



Primary Circular 10/05

PRIMARY BRANCH

TO: BOARDS OF MANAGEMENT, PRINCIPAL TEACHERS AND TEACHING STAFF IN PRIMARY SCHOOLS

Sick Leave Scheme for Qualified Primary School Teachers in Permanent and Temporary Posts

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1. Introduction

- 1.1 The Minister for Education and Science wishes to outline the regulations and procedures regarding the sick leave scheme for qualified primary school teachers in permanent or temporary posts. The regulations and procedures are to be implemented by each Board of Management and all teachers must adhere to the terms of this sick leave scheme.

The terms of Rules 93, 112 and 113 of the Rules for National Schools are hereby revised.

2. Entitlements to paid and unpaid sick leave

A. Permanent full time teachers

- 2.1 A permanent teacher is allowed a maximum of 365 days paid sick leave, certified and uncertified, in any period of four consecutive years of service (this includes temporary service during the four years). The sick leave period is calculated retrospectively and includes weekends and school closures. A teacher with pulmonary tuberculosis can be granted an extended period of paid sick leave, see Appendix A.
- 2.2 A teacher is informed by Primary Payments Section of the Department when s/he has completed 150, 200 and 250 days' sick leave respectively. The Chairperson of the Board of Management is also informed when a teacher has exhausted 200 and 250 days sick leave respectively.
- 2.3 A teacher who, on completion of the maximum period of paid sick leave, is unfit to resume duty may be granted an extra period of unpaid sick leave not exceeding six months. (A teacher must exhaust her/his maximum entitlement to paid sick leave before s/he can apply for unpaid leave.)

This period is extended on an exceptional basis in the case of a teacher with ME syndrome or a teacher who has undergone transplant surgery, see Appendix B.

- 2.4 The following conditions must be met in order to receive an extra period of unpaid sick leave, not exceeding six months -

- permission from the Board of Management to take the period of unpaid sick leave
- and
- a detailed report from a recognised medical doctor being submitted stating the nature of the illness and a prognosis that the teacher will be fit to resume teaching at the end of the six month period. The report will be referred to the Chief Medical Officer of the Public Service who will determine if the period of unpaid sick leave shall be granted.

The period of unpaid sick leave, up to a maximum of six months, is allowed just once during a teacher's career. If a permanent teacher takes the six month period of unpaid sick leave or any part of it, s/he loses the entitlement to unpaid sick leave for the remainder of her/his teaching career.

B. Permanent job sharing teachers

- 2.5 A job sharing teacher is required to provide a medical certificate from a qualified medical practitioner after two consecutive days of absence due to illness.

Sections 1.1 to 1.4 above are also applicable to job sharing teachers.

C. Temporary teachers

- 2.6 A temporary qualified teacher may be granted a maximum of 91 days sick leave (certified and uncertified) in a school year including weekends and school closures occurring within any period of sick leave. There is no entitlement to carry over all or part of the 91 days to another school year.
- 2.7 A temporary qualified teacher who wishes to resume teaching after a period of 91 days sick leave in a school year cannot do so without providing a medical certificate of fitness. In addition the temporary qualified teacher may be referred for medical assessment by the Board of Management, prior to resuming duty. If the teacher is deemed fit by the doctor, s/he may resume full-time teaching. Any teacher who resumes without attending for medical assessment will cease to be paid incremental salary by the Department until such time as s/he attends for same.
- 2.8 In the event that a temporary teacher is deemed unfit to continue teaching, salary will cease and the teacher must be deemed fit by the Chief Medical Officer before s/he can obtain another teaching position.

3. Uncertified sick leave

- 3.1 Qualified primary school teachers in permanent and temporary posts may take a maximum of three consecutive days sick leave without providing a medical certificate. The Board of Management can employ a substitute teacher from the first day of absence on uncertified sick leave.
- 3.2 The maximum number of uncertified sick leave days allowable in a school year is 31.
- 3.3 A teacher cannot take a period of uncertified sick leave immediately after certified sick leave. Where a teacher takes a period of uncertified sick leave followed by certified sick leave the medical certificate should cover the total period of the absence i.e. with effect from the first day of the absence.

4. Certified sick leave

- 4.1 Where a teacher is absent on sick leave for more than three consecutive days a medical certificate is required for the total period of the absence. Where a teacher is absent on sick leave prior to and after a weekend or before and after a school closure, a medical certificate is required to include the whole period.

If a teacher does not provide a medical certificate in respect of sick leave absences that exceed three consecutive days, the days in excess will be deemed to be unapproved unpaid leave and will constitute a break in service for superannuation, increment and PRSI purposes.

- 4.2 The medical certificate must state the name of the teacher, as it is known on the Department's record i.e. the name that is on the teacher's payslip.
- 4.3 A medical certificate is a statement from a qualified medical examiner recognised by the Irish Medical Council. It must be either (i) on letter headed paper signed by the examining doctor or (ii)

have the doctor's official stamp affixed. The examining doctor must sign the medical certificate – the signature of the doctor's secretary will not suffice.

- 4.4 The doctor must list the nature of the illness on a medical certificate and the exact period covered by the certificate.
- 4.5 A medical certificate can only cover a maximum period of one month.
- 4.6 Where a teacher wishes to resume duty prior to the date specified on her/his medical certificate, s/he must provide a medical certificate of fitness from the examining doctor as otherwise all sick leave as recorded on the initial certificate will be counted towards the length of sick leave absence.
- 4.7 Under the Organisation of Working Time Act 1997, a teacher who is absent from work on certified sick leave on a public holiday within the first 26 weeks of a consecutive sick leave period is entitled to leave in lieu in respect of the public holiday. The leave in lieu should be taken directly after the period of sick leave, or, as an exceptional measure, at a subsequent date with the agreement of the Board of Management. A substitute teacher will be paid by the Department to cover leave in lieu.

5. Notification of sick leave

- 5.1 Any teacher who is absent from teaching duty due to illness must notify the Principal or the Chairperson of the Board of Management immediately and should, where possible, state the likely duration of the absence.
- 5.2 The Board of Management must advise the Department of all sick leave absences, both certified and uncertified together with the appropriate forms (see section 5). The Board of Management should advise the Department of Education and Science on the Salary Return Form where a teacher is absent on sick leave and a replacement teacher has not been appointed. Please note that a teacher paying Class A1 PRSI must forward, in addition to the medical certificate, an MC1 Social and Family Affairs Claim Form (Disability/Injuries Benefit) to Primary Payments Section, Department of Education & Science, Cornamaddy, Athlone, for absences of more than 3 days. The MC1 Claim Form is available from GPs and should be obtained at the same time as a medical certificate. Failure to submit the MC1 Social and Family Affairs Certificate will result in a deduction from salary equivalent to the disability/injuries benefit amount.
- 5.3 Medical certificates should not be forwarded directly to the Chief Medical Officer. The certificate is required in the Department for the purpose of recording of sick leave and to ensure accurate and timely payment of the substitute teacher. If a teacher does not wish to submit the certificate through the Principal/Chairperson of the school, it can be sent directly to Primary Payments Section.

6. Replacement teachers for absences on sick leave

- 6.1 A substitute teacher may be employed by a Board of Management to replace a permanent or temporary qualified teacher absent from teaching duty on uncertified and certified paid sick leave and for leave in lieu for public holidays which fall within the first 26 weeks of a continuous sick leave period. Salary payment for the substitute teacher is issued by the Substitute Teachers Payroll on receipt from the Board of Management of the Substitute Teacher Claim Form.
- 6.2 A temporary teacher may be employed by a Board of Management to replace a permanent or temporary qualified teacher absent from teaching duty on unpaid sick leave. Salary payment will issue for the temporary teacher on receipt of the Notification of Temporary Appointment Form from the Board of Management.
- 6.3 A temporary teacher may be employed by a Board of Management when an unqualified person in a temporary teaching post is absent on sick leave. This absence is classified as unpaid sick leave as

there is no provision to pay salary to an unqualified person in a temporary teaching post while absent on sick leave.

- 6.4 Schools participating in the Supply Teacher Scheme should seek to replace sick leave absences in the first instance from the Supply Teacher Panel (as per [Circular 50/97](#)). If the supply teacher is on sick leave no replacement teacher is employed. The Board of Management of schools within the Supply Teacher Scheme should use the Supply Teacher Return Form to notify the Department at the end of each month of all sick leave absences where a replacement teacher came from within the Supply Teacher Scheme, or where the supply teacher is on sick leave.
- 6.5 Where there is a supernumerary teacher in a school, s/he acts as replacement teacher for sick leave. If the supernumerary teacher is on sick leave no replacement teacher is employed. An exception to this arises where a teacher and the supernumerary teacher are both on sick leave. In such instance s one replacement teacher may be employed.
- 6.6 Schools must endeavour to employ a fully qualified teacher to replace a teacher absent on sick leave. If a replacement teacher is not available other teachers in the school should co-operate with local arrangements.

7. Resumption of duty following paid/unpaid sick leave

- 7.1 A permanent teacher cannot resume teaching following a period of paid sick leave of more than three consecutive months without providing a medical certificate of fitness to resume full-time teaching. This certificate should be provided to the Board of Management at least two weeks prior to the proposed date of resumption of teaching duties.
- 7.2 A teacher may apply to the Board of Management to resume duty at or before the end of the unpaid sick leave period, subject to the teacher furnishing a comprehensive report from a recognised medical doctor stating that s/he is fit to resume duty. This report is referred to the Chief Medical Officer who will determine if the teacher is fit to resume duty.
- 7.3 If the Board of Management has any concerns regarding the teacher's proposed resumption of duty, it may refer the teacher for an independent medical assessment prior to the proposed date for resumption of teaching. It is recommended that each Board of Management should have a local medical advisor for dealing with routine occupational medical matters preferably with some occupational medical experience or training. When referral for independent specialist assessment is required, the local medical advisor to the Board of Management should nominate the appropriate specialist suited to the teacher's underlying medical disorder. A teacher, who fails to attend for independent medical assessment at the request of the Board of Management, will cease to be paid incremental salary until such time as s/he attends for assessment. Costs in respect of the independent medical assessment will be borne by the Board of Management.
- 7.4 If, following independent medical assessment, concerns remain regarding the teacher's suitability for return to work, all medical reports in relation to the teacher will be referred to the Chief Medical Officer, for final decision as to the date of fitness to resume full teaching duties.
- 7.5 Where the Board of Management is satisfied that the teacher is fit to resume duty following independent medical assessment, and the Board and the teacher agree the date to resume duty, the period of time from when the teacher was first certified fit to resume until the day of resumption of duty following the independent assessment will not be counted as sick leave.
- 7.6 If a teacher, to whom sick leave without pay has been granted, is not fit to resume duty at the end of the six month period of unpaid sick leave, the teacher shall be deemed to have resigned from his/her post (section 8 also refers.)

8. Procedures where a Board of Management has concerns regarding a teacher's health

- 8.1 Where a Board of Management has concerns about the health of a teacher, the Board may require the teacher to provide a confidential medical report to the Chief Medical Officer outlining the state of her/his health and a prognosis for continuing duty. The teacher must absent herself/ himself from duty on paid sick leave until a decision has been made by the Chief Medical Officer.

9. Withdrawal of recognition on medical grounds

- 9.1 The Minister may deem a teacher ineligible for further recognition or may deem the teacher to have retired, if s/he fails to comply with the Board of Management's requirement regarding medical assessment or if the medical report shows that the teacher is mentally or physically unable to carry out her/his duties as a teacher.
- 9.2 A person who has been declared ineligible on health grounds for continued recognition as a teacher, or who is deemed to have resigned/retired under the terms of sections 7.6 or 9.1 above, may appeal to be examined by a medical referee appointed by the Minister. Such an appeal must be made within fourteen days of the notification to her/him of ineligibility for continued recognition, or of the decision to deem her/him to have resigned/retired, as the case may be. The appellant will be required to furnish adequate medical evidence at her/his own expense in support of the appeal.

10. Retirement on disability grounds

- 10.1 A permanent teacher who is deemed medically unfit to continue teaching or who is on paid or unpaid sick leave may apply for disability pension to the Department. Disability Pension Application Forms are available from the Primary Pensions Section, Department of Education & Science, Cornamaddy, Athlone, Co. Westmeath. The decision to award disability pension is made by the Chief Medical Officer.

The Chief Medical Officer may refer the teacher for independent medical assessment. Any costs incurred with this assessment must be borne by the teacher. If the Chief Medical Officer decides to award pension then the teacher shall be deemed to have resigned from her/his post.

11. Teachers absent on sick leave who provide medical certificate of fitness to resume teaching prior to a school vacation

- 11.1 Where a teacher is absent on sick leave before and after a school vacation period, the teacher is deemed to be on sick leave for the whole duration. If a teacher provides a medical certificate of fitness to resume teaching prior to or during a period of vacation, sick leave during the period of vacation may be discounted. The advice of the Chief Medical Officer may be sought as to whether the vacation period should have been discounted as sick leave if the teacher:
- is on sick leave up to the school vacation or has resumed teaching duty within the last two weeks prior to the school vacation
 - and
 - goes on sick leave again immediately after the school vacation or within two weeks after the vacation period.

12. Brief absences following a period of sick leave

- 12.1 If a teacher wishes to take another form of leave (brief absence) immediately after being absent from duty on sick leave, the Board of Management may, at their discretion, require a medical certificate of fitness to resume full teaching duties before approving the leave. This includes where a teacher was absent owing to illness up to a school closure and wishes to take another form of leave immediately after the school closure. This does not apply where a teacher is due to take maternity/adoption and paternity leave immediately following sick leave.

13. Sick leave while on additional unpaid maternity leave (statutory 8 weeks leave)

- 13.1 Under the provisions of the Maternity Protection Amendment Act 2004, if a teacher has made an application for additional statutory unpaid maternity leave or has commenced her eight week additional unpaid maternity leave and subsequently becomes ill, she may cancel the application or opt not to continue the additional unpaid maternity leave and apply for sick leave. (There is no provision under this Act for a teacher to cancel her paid maternity leave and to apply for sick leave).

The Board of Management and the teacher must agree the date of termination of additional unpaid maternity leave. The teacher will be deemed to be on sick leave and the procedures in relation to sick leave will apply. The teacher will not be entitled subsequently to take the additional unpaid maternity leave or any part of it not taken at the time of commencement of sick leave.

The Department should be notified immediately that the teacher is on sick leave, in order to facilitate the necessary salary adjustment. The status of the teacher replacing the teacher on additional unpaid maternity leave will change from temporary to substitute. The temporary teacher taking up employment to cover additional unpaid maternity leave should be made aware of the implications for her/him of the teacher on maternity leave becoming ill.

- 13.1 Under the Maternity Protection Amendment Act 2004, if a male teacher, who is on unpaid leave following the death of the mother of his child while on maternity leave, becomes ill, he may opt not to continue with this period of unpaid leave and to apply for sick leave. (There is no provision under this Act for a teacher to cancel paid leave approved in the event of the death of the mother of his child and to apply for sick leave).

The Board of Management and the teacher must agree the date of termination of the unpaid leave. The teacher will be deemed to be on sick leave and the procedures in relation to sick leave will apply. The teacher will not be entitled subsequently to take any additional unpaid leave as a result of the death of the mother of his child or any part of such leave not taken at the time of commencement of sick leave.

14. Teachers on leave of absence for 1 year or more

- 14.1 A teacher who has been on long term leave of absence and who proposes to resume teaching duty must submit to the Board of Management a medical certificate of fitness to resume duty. The certificate of fitness must be submitted prior to resumption of teaching duty. This does not apply to a teacher on maternity, adoptive, and carer's leave.

15. Traveling abroad while on sick leave

- 15.1 A teacher, who wishes to leave the country while on sick leave, must notify the Department, through the Chairperson of the Board of Management, of intention to travel. Such notification must be accompanied by a report from a recognised medical practitioner stating the teacher is fit to travel.

- 15.2 Notification is not required if a teacher absent on sick leave is availing of the Treatment Purchase Scheme operated on behalf of the Dept. of Health & Children for those unable to access medical procedures within a reasonable time within their local health authority area.

16. Teachers on pension resuming duty in a permanent/temporary capacity

- 16.1 A teacher who has been awarded a voluntary pension or granted early retirement under Strand 3 of the Early Retirement scheme must submit satisfactory medical evidence before s/he can resume teaching duty in a permanent/temporary capacity in a primary school.
- 16.2 Teachers awarded disability pension may not subsequently apply for or engage in teaching except where a full recovery is made. In such circumstances, fresh medical evidence must be submitted to Primary Pensions Section of the Department, for review by the Chief Medical Officer, before the teacher can take up any teaching appointment.

You are requested to ensure that the procedures outlined in this Circular are implemented and that all teachers are made aware of the terms of this Circular.

The Circular can also be viewed on and downloaded from the Department of Education and Science Website: www.education.ie under Education Personnel/Primary/Circulars & Information Booklets/Leave of Absence.

Please note that queries regarding this Circular may be e-mailed to primary_ payments@education.gov.ie.

Johnny Bracken
Principal Officer

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Appendix A

Teachers certified as having pulmonary tuberculosis

A permanent teacher who is medically certified as having pulmonary tuberculosis may be granted continuous paid sick leave for a period not exceeding eighteen months from the date of the first medical certificate diagnosing the ailment. The paid sick leave for pulmonary tuberculosis is granted subject to the following conditions :

- there is a reasonable prospect of recovery and return to teaching
- on expiration of a period of twelve months the teacher shall be required to attend for medical assessment
- medical evidence must be submitted from a recognised medical practitioner that the teacher is undergoing recommended treatment
- in the consecutive four year period, the period of sick leave due to pulmonary tuberculosis and other sick leave when added together will not exceed 24 months
- the eighteen month period of paid sick leave will only be allowed once to a teacher during his/her teaching career.

A teacher who has pulmonary tuberculosis shall not be permitted to resume teaching duty until s/he submits a certificate of fitness to resume teaching duty and is medically certified by the Chief Medical Officer as fit to resume full teaching duties.

Appendix B

Teachers certified as suffering from ME syndrome

A permanent teacher who is medically certified as suffering from ME Syndrome and who has exhausted her/his twelve month paid sick leave entitlement, may be granted an extended unpaid sick leave period of up to a maximum of eighteen months. The unpaid sick leave must commence immediately after the paid sick leave is exhausted. The unpaid sick leave is granted subject to the following conditions

- approval of the Board of Management
- satisfactory medical evidence from a recognised medical practitioner that the teacher is likely to be fit to resume duty at the end of the period of unpaid sick leave
- approval by the Chief Medical Officer.

Teachers who have undergone transplant surgery

A permanent teacher who has undergone transplant surgery and is receiving immuno-suppressant drugs and who has exhausted her/his twelve month paid sick leave entitlement may be granted an extended period of unpaid sick leave up to a maximum of eighteen months. The unpaid sick leave must commence immediately after the paid sick leave is exhausted. The unpaid leave is granted subject to the following conditions

- approval of the Board of Management
- satisfactory medical evidence that the teacher is likely to be fit to resume duty at the end of the period of unpaid sick leave
- approval by the Chief Medical Officer.