



Circular Letter 22/2012

**To: The Managerial Authorities of Recognised Primary, Secondary,
Community and Comprehensive Schools
and
The Chief Executive Officers of Vocational Education Committees**

**CAREER BREAK SCHEME
FOR
SPECIAL NEEDS ASSISTANTS**

IN RECOGNISED PRIMARY AND POST-PRIMARY SCHOOLS

The Minister for Education and Skills directs you to implement the regulations and procedures regarding career breaks for special needs assistants whose posts are wholly funded by monies provided by the Oireachtas.

The regulations and procedures are to be implemented by each employer with immediate effect and all special needs assistants must adhere to the terms of the attached career break scheme.

This circular supersedes all previous circulars, memoranda, rules, regulations and arrangements in relation to career breaks for special needs assistants, in recognised primary and post-primary schools. Please ensure that copies of this circular are provided to all members of the Board of Management/Vocational Education Committee and its contents are brought to the attention of all special needs assistants in your employment including those on leave of absence.

This Circular can be accessed on the Department's website under www.education.ie

Teacher/SNA
Terms & Conditions Division
11 June 2012

Payroll Division
11 June 2012

Career Break Scheme for Special Needs Assistants

Definitions

For the purposes of this scheme the following terms shall have the meanings assigned to them here unless the context indicates otherwise:

Career Break – means Special Leave without pay.

Employer – means a Vocational Education Committee (VEC) for vocational schools/community colleges and a Board of Management/Manager in the case of primary, voluntary secondary, community and comprehensive schools. The Vocational Education Committee or Board of Management/Manager may delegate responsibility for matters set out in this circular to the Principal of the school.

Occupational Health Service (OHS) Providers – means the providers of independent medical advice on occupational health.

On Line Claims System (OLCS) – means the system for recording absences and claiming substitution currently operating in primary, voluntary secondary, community and comprehensive schools.

School Year – as defined by the Minister for Education and Skills from time to time currently beginning on 1st September and ending on 31st August.

The Department – means The Department of Education and Skills.

1 Scope and Objectives of Scheme

- 1.1 The scope of this scheme is limited to special needs assistants in posts wholly funded out of monies provided by the Oireachtas.
- 1.2 The main objectives of this scheme below, which are not exhaustive, is for employers, wherever possible to facilitate applicants in the areas of:
 - Personal Development
 - Education (including teacher training)
 - Public Representation
 - Childcare/Dependent care
 - Self-employment

2 School Policy

- 2.1 Each employer, in consultation with special needs assistant staff, shall develop and maintain a policy statement specific to the needs of the school in relation to the approval of career breaks.

- 2.2 In drawing up this policy, the welfare and educational needs of the pupils shall take precedence over all other considerations. The sole discretion as whether to grant an application for a career break rests with the employer.
- 2.3 This policy, while taking account of the objectives of this scheme, shall have due regard to the capacity of the school to meet its obligations to its pupils and shall therefore apply a reasonable limit to the number of special needs assistants that may be absent on career break at any one time and also take into account the likely availability of a suitably qualified replacement special needs assistant to take up duty on the applicant's departure.
- 2.4 Where an application for a career break is refused the employer must inform the applicant in writing setting out the grounds for such a refusal.

3 Correspondence Address

- 3.1 The employer/Department will address all necessary correspondence to the special needs assistant on career break at the address last notified by the special needs assistant and no fault shall lie with the employer/Department in the event that the special needs assistant does not receive such correspondence.

4 Duration of Career Break

- 4.1 A special needs assistant may engage in this scheme subject to an overall maximum absence of 10 years in the course of his/her career.
- 4.2 A career break shall be a period of not less than 1 school year and may be extended on an annual basis provided the total period of the career break does not exceed 5 years at any one time.
- 4.3 A subsequent career break may not be taken until the special needs assistant has served for a period equal to the duration of the previous career break.
- 4.4 A career break shall commence on the start of a school year and a return to duty in the school/VEC which granted the career break shall not be permitted other than on the start of a succeeding school year. In exceptional circumstances, an employer may authorise a special needs assistant to commence a career break during the course of a school year and terminate not earlier than the end of that school year. This is deemed to be a one year career break.
- 4.5 The duration of a career break may not extend beyond:
- a) the termination of the contract or
 - b) retiring age.

5 Eligibility

- 5.1 A special needs assistant may apply for a career break where he/she will have satisfactorily completed, at the end of the school year in which they are applying, 12 months of continuous service with the current employer.

6 Operation of the Scheme

- 6.1 A special needs assistant seeking a career break must submit a written application to the employer not later than the 1st March of the school year prior to that in which he/she proposes to commence/continue the career break. The application must provide clear details of the exact purpose of the career break. A late application may be considered by the employer in exceptional circumstances.
- 6.2 A special needs assistant who wishes to extend his/her career break must apply for this extension on an annual basis not later than the 1st March.
- 6.3 Each application for a career break shall be considered on its own merits by the employer within the context of the school's policy statement. The decision of the employer shall be final.
- 6.4 The employer shall issue a written notice of approval or refusal to the special needs assistant by 1st April at the latest and submit notice of the career break absence to the Department (via the OLCS)/VEC on or before 1st May. In the case of special needs assistants paid on the Departments payroll the employer must also indicate the names of those availing of a career break on the NTS Appointment Position Form.
- 6.5 Taking account of the extent of arrangements to be put in place by the employer to cater for the career break, the applicant shall not be permitted to withdraw his/her application after 14th April. In exceptional circumstances the employer in its sole discretion may consider a later withdrawal of a career break application.

7 Working whilst on Career Break

- 7.1 The taking up of regular paid employment of any kind elsewhere in the State while on career break would be contrary to the objectives of the scheme and shall lead to refusal of an application or withdrawal of approval already given.
- 7.2 A special needs assistant on a career break is precluded from taking up an appointment in any capacity in any school within the state.
- 7.3 A special needs assistants undergoing teacher training is permitted to carry out work experience in a school.

8 Appointment of a Replacement Special Needs Assistant

- 8.1 Where a replacement special needs assistant is to be employed, the position must be filled in accordance with current rules for recruitment.
- 8.2 Where a replacement special needs assistant is to be employed he/she shall be offered a contract which must state as an objective ground that the contract may be terminated in the event of the special needs assistant on career break resigning, retiring, returning to work or being made redundant during the term of the career break.
- 8.3 Where a replacement special needs assistant is employed, he/she will be required to be available for the additional 72 hours that form part of a special needs assistant contract (pro-rata for part-time special needs assistants) to be utilised and delivered outside of normal school opening hours and/or the normal school year.
- 8.4 Where a replacement special needs assistant is employed he/she will not attain any seniority in the school.

9 Arrangements for Compensation for Loss of Hours while on Career Break

- 9.1 Where the post of a special needs assistant on career break is reduced during the term of the career break, the special needs assistant will not be eligible to claim compensation for this loss of hours until such time as his/her career break expires. At that point, if the hours remain unavailable to the school, the special needs assistant may apply for compensation for loss of hours under the terms of the current Department circular on redundancy arrangements for special needs assistants within 52 weeks of his/her return from career break. The period of the career break will not be included in the calculation of any compensation for loss of hours.
- 9.2 Where the post of a special needs assistant on career break is reduced during the term of the career break, the replacement special needs assistant will have his/her hours reduced and will not be entitled to a compensation payment in respect of the loss of hours.

10 Arrangements for Redundancy while on Career Break

- 10.1 Where the post of a special needs assistant becomes surplus to the approved allocation of special needs assistant resources in the school during the term of the career break, the special needs assistant on career break may apply for a redundancy payment under the terms of the current Department circular on redundancy arrangements for special needs assistants within 52 weeks of the loss of the post from the school's allocation. It is the responsibility of the employer to ensure that the special needs assistant on career break is informed of the loss of his/her post from the school's allocation. The period of the

career break will not be included in the calculation of any redundancy payment.

- 10.2 Where the post of a special needs assistant on career break becomes surplus to the approved allocation of special needs assistant resources in the school during the term of the career break, the replacement special needs assistant will not be entitled to a redundancy payment.

11 Resumption of Duty following a Career Break

- 11.1 A special needs assistant must notify the employer by the 1st March of his/her intention to return to work from a career break at the beginning of the next school year.
- 11.2 A special needs assistant returning from a career break in excess of two school years shall be screened by the Occupational Health Service (OHS). It is a pre-requisite for the restoration of salary that the special needs assistant is deemed medically fit for duties by the OHS before he/she is permitted to resume his/her post.
- 11.3 A special needs assistant returning from a career break must comply with the vetting regulations in operation at the time of return.
- 11.4 The terms and conditions of special needs assistants in general existing at the time of return to work shall apply to those resuming duty after a career break.

12 Resignation while on Career Break

- 12.1 A special needs assistant on a career break who wishes to resign from his/her post must notify the employer in writing in accordance with the special needs assistant's terms of employment. If a special needs assistant resigns from the employment during the course of the school year, that year will be deemed to be a full school year for the purposes of Section 4 of this circular should the special needs assistant re-enter service at a later date.
- 12.2 In the event that a special needs assistant fails to resume duty at the end of an approved period of career break, the employer shall immediately notify the Department/VEC so that incremental salary will not issue. The employer shall also take timely action to establish the position and may if appropriate initiate the agreed disciplinary procedures.

13 Seniority while on Career Break

- 13.1 Time spent on career break does not reckon as service for seniority purposes. Service prior to and post career break will be treated as continuous for seniority purposes but the actual period of the career break will not be counted as reckonable service.

- 13.2 Special needs assistants should be aware in applying for a career break that their seniority position in the school may change as a result and this may have consequences for future employment and redundancy.
- 13.3 Schools must update the seniority list for special needs assistants in their school to reflect the loss of seniority for special needs assistants who avail of a career break.

14 Increments and Pension

- 14.1 A period of career break does not reckon for increment or pension purposes.
- 14.2 Pension contributions at full actuarial cost may be paid, either during the career break or following a return to service. Further information on the purchase of notional service for a career break is available from the Departments website www.education.ie under Pension Information for Non Teaching Staff. Any queries may be emailed to pensions@education.gov.ie or addressed to Pension Unit of the Department /VEC.

15 Social Welfare Entitlements:

- 15.1 The special needs assistant on a career break remains an employee of the employer for the duration of the absence and the absence does not constitute a break in service for PRSI purposes.
- 15.2 Special needs assistants seeking to maintain their Social Welfare entitlements during a career break should, therefore, contact the Department of Social Protection for advice prior to taking a career break.

16 Voluntary Deductions at Source

- 16.1 Voluntary deductions from salary cease when a special needs assistant goes on career break. While a special needs assistant is on career break, details of the voluntary deductions will remain on his/her payroll record and therefore, any deductions in place prior to the special needs assistant career break will recommence on his/her return to the payroll unless it has been end dated at the request of the special needs assistant involved via the deduction agency. This Department will not make any deduction in respect of any accumulated unpaid amounts for the period of the career break.
- 16.2 Any outstanding balances owed by a special needs assistant participating in the Cycle to Work or the Travel Pass Scheme must be cleared before commencing a career break.

17 Public Holiday Entitlements - Organisation of Working Time Act, 1997

- 17.1 A special needs assistant on career break retains an entitlement to salary payment for Public Holidays solely in respect of those occurring in the initial 13 weeks of the absence. As a career break must commence on 1st September, a salary payment is due in respect of the October Public Holiday in the first year only.
- 17.2 In the unusual event of a career break following immediately on another absence, the absence will be deemed to be one continuous absence and no entitlement additional to that gained by virtue of the initial absence will accrue to the special needs assistant in the first 13 weeks of the career break.
- 17.3 Where there is a leave in lieu entitlement at the start of a school year that leave shall be exhausted prior to commencement of career break however the leave in lieu together with the career break will count as one year for the purpose of the career break scheme.

18 Compliance

- 18.1 All special needs assistants must adhere to the regulations and procedures set out in this circular. Failure to abide with the regulations and procedures will be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary.
- 18.2 All documentation relating to career breaks must be retained by the employer with the relevant personnel records. These records may be selected for further inspection by nominated department officials. All records should correspond with the data input on the OLCS.

19 Further Information

- 19.1 In accordance with the introductory paragraph the regulations in this circular are to be implemented by the employer. Thus all queries should initially be brought to the attention of the school management who may wish to consult with their representative organisation who may further wish to consult with the Department at the following email address: teachersna@education.gov.ie.