

**NSW/ACT Independent Education Union
PARENTAL AND PERSONAL / CARER'S LEAVE
10 Frequently Asked Questions and Answers
(Teachers and Support Staff in Catholic and Independent Schools)**

1. What is parental leave?

The 2009 Federal Fair Work Act provides up to 52 weeks unpaid parental leave for the birth or adoption of a child under 16 and also provides the "right to request" a further 52 weeks. (From 1 January 2011 the Federal Government introduced an 18 weeks PPL scheme at the Minimum Wage rate which is currently \$622.10 per week before tax, with two weeks of "Dad and Partner Pay" from January 2013.) The incoming Federal Coalition Government has proposed its own expanded PPL scheme from 2015 subject to legislative approval. It is also noted that the "Baby Bonus" is being replaced from 1 March 2014 by an increase in the rate of Family Tax Benefit Part A.

Agreements covering teachers and support staff in schools, as well as policy documents in most Catholic dioceses, provide further details of access to and implementation of unpaid and paid parental leave provisions.

2. Who is eligible for parental leave?

To qualify for parental leave, an employee must have 12 months of continuous service with their current employer (including any period of authorised leave or absence under one or more unbroken contracts of employment, noting that such authorised leave does not count as service for other than this purpose.) In the case of most Catholic schools, continuous service with another Catholic school immediately before the current employment may also count towards the 12 months. Long term temporary and casual employees may also be eligible for parental leave in certain circumstances – please seek specific advice from the Union if you think this may apply to you.

3. What is the entitlement to unpaid and paid parental leave?

Unpaid: There is a statutory entitlement to 52 weeks unpaid leave for all eligible employees for the birth or adoption of a child, plus the right to request to extend the unpaid leave for another year.

Paid: *Catholic Schools:* Teachers in NSW and ACT Catholic systemic and most Catholic independent schools are entitled to 14 consecutive weeks paid maternity leave which counts as service, subject to some conditions. These conditions relate to the four weeks before the due date of birth and to school holidays within the 14 weeks period. IEU members should contact the Union to discuss their specific circumstances.

The agreements for support staff and for maintenance and outdoor staff in Catholic systemic schools also provide for 14 weeks paid maternity leave, subject to some conditions.

Independent schools: Teachers, support staff and boarding staff in NSW and ACT independent (AIS) schools have at least 14 weeks maternity allowance which does not count as service. This has effectively been increased by one week when annual leave is paid in those schools which are party to the 2011-2014 Federal agreements with the IEU. Members in NSW and ACT independent schools should contact the IEU to clarify any issues relating to their maternity leave entitlements.

As previously noted, many employees are eligible for the Federal Government's 18 weeks PPL. In Catholic schools and independent schools under AIS agreements, the 18 weeks be in addition to the employer paid provisions.

Christian schools: Under the 2011-2012 Christian schools agreement, the Federal Government's 18 week scheme was incorporated into the paid maternity leave entitlement but the total payment increased from 14 to 18 weeks on full pay. From February 2013, some Christian schools provide 10 weeks paid maternity leave for teachers not entitled to the PPL scheme.

4. What is necessary to apply for maternity leave?

1. You need to give your employer written notice of your intention to take leave – at least 10 weeks before commencing the leave (or if this is not possible, as soon as practical, which may be after the leave has commenced). The notice must specify the intended start and end dates of the leave.
2. At least four weeks before the intended start of leave provided in 1, you must confirm the intended start and end dates of the leave or advise of any changes to these dates, unless it is not practical to do so.
3. If required by your employer, you must give the employer evidence that would satisfy a reasonable person of the date of birth, or expected date of birth. The employer may require that this evidence is medical certificate. In the case of adoption you must give evidence that would satisfy a reasonable person of the expected day of placement or actual day of placement and that the child will be or is at the date of placement, under the age of 16 years.

These notices must have been provided in order for you to be eligible for parental leave and other protection under the Act, such as the right to a transfer to a safe job. In particular, the provision of notice in writing is essential – therefore you should always confirm any verbal advice in writing to the principal, bursar or other senior member of staff.

5. Does parental leave count as service?

Unpaid parental leave does not count as service for accrual of leave, salary increments, employer-funded superannuation or for any other purpose.

In the NSW Catholic sector and the Catholic Archdiocese of Canberra-Goulburn, “paid maternity leave” counts as service, for accrual of entitlements and salary progression for support staff, teachers, principals and advisers in NSW and ACT Catholic systemic schools and in Catholic independent schools in NSW covered by the then Teachers (Catholic Independent Schools) (State) Award.

The paid maternity leave for teachers and support staff in non Catholic independent schools does not count as service, except in relation to annual leave.

6. What are the provisions for paternity leave?

While the Fair Work Act refers to “employee couple” leave, most agreements refer to paternity leave for fathers. This statutory leave is up to 52 weeks unpaid leave, less any leave taken by the child’s mother.

Teachers in NSW and ACT Catholic systemic schools and Catholic independent schools covered by the NSW Teachers (Catholic Independent Schools) Agreement can take paid paternity leave of “one continuous period not exceeding two weeks” as carer’s leave in the 4 week period adjacent to the birth. (This is in addition to the one day of paid leave on the day of the birth or taking the baby home.) Four weeks written notice of the intention to take this leave must be given to the employer. Support staff in NSW Catholic systemic schools also have access to up to two weeks paid paternity leave.

Teachers and support staff in NSW independent schools are able to apply for 2 weeks paid paternity leave (deducted from carer’s leave). It is necessary to give 10 weeks written notice and to comply with the provisions for maternity leave set out in Question 4 above.

From January 2013 the Federal Government introduced a two week PPL scheme for “dads and partners” who do not access an employer leave benefit.

7. What is personal / carer’s leave?

In NSW and ACT Catholic schools, principals, teachers and advisors can access up to 10 days of their current year’s sick leave entitlement and up to 30 days of their accrued entitlement to care for an ill or injured family member, or where such person requires care due to an unexpected emergency. Support staff can access all their current and accrued sick leave entitlements to provide care in such circumstances. In independent schools, similar provisions exist, although the definition of “family” is slightly wider. In ACT independent schools, carer’s leave is limited to 10 days. The National Employment Standards now also provide for two days compassionate leave in the situation of a life threatening illness or injury.

8. What is pressing domestic necessity?

In Catholic systemic schools and most Catholic independent schools, up to 5 days per year may be accessed by teachers and support staff from sick leave, at the principal's discretion, to deal with pressing personal or family situations. Some ACT independent schools also provide access to up to one day's discretionary family leave per annum.

9. Is there a right to work part-time because of parental/carer responsibilities?

While there is no absolute right to work part-time or job share, the inclusion of parental and carer's responsibilities in anti-discrimination legislation and in the 2009 Federal Fair Work Act and 2013 amendments expanding the "right to request", as well as the increasing recognition of work / family balance by industrial and anti-discrimination tribunals, have strengthened employees' reasonable expectations for part-time or job share employment on a short or long term basis. The IEU has been successful in negotiating policies and procedures with most diocesan employers and with some independent schools.

10. Can I be treated less favourably because I have parental or carer responsibilities?

NSW and ACT anti-discrimination laws prohibit discrimination on the grounds of parental and carer's responsibilities in regard to employment, promotion and working conditions.

In 2009 the IEU negotiated a provision in the new award (now a Federal agreement) for teachers in NSW Catholic systemic schools that "Part-time teachers shall be required to attend school on the number of days per week which is generally consistent with their scheduled teaching load."

The Union also negotiated some core permanency provisions for long serving temporary support staff in NSW Catholic systemic schools.

Please contact the union to discuss parental leave, work and family issues or for assistance in negotiating part-time, job share or other flexible arrangements. For further information, phone (02) 8202 8900 or 1800 467943 or access the IEU website at www.ieu.asn.au