fit to do so.
- H.8.6 Where it is practically feasible and subject to paragraph H.8.2, an employer may allow an educator to interrupt her maternity leave by letting her return to work temporarily if the baby is hospitalised for a period longer than a month during the maternity leave due to premature birth or illness. These provisions are only applicable to an educator, who chooses to interrupt her maternity leave under these circumstances.
- H.8.7 With effect from 1 January 2013 an eligible educator will be entitled to 8 working days pre-natal leave, per pregnancy, allowing the educator to attend medical examinations by a medical practitioner or midwife, and tests related to the pregnancy.
- H.8.8 An educator can utilise a full day or part of a day for pre-natal leave.
- H.8.9 An educator must submit her application for pre-natal leave in advance, unless unforeseen circumstances prevent her from doing so. An application for pre-natal leave must be supported by reasonable proof that the educator attended a doctor's appointment and/or went for tests related to the pregnancy.
- H.8.10 An educator who has used all her pre-natal leave may, subject to the approval of the HoD or the DG as the case may be, apply to use available annual leave including capped leave and /or unpaid leave.

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- H.8.11 The absence of an educator from work that relates to medical complications during pregnancy will be covered by the normal sick leave. (*Government Gazette No. 38249, dated 27 November 2014*)
- H.8.12 Three (3) working days per calendar year of paternity leave with effect from 20 May 2015, for utilisation if the employee's spouse or life-partner gives birth to a child or adopts a child not older than two (2) years. An employee who has used all his/her paternity leave may, subject to the approval of the Head of Department, apply to:
- H.8.12.1 Use his/her part or all of the five (5) working days family responsibility leave provided for in paragraph H.10.1 below; or
- H.8.12.2 Use available annual leave, including leave accrued in terms of paragraph H.4.5 above; or
- H.8.12.3 Use up to 184 days of unpaid leave.

An application for paternity leave must be supported by reasonable proof. (*PSCBC Resolution No. 2 of 2015*)

H.9 ADOPTION AND SURROGACY LEAVE

- H.9.1 An educator, who adopts a child that is younger than two years, qualifies for adoption leave to a maximum of 45 working days where after paragraphs H.8.2.2 and H.8.2.3 will apply.
- H.9.2 Where the spouses or life partners are employed in the Public Service, both partners qualify for adoption leave provided that the combined leave taken does not exceed the 45 working days mentioned above.

H.10 FAMILY RESPONSIBILITY LEAVE AND SPECIAL LEAVE FOR URGENT PRIVATE AFFAIRS

- H.10.1 An office-based educator shall be granted five (5) working days leave per annual leave cycle if – (*PSCBC Resolution 1 of 2012*)
- H.10.1.1 The educator's spouse or life partner gives birth; or
- H.10.1.2 The educator's child, spouse or life partner is sick; and
- H.10.2 An office-based educator shall be granted 5 working days leave per annual leave cycle if –
- H.10.2.1 The educator's child, spouse or life partner dies; or
- H.10.2.2 The educator's immediate family member dies.
- H.10.3 The number of leave days taken in terms of paragraphs H.10.1 and H.10.2 shall, in respect of an office-based educator, not exceed ten (10) working days in an annual leave cycle, unless special circumstances warrant further leave at the discretion of the HoD.

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- H.10.4 A school-based educator shall be granted 5 working days leave per annual leave cycle if –
- H.10.4.1 The educator’s spouse or life partner gives birth; or
- H.10.4.2 The educator’s child, spouse or life partner is sick;
- H.10.5 A school-based educator shall be granted 5 working days leave per annual leave cycle if –
- H.10.5.1 The educator’s child, spouse or life partner dies; or
- H.10.5.2 The educator’s immediate family member dies.
- H.10.6 An institution-based educator 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 such an educator’s absence from work.
- H.10.7 The number of leave days taken in terms paragraphs H.10.4, H.10.5 and H.10.6 shall, in respect of an institution-based educator, not exceed fourteen (14) working days in an annual leave cycle, unless special circumstances related to paragraph H.10.4 and H.10.5 warrant further leave at the discretion of the HoD.
- Note: The above does not imply that an educator only has two working days’ leave for urgent private affairs. An educator who, for example, does not require leave for a sick child/spouse/life partner or death in the immediate family, may technically utilise all 14 working days for urgent private affairs, provided he/she satisfy the requirements with regard to urgent private affairs.
- An educator who, for example, utilises 2 working days’ leave for a sick child and 5 working days’ leave for the death of a mother-in-law, will have 7 working days’ leave for urgent private affairs or any other related leave.
- H.10.8 An educator who has used all his/her leave in respect of paragraphs H.10.1, H.10.2, H.10.4 and H.10.5 may apply to:
- H.10.8.1 Use available annual leave, including leave accrued in terms of paragraph H.4.3; or
- H.10.8.2 Use up to 184 calendar days of unpaid leave.
- H.10.9 An educator shall be granted five (5) working days per calendar year of family responsibility leave with effect from 20 May 2015 for employees with children who have severe special needs. (*PSCBC Resolution No. 2 of 2015*)
- H.10.9.1 For purposes of paragraph H.10.9, 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.
- H.10.9.2 An application for family responsibility leave shall be supported by reasonable proof to demonstrate the severe special needs of the employee’s child.

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H.10.9.3 If an employee has utilised all his/her family responsibility leave, and wishes to extend the leave, he/she may, subject to the approval of the HoD, apply for:

H.10.9.3.1 Available annual leave, including leave accrued in terms of paragraph H.4.5 above; and/or

H.10.9.3.2 Up to 184 calendar days of unpaid leave.

H.10.10 Immediate family member for purposes of paragraph H.10.2.2 and H.10.5.2 means the educator's parent, adoptive parent, parents-in-law, sister- and brother-in-law, grandparent, child, adopted child, stepchild, grandchild or sibling. For the purposes of this provision "child" means the educator's son or daughter, and where applicable son- or daughter-in-law, of any age. The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities.

H.11 SPECIAL LEAVE FOR PROFESSIONAL AND PERSONAL DEVELOPMENT AND FOR RELIGIOUS OBSERVANCES

H.11.1 Special leave with full pay may be granted to an institution-based educator –

H.11.1.1 To engage in activities aimed at his/her professional development.

H.11.1.2 To engage in activities aimed at his/her personal development where such personal development is also in the interest of the employer.

H.11.1.3 For a religious observance.

H.11.2 The total number of leave days granted to an institution-based educator in terms of paragraph H.11.1 may not exceed 3 working days per annual leave cycle.

H.12 SPECIAL LEAVE FOR STUDY PURPOSES

H.12.1 Special leave may be granted to an educator for an approved course of study and for a period approved by the employer, on conditions as approved by the employer, including leave with full or partial pay or without pay.

H.12.2 If special leave for study purposes is granted to an educator in terms of paragraph H.12.1 the employer may call for periodic progress reports in respect of the educator's studies and such educator shall enter into an agreement with the employer in a form approved by the employer in terms of which he/she undertakes to serve the employer immediately after completion of the period of special leave for study purposes for a period (hereinafter referred to as the service period) equal to at least the period for which special leave for study purposes on full pay has been granted to him or her, or for a service period proportional to the person's pay during the period of special leave for study purposes, as the case may be.

H.13 SPECIAL LEAVE FOR EXAMINATION PURPOSES

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H.13.1 An educator may be granted special leave for examination purposes with full pay for each day on which such educator sits as a candidate for an examination approved for this purpose by the employer plus one additional day of special leave for study purposes for each such day of examination which may be taken on the working days immediately prior to the days of examination.

H.14 SPECIAL LEAVE FOR PARTICIPATING IN SPORTING, CULTURAL AND OTHER EVENTS

H.14.1 Special leave for a period and on conditions approved by the HoD, in terms of policy of such department, may be granted to an educator who participating in sports, cultural, and other relevant activities. Participation for which leave may be granted may include representation of the country, province or other comparable level as an actual participant, referee, adjudicator, course or group leader, or for participating in or attending a relevant conference, meeting or other event approved for this purpose by the employer.

H.15 SPECIAL LEAVE IN EXTRAORDINARY CIRCUMSTANCES

H.15.1 Subject to section 14 of the EEA and notwithstanding any disciplinary measures that may apply, unauthorised absence by an educator shall be regarded as special leave in extraordinary circumstances and shall be without pay unless the employer in a specific case determines otherwise.

H.15.2 If, in the opinion of the employer, circumstances justify it, it may grant or place an educator 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.

H.16 UNPAID LEAVE

H.16.1 If an educator has utilised all her or his accrued annual leave, the HoD may grant her or him unpaid leave up to a maximum of 184 consecutive days.

H.16.2 Absences from work due to arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction must be recorded as unpaid leave.

H.17 UNPAID LEAVE FOR CONTINUITY OF SERVICE

H.17.1 Unpaid leave for a maximum of 120 consecutive days may be granted to an institution-based educator who was previously employed as an institution-based educator by the same or another education department for the purpose of retaining the continuity of the educator's service.

H.17.2 The unpaid leave shall commence on the day immediately following the date on which the educator last received salary from his/her previous employer and shall expire on the day preceding the date of assumption of duty with the present employer.

H.17.3 The limitation of 120 days referred to in sub-paragraph H.17.1 shall not apply to an educator in cases where the period concerned extends from the day immediately following

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the last day of a term to the day immediately preceding the first day of the term after a full term has elapsed.

H.17.4 Where unpaid leave for continuity of service has been granted to an educator, the service of the educator is regarded as continuous for all purposes of determining his/her period of service.

H.18 **LEAVE PROVISIONS FOR EDUCATORS IN A TEMPORARY CAPACITY (FIXED TERM CONTRACT)** (*PSCBC Resolution 1 of 2007, Government Gazette No. 30134, dated 30 July 2007 and the Determination on leave of absence in the public service, July 2009*)

H.18.1 An educator appointed in a temporary capacity (fixed term contract) is eligible to the following types of leave on a pro rata basis linked to the duration of his/her contract:

H.18.1.1 **Annual leave**

An office-based educator appointed in a temporary capacity (fixed term contract) shall at the beginning of his/her contract period be granted annual leave that is proportional to his/her term of employment at a rate of one-twelfth of the annual leave credit applicable to the educator. Annual leave for temporary school based educators is dealt with in paragraph H.4.2.

H.18.1.2 **Normal sick leave**

An educator appointed in a temporary capacity (fixed term contract) shall at the beginning of his/her contract period be granted normal sick leave that is proportional to his/her term of employment at a rate of 1 day's normal sick leave per month of service.

H.18.1.3 **Maternity, pre-natal and paternity leave**

H.18.1.3.1 An educator appointed in a temporary capacity (fixed term contract) shall be granted paid maternity leave that is proportional to her term of contract at a rate of 10 calendar days maternity leave with full pay calculated at each month of her term of contract to a maximum of 4 months, where after maternity leave without pay shall be granted. The total period granted in respect of maternity leave shall not exceed four consecutive months.

H.18.1.3.2 **Pre-natal leave (effective from 1 January 2013)**

An educator appointed in a temporary capacity (fixed term contract) shall qualify for pre-natal leave at a rate of 1 working day paid leave for each calendar month of her term of contract to a maximum of 8 working days.

H.18.1.3.3 **Paternity leave**

With effect from 20 May 2015 an educator appointed in a temporary capacity (fixed term contract) whose spouse or life partner gives birth to a child or adopts a child not older than 2 (two) years, shall qualify for paternity leave at a rate of 1 working day paid leave for each calendar month of his/her term of contract to a maximum of 3 working days.

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H.18.1.4 Adoption leave

A temporary educator who adopts a child that is younger than two years, shall qualify for adoption leave at a rate of 4 days paid leave for each month to a maximum of 45 working days

H.18.1.5 Other provisions

The terms and conditions attached to the granting of the above types of leave, as well as the provisions contained in: paragraph(s) H.4.4, H.4.6, H.5.3, H.5.4 (where applicable), H.5.2.5, H.5.2.6, H.6, H.11 and H.12 (where applicable) apply mutatis mutandis to an educator appointed in a temporary capacity (fixed term contract).

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Annexure H.1

APPLICATION FOR LEAVE OF ABSENCE: SCHOOL BASED EDUCATORS (Government Gazette No 38249, 27 November 2014)

Surname:								Initials:				
PERSAL Number:								Contract Educator		Yes	No	
Address during leave:		Substitute Educator		Yes	No							
		Department										
		District										
TEL/CELL:								School				
								Pay Point				
SECTION A												
Type of Leave Applied for as Working days				Start Date	End Date	Number of Working days						
Capped Leave (only applicable to educators with capped leave)												
Normal Sick Leave (this application form must not to be used for PILIR applications)												
Leave For Occupational Injuries and Diseases												
Adoption and Surrogacy Leave												
Family Responsibility Leave (Provide Evidence)												
Urgent Private Matters (for interpretation, refer to the section in the PAM)												
Pre-Natal Leave (provide evidence)												
SECTION B												
Specify Type Special Leave (the number of days are prescribed in the Leave Measures)												
Type of Leave Taken as Calendar Days/Months				Start Date	End Date	Number of Calendar Days						
Unpaid Leave (Attach Motivation)												
Maternity Leave (Attach Medical Certificate)						No. Of Calendar Months						
SECTION C: For Periods covering parts of the day or fractions												
Type of Leave Applied for as Working Days and Calendar Days (unpaid leave)				Date	Start Time	End Time	No. of Hours/Minutes					
Capped Leave (only applicable to educators with capped leave)							h	m				
Normal Sick Leave							h	m				
Family Responsibility Leave (Provide Evidence)							h	m				
Special Leave							h	m				
Urgent Private Matters							h	m				
Pre-Natal Leave												
Paternity Leave												
<i>I hereby certify that the information provided is correct.</i>												
EMPLOYEE SIGNATURE						DATE:						
Recommendation By Supervisor/Manager (Mark with X)												
Recommended				Not Recommended								
REMARKS (If not recommended please state the reasons & the dates in the case of rescheduling):												

MANAGER/SUPERVISOR'S SIGNATURE						DATE						
Approval by Head of Department (Mark with X)												
Approved With Full Pay				Approved Without Pay				Not Approved				
REMARKS (If approved with a change in condition of payment or not approved, please provide motivation):												

SIGNATURE OF HOD OR DESIGNEE						DATE						

Annexure H.2**AGREEMENT: SPECIAL LEAVE FOR STUDY PURPOSES**

1 I, _____ (full name), hereby undertake towards the head of the education department of

_____ (name of education department)

immediately after expiry of the period of special leave for study purposes granted to me in terms of general education policy for the period

_____ to _____

to serve in an education department (hereinafter referred to as my service obligation) for a continuous period of _____ days.

2. I hereby further undertake, during this leave, periodically and as determined by the head of my education department to obtain progress reports in respect of my study courses from the institution at which I am studying and to submit such reports to the head of my education department, and I understand that he retains the right on the basis of such progress reports to instruct me to resume service immediately and to renounce the privileges of this leave granted to me and to convert such leave into vacation leave or special leave in extraordinary circumstances and in the latter case to recover any excess payment from me which might have occurred as a result thereof, and to transfer such payment to the education department with which this contract has been concluded.
3. I hereby declare that I understand that authorised leave with full or partial pay normally counts as service towards the fulfilment of my service obligation and that, if leave without pay is granted to me before my service obligation is fulfilled, my service obligation will be extended by the number of days equal to the periods for which leave without pay was granted to me.
4. I hereby further undertake, if in any manner whatsoever, except in the event of my death, or as a result of my permanent disability not caused by me, fail to fulfil this agreement fully, irrespective of whether such failure is the result of discharge owing to misconduct, to immediately repay on written request the service bonus and salary which I received during the above-mentioned period of special leave for study purposes on a pro rata basis together with the interest thereon at the interest rate as prescribed in the Financial Hand Book of the Department of Finance, calculated from the date of breach of contract, to the education department with which this contract has been concluded.

Signed at _____ this _____ day of _____ 20 _____

Signature of Educator: _____

WITNESSES:

1. _____

2. _____

CHAPTER I

GENERAL PROVISIONS

I.1 EXEMPTION FROM PAYMENT FOR INSTRUCTIONS BY EDUCATIONAL INSTITUTIONS

An educator who, in his/her capacity as a student, must pay for instruction, or any other service resulting from such instruction, which he/she follows in accordance with one or other instructional programme approved by the department of education and which is offered by a department of education responsible for education or an educational institution instituted, registered or administered in terms of a law, may on a basis approved by the employer, be compensated partly or in full in a direct or indirect manner for such expenditure. (*Regulation 21 of the Regulations regarding the terms and conditions of employment of educators*)

I.2 FULL-TIME STUDY COURSE

I.2.1 A department of education may, on the terms and conditions he may determine, authorise and educator to follow a full-time study course approved by the department of education and while the educator follows such course he/she shall be deemed to be on duty in an educator's post. (*Regulation 29 of the Regulations regarding the terms and conditions of employment of educators*)

I.3 OFFICIAL CHANNELS OF COMMUNICATION

I.3.1 A request or communication from an educator in connection with a matter falling within the scope of the employer's power or duties must be directed to the employer via the head of the institution or the office.

I.3.2 Notwithstanding paragraph I.1.3.1, matters regarding the appointment, termination of service and leave privileges and enquiries about the remuneration of an educator must be referred to the head of education by the principal of the school concerned, subject to provisions of the LRA. (*Regulation 25 of the Regulations regarding the terms and conditions of employment of educators*)

I.4 REPLYING TO QUESTIONS

I.4.1 An educator must reply explicitly to a question concerning his/her duties and powers put to him by a person who is competent to put such question; provided that an educator shall not be obliged to furnish a reply which may incriminate him/her. (*Regulation 26 of the Regulations regarding the terms and conditions of employment of educators*)

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I.5 LAWFUL INSTRUCTIONS

I.5.1 Subject to the provisions of paragraph I.1.5.2, an educator must carry out an lawful instruction given to him/her, in writing or verbally, by an authorized person.

I.5.2 An educator may, at the time of a verbal instruction, request that such an instruction be confirmed in writing and he/she may submit any complaint he/she may have in connection herewith to the employer for a decision. (*Regulation 27 of the Regulations regarding the terms and conditions of employment of educators*)

I.6 RESIDENTIAL ADDRESSES AND TELEPHONE NUMBERS

I.6.1 An educator must notify the department of education of his/her residential address and telephone number, if any, and of any change thereof and the department of education must keep a record of it. (*Regulation 28 of the Regulations regarding the terms and conditions of employment of educators*)

I.7 PROOF OF MARRIAGE OR CHANGE OF MARITAL STATUS

I.7.1 An educator must, within 30 days after getting married or after his/her marital status has changed, submit a certified copy of the marriage certificate, decree or divorce or death certificate, as the case may be, to the department of education: provided that the department may in his/her discretion demand the submission of the original certificate. (*Regulation 30 of the Regulations regarding the terms and conditions of employment of educators*)

I.8 REPORTS ON EDUCATORS AND ADVERSE REMARKS

I.8.1 A report, on a form determined by the Minister (in the case of the Department of Basic Education) and the MEC (in the case of a provincial department of education), must be drawn up and submitted to the department of education by the head of the relevant institution or office in respect of any educator as often as the department of education may require.

I.8.2 Any adverse remark contained in a report referred to in paragraph I.1.8.1 must be brought to the notice of the educator concerned in writing and in its full context by the person who compiled the report.

I.8.3 The educator must sign the report and return it to the compiler together with such representations, in writing, as he/she may desire to submit.

I.8.4 The above provisions will also apply to adverse remarks made in respect of an educator in a written communication, except that such remarks must be brought to the educator's attention by the head of the relevant institution or office.

I.8.5 If it comes to the attention of the department of education that an adverse remark is unjustified, the department may at any time, if he/she deems fit, declare any adverse remark in connection with an educator null and void and in such a case the educator must be

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notified in writing of the nullification. (*Regulation 31 of the Regulations regarding the terms and conditions of employment of educators*)

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