

STAFF LEAVE POLICY

*The Currajong School takes a zero-tolerance approach to child abuse and is fully committed to ensuring that its strategies, policies, procedures and practices meet all **Child Safe Standards as specified in Ministerial Order No. 1359 (2022)***

1. INTRODUCTION

The entitlement to:

- annual leave
- personal/carer's leave
- parental leave
- compassionate leave
- family and domestic violence leave, and
- community service leave

are minimum conditions of employment contained in the National Employment Standards (the NES) as prescribed by the *Fair Work Act 2009* (Cth) (the Act).

This policy operates in conjunction with the NES and further qualifies the notification and evidentiary requirements the employer considers reasonable.

This policy has been developed to ensure that employees to whom this policy applies are aware of their entitlements and obligations with respect to taking the various forms of leave detailed above.

This policy applies to all staff and is subject to variation by The Currajong School from time to time.

2. ENTITLEMENTS

2.1 ELIGIBILITY

To be eligible for paid annual leave, personal/carer's leave, compassionate leave family and domestic violence leave or paid jury service (community service leave), employees must be engaged as full-time or part-time employees on a continuing or contract basis.

Casual employees are entitled to unpaid personal/carer's leave, compassionate leave, community service leave and paid family and domestic violence leave as specified in this policy.

There are special eligibility requirements that apply for parental leave (see below for further details).

2.2 ENTITLEMENT TO ANNUAL LEAVE

A full-time employee, other than a casual employee, is entitled to 4 weeks of paid annual leave. The entitlement to annual leave accrues progressively according to the employee's ordinary hours of work.

2.2.1 All staff

Annual leave is required to be taken during non-term weeks. Leave must generally be taken, in the case of a teacher whose employment is continuing into the next school year, in the four-week period immediately following the final term week of the current school year, unless otherwise agreed with the School.

Pro-rata payment of salary inclusive of annual leave

Where a teacher:

- a) started employment after the start of the school year
- b) has taken leave without pay of more than two term weeks
- c) has varied their time fraction since the start of the school year, or
- d) has ceased employment

they will be paid pro-rata salary (inclusive of annual leave) in respect of the year in which the formula is applied.

2.2.2 Annual Leave Loading

Employees will receive an annual leave loading of 17.5% of four weeks' annual leave. Where employment starts or finishes part way through a school year, the annual leave loading will be provided on a pro-rata basis.

2.3 ENTITLEMENT TO PERSONAL/CARER'S LEAVE

Personal leave includes sick leave and carer's leave. Personal/carer's leave can be taken:

- a) as **sick leave**, because the employee is not fit for work due to a personal illness, or personal injury, affecting the employee; or
- b) as **carer's leave**, to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness or personal injury affecting the member, or
 - (ii) an unexpected emergency affecting the member.

The personal/carer's leave entitlement for a full-time employee is 15 days per year of service. The entitlement is pro rata for a part-time employee. The full entitlement to accrued personal leave may be accessed for the purposes of carer's leave.

Personal/carer's leave accrues progressively with service according to the ordinary hours of work, and accumulates from year to year.

2.3.1 Sick Leave

Where the need arises to take personal leave, employees are requested to advise The Principal as soon as practicable so that arrangements can be made to cover the period of absence. Where an illness is likely to extend beyond one day, it would be appreciated if the employer could receive notification as soon as possible.

A certificate from a registered medical practitioner or a statutory declaration substantiating the sick leave may be required where:

- the absence is for more than two consecutive days
- the absence is adjacent to a public holiday
- the absence is adjacent to a non-term week; or
- the number of days of sick leave taken in a year exceeds ten days without the provision of a certificate from a registered medical practitioner or a statutory declaration.

2.3.2 Carer's Leave

Where the need arises to take carer's leave, the employee is requested to advise The Principal as soon as practicable so that arrangements can be made to cover the period of absence. When notifying the employer of the need to take carer's leave, the following information should be provided:

- the name of the person requiring care or support and the person's relationship to the employee (i.e. immediate family or household member)
- the reasons for taking such leave (i.e. care or support for illness or injury or unexpected emergency, with a brief description of the emergency), and
- the estimated duration of the absence.

For all periods of carer's leave the employer may require the provision of a certificate from a registered medical practitioner or a statutory declaration confirming that the illness or injury of, or the unexpected emergency affecting, the member of the employee's immediate family or household was such as to require care or support by the employee.

In the event that satisfactory evidence cannot be produced upon request the employer may deem the period of absence to be unauthorised and could deny payment to the employee for the period of absence. Repeated failure to produce satisfactory evidence could result in disciplinary action.

A casual employee or an employee who has exhausted their paid personal/carer's leave is entitled to unpaid leave for the purpose of providing care or support to a member of the employee's immediate family or household, for the reasons specified in 2.3 b).

Unpaid carer's leave may be taken in a single unbroken period or in separate periods, as agreed by the employer and the employee.

2.4 ENTITLEMENT TO PARENTAL LEAVE

2.4.1 Eligibility

To be eligible for parental leave, employees engaged on a permanent or contract basis must have completed a minimum of 12 months' continuous service as at the expected date of birth, or the date on which the employee's period of leave is to commence. Casual employees must be employed on a regular and systematic basis for a period of at least 12

months, and have a reasonable expectation of continuing employment in order to be eligible for parental leave.

2.4.2 Available entitlement

Where the employee will have responsibility for the care of the child, eligible employees are each entitled to:

- an *available parental leave period* of 12 months' unpaid leave in relation to the birth or adoption of a child.

2.4.2.1 Timing of Leave

Parental leave must be taken in a single term.

2.4.2.2 Variation of Available Parental Leave

An employee who has taken a period of parental leave which is less than the available parental leave period (i.e. less than 12 months) may extend the period of parental leave by providing 4 weeks' written notice prior to the end date of the original leave period. A second or subsequent application to extend the available period of parental leave requires the approval of the School.

This is distinct from an 'extension' of parental leave beyond the available parental leave period of 12 months, which is not a guaranteed entitlement (refer to section 2.4.8: Extending Leave beyond 12 Months).

There is no automatic right for an employee to return early from a period of leave. The School must agree to an earlier than expected return date.

2.4.3 Birth-related Leave

Birth-related leave is:

- unpaid parental leave taken in association with the birth of a child (who may be the child of the employee or the child of the employee's spouse or de facto partner)
- unpaid special maternity leave (see below for further details).

2.4.3.1 Notice and Evidence

Employees intending to take a period of birth-related parental leave must provide at least 10 weeks' written notice of the intention to take birth-related parental leave, where practicable. The notice must specify the intended start and end dates of the leave. After receiving notice, the School may request a certificate from a registered medical practitioner that states the name of the employee who is pregnant and the expected date of birth of the child, or the date on which the birth took place.

At least four weeks before the expected commencement of parental leave, the employee must provide written notice to the School confirming the intended start and end dates or advising the School of any changes to these dates (unless impracticable to do so).

2.4.3.2 Timing of Leave

Unless parental leave is planned to commence earlier than the expected date of birth, parental leave must start on the date of birth of the child.

For employees giving birth to a child, the period of parental leave may start up to 6 weeks prior to the expected date of birth but no later than the date of birth of the child, or earlier if the employer and employee agree, or during the 24-month period starting on the date of

birth of the child. Where the employee wants to work during the 6 weeks prior to the expected date of birth, the School may require the employee to provide a medical certificate stating that she is fit to continue working during the 6 weeks prior to the expected date of birth. Where the employee does not provide a medical certificate within 7 days of the School's request, the School may require the employee to start birth-related leave.

For employees not giving birth to a child, the period of parental leave must start on the date of birth of the child.

2.4.4 Special Parental leave

Where an employee is unfit for work because:

- the employee's pregnancy ends within 20 weeks before the due date without the birth of a living child, or
- the employee is suffering a pregnancy-related illness

the employee will be eligible for *special parental leave*, which is unpaid.

To be eligible for special parental leave the employee must provide notice to the School as soon as reasonably practicable specifying the period, or expected period, of the leave. If requested, the employee must provide a medical certificate specifying the employee's reason for taking special parental leave.

2.4.5 Discontinuance of Leave

Where an employee who has given birth to a child ceases to have responsibility for the care of the child, the employee will notify the School immediately and the School will nominate a time for the employee to return to work with four weeks' notice, but not earlier than six weeks from the date of birth of the child for the employee's return to work.

Where a pregnancy ends (other than by birth of a living child), or the child born alive dies, either the employee or the School may cancel the planned period of parental leave if it has not yet started. If the employee has started a period of parental leave, the employee may provide four weeks' written notice to the School that the employee wants to return to work, or the School may provide six weeks' written notice that the employee will return to work.

2.4.6 Adoption-related Leave

Adoption-related leave is unpaid parental leave taken in association with the placement of a child who:

- is under 16 years of age
- is not the child of the employee, or the child of the employee's spouse or de facto partner (otherwise than because of the adoption), and
- has not, or will not have, lived with the employee for a period of six months or more as at the day of placement or the expected day of placement.

Adoption-related leave also includes unpaid pre-adoption leave (see below for further details).

2.4.6.1 Notice and Evidence

Employees intending to take a period of adoption-related parental leave must provide 10 weeks' written notice of their intention to take adoption-related parental leave, where practicable. The notice must specify the intended start and end dates of the leave. After receiving notice, the School may request verification:

- of the day of placement, or the expected day of placement, of the child

- that the child is, or will be, under 16 as at the day of placement, or the expected day of placement
- that the child is not the child of the employee or the employee's spouse/de facto partner
- that the child has not, or will not have, lived with the employee for a period of six months or more as at the day of placement or the expected day of placement.

Day of placement means the day on which the employee first takes custody of the child for adoption, or the day on which the employee starts any travel that is reasonably necessary with taking custody of the child for adoption; whichever is the earlier.

At least four weeks before the expected start of parental leave, the employee must provide written notice to the School confirming the intended start and end dates or advising the School of any changes to these dates (unless impracticable to do so).

2.4.6.2 Timing of Leave

Adoption-related leave for an employee who has responsibility for the care of the child will, in the first instance, start on the day of placement of the child.

2.4.6.3 Pre-Adoption Leave

An employee who is seeking to adopt a child is entitled to access two days of unpaid pre-adoption leave for the purposes of attending interviews and/or examinations in connection with the approval of the adoption. The School may approve further periods of unpaid adoption leave. The employee must provide the School with notice specifying the period or expected period of the leave. The School may also request evidence confirming that the leave is taken for the purpose of attending an interview or examination in connection with approval of the adoption. Where paid leave is available to the employee, the School may require the employee to take such leave instead.

2.4.6.4 Discontinuance of Leave

Where the placement of a child for adoption with an employee does not proceed or continue, or where the employee ceases to have responsibility for the care of the child, the employee will notify the School immediately and the School will nominate a time not earlier than 4 weeks from receipt of notification for the employee's return to work.

2.4.7 Flexible unpaid parental leave

An eligible employee may take up to 100 days of flexible unpaid parental leave during the 24-month period starting on the date of birth or day of placement of the child.

The flexible unpaid parental leave comes out of the employee's entitlement to 12 months of unpaid parental leave. The number of days of flexible unpaid parental leave that an employee takes, must not be more than the number of flexible days of flexible unpaid parental leave notified to the employer.

Flexible unpaid parental leave is available in full to part-time and casual employees.

2.4.7.1 Timing and Taking of Leave

An employee must take the flexible unpaid parental leave as a single continuous period of one or more days or separate periods of one or more days each. Flexible unpaid parental leave can be taken by an employee, whether or not the employee has taken other unpaid parental leave in relation to the child.

An employee may take flexible unpaid parental leave after taking one or more periods of other unpaid parental leave, only if the total of those periods (disregarding any extension) is no longer than 12 months, less the employee's notional flexible period.

Notional flexible period is defined as the period during which the employee would be on flexible unpaid parental leave if the employee took leave for all the employee's flexible days in a single continuous period.

An employee's entitlement to any unpaid parental leave in relation to the child that is not flexible unpaid parental leave ends on the first day the employee takes flexible unpaid parental leave. This means that if the employee is to take other unpaid parental leave, the leave must be taken before the employee takes the flexible unpaid parental leave.

An employee is not entitled to take flexible unpaid parental leave in relation to a child if the child and another child, are born during the same multiple birth, or are both placed with the employee for adoption and have the same day of placement, and the employee takes flexible unpaid parental leave in relation to the other child.

Flexible unpaid parental leave taken by an employee is an exception to the rules about taking the employee's unpaid parental leave in a single continuous period and when the employee's period of unpaid parental leave must start.

2.4.7.1 Notice and Evidence

Employees intending to take a period of parental leave must provide written notice of the intention to take flexible unpaid parental leave at least 10 weeks before starting the parental leave. However, if flexible unpaid leave is the first or only period of unpaid leave to be taken then notice may be given at any later time if the employer agrees. The notice must specify the total number of days of flexible unpaid parental leave that the employee intends to take in relation to the child.

The employee must give the employer written notice of a flexible day on which the employee will take flexible unpaid parental leave, at least 4 weeks before that day (unless impracticable to do so). If the employer agrees, the employee may change a day on which the employee takes flexible unpaid parental leave.

2.4.8 Extending leave beyond 12 months

An eligible employee may request to extend the period of unpaid parental leave beyond the available period of parental leave (12 months) for a further period of leave, but not exceeding 12 months. The extended period of leave must be continuous with the original period of leave and the employee must continue to have responsibility for the care of the child for the duration of the requested leave.

Employees seeking to apply for a further period of parental leave beyond the available period of 12 months should endeavour to provide 7 weeks' notice, and must provide not less than 4 weeks' notice before the end of the available 12 months period, to the School of their request to extend leave. Where it is practicable for the employee to provide more notice than is required, this will assist the School in making necessary staffing arrangements should the request be accepted.

The School will consider the request, having regard to the employee's circumstances, and may only refuse the request on reasonable business grounds. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency, the impact on customer service, and/or the educational and curriculum needs of the School and its students.

The School will notify the employee of its decision in writing, including its rationale, within 21 days of receiving the request from the employee. The School will not refuse a request without giving the employee a reasonable opportunity to discuss the request.

2.4.9 Employee obligations during parental leave

An employee on a period of parental leave must not engage in any conduct which is inconsistent with their contract of employment.

An employee who engages in other paid work while on parental leave, without having sought the express authorisation of the School will be in breach of their contract of employment and may be subject to disciplinary action.

An employee is forbidden from working with a different employer during any period of paid parental leave provided by the School.

2.4.10 Effect on other employment conditions

2.4.10.1 Effect on Period of Service

Unpaid parental leave does not count as service for the purposes of accruing various entitlements, including but not limited to personal/carer's leave and annual leave. However, the period of leave will not break the employee's continuity of employment for the purposes of being eligible to access various forms of leave, including long service leave.

2.4.10.2 Incremental Progression

Unpaid parental leave does not count towards service for the purposes of incremental salary progression.

2.4.10.3 Accessing other Forms of Paid Leave

While on a period of unpaid parental leave, an employee may access any annual leave or long service leave entitlements that the employee has accrued.

An employee on parental leave may not access paid personal/carer's leave, paid compassionate leave or paid community service leave during the period of parental leave.

2.4.11 Workplace Safety

2.4.11.1 Transfer to a Safe Job

Where a pregnant employee provides the School with a medical certificate from a medical practitioner stating that the employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period (the risk period) because of:

- illness or risk arising out of her pregnancy, or
- hazards connected with her position,

the employee will be transferred to an appropriate safe job with no other change to the terms and conditions of employment.

An employee does not have to be entitled to parental leave to seek to be transferred to a safe job.

2.4.11.2 No Safe Job Leave

If there is no appropriate safe job for the employee to be transferred to and the employee is entitled to parental leave, and has complied with the notice and evidentiary requirements

surrounding parental leave, the employee will be placed on paid no safe job leave for the duration of the risk period, as stated in the medical certificate.

The employee will be paid at the employee's base rate of pay for the employee's ordinary hours of work during the risk period.

If the employee is on no safe job leave during the 6 week period before the expected date of birth, the School may request a medical certificate stating that the employee is fit for work. If the employee fails to provide the certificate within 7 days or provides a certificate stating the employee is not fit for work, the School may require the employee to start unpaid parental leave.

No safe job leave cannot be taken concurrently with other forms of parental-related leave; that is, an employee's entitlement to no safe job leave will end when the employee starts special maternity leave or parental leave.

If the employee is not entitled to parental leave, the employee will be placed on unpaid no safe job leave.

2.4.12 Returning to Work

2.4.12.1 Keeping In Touch Days

An employee on unpaid parental leave is entitled to access 10 paid 'keeping in touch' days. The performance of paid work on a keeping in touch day does not break the continuity of the period of unpaid parental leave or, in any other way, effect the employee's parental leave entitlement.

The purpose of these days is to enable the person to keep in touch with the School in order to facilitate a return to their employment after the end of the period of leave.

The School and the employee must both consent to the employee performing work on that day.

There are specific rules regarding the timing of keeping in touch days. An employer cannot ask an employee to perform a keeping in touch day until at least 42 days after the birth or adoption of the child. An employee cannot ask an employer to perform a keeping in touch day until at least 14 days after the birth or adoption of the child.

2.4.12.2 Return to Same Position

Upon returning to work after a period of parental leave, an employee will be entitled to return to the employee's pre-parental leave position (if transferred to an appropriate safe job before starting parental leave, this is the position held before the transfer).

For the purposes of returning to work, position includes a position of responsibility but does not necessarily include the same classes, subjects or year levels.

Where such position no longer exists, the employee is entitled to return to an available position for which the employee is qualified and suited to perform that is nearest in pay and status to the employee's pre-parental leave position.

2.4.12.3 Flexible Work Arrangements

An employee who wants to return to work on an alternative work arrangement, which may include a reduced time fraction, will need to submit a request for flexible working arrangements. The School may only refuse the request on reasonable business grounds.

2.4.13 Communication during Parental Leave

2.4.13.1 Introduction of Major Workplace Change

Where the School has made a definite decision to introduce major changes in the workplace that will have a significant effect on the pay, status or location of the employee's pre-parental leave position, the School will take reasonable steps to provide the employee with information regarding the change, and will provide the employee with an opportunity to discuss any potential effects of the change on the employee's substantive position.

The employee will notify the School of changes of address or other contact details which might affect the School's capacity to comply with this clause.

2.4.14 Parental Leave Allowance/Paid Parental Leave

An employee is entitled to maternity leave with pay for a continuous period of 16 weeks at full pay or 32 weeks at half pay commencing from the date the employee commenced the absence or 6 weeks prior to the expected date of birth, whichever is the later.

2.4.15 Paid Parental Leave Scheme

The Australian Government has a Paid Parental Leave Scheme (**PPL Scheme**) which provides for payments at the National Minimum Wage, subject to meeting the eligibility requirements.

The payment under the PPL Scheme must be accessed within the first year after the birth of a child. Employees will be able to access the PPL Scheme Payment, in addition to the School's existing paid parental leave entitlement. The PPL Scheme Payment can be taken before, after or at the same time as School's parental leave payment.

Employees can access information about the PPL Scheme from www.servicesaustralia.gov.au.

2.5 ENTITLEMENT TO FAMILY AND DOMESTIC VIOLENCE LEAVE

The School recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. The School is committed to providing support to employees that experience family and domestic violence.

2.5.1 Definitions

Family and domestic violence means violent, threatening or other abusive behaviour by a close relative of an Employee, a member of an Employee's household, or a current or former intimate partner of an Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.

Close relative means:

- a) a member of the Employee's immediate family; or
- b) is related to the Employee according to the Aboriginal or Torres Strait Islander kinship rules.

2.5.2 Entitlement to leave

All employees, including casual employees are entitled to 10 days' paid family and domestic violence leave.

This entitlement is available in full at the start of each 12-month period of the Employee's employment and does not accumulate from year to year.

Note: A period of leave to deal with family and domestic violence may be less than a day by agreement between the Employee and the School.

2.5.3 Taking leave

An Employee may take leave to deal with family and domestic violence if the Employee:

- a) is experiencing family and domestic violence; and
- b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside of their ordinary hours of work.

Note: The reasons for which an Employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending court hearings, or accessing police services.

2.5.4 Notice and evidence requirements

An Employee must give the School notice of the taking of family and domestic violence leave under this policy.

The notice:

- a) must be given to the School as soon as practicable (which may be a time after the leave has started); and
- b) must advise the School of the period, or expected period, of the leave.

If requested by the School, the Employee must provide evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 2.5.3.

Such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

2.5.5 Confidentiality

The School will take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under clause 2.5.4 is treated confidentially, as far as it is reasonably practicable to do so.

Nothing in this clause prevents the School from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.

2.6 ENTITLEMENT TO COMPASSIONATE LEAVE

An employee may take two days' compassionate leave per occasion when:

- (a) a member of the employee's immediate family or household:
 - (i) contracts or develops a personal illness that poses a serious threat to his or her life, or
 - (i) sustains a personal injury that poses a serious threat to his or her life, or

(ii) dies; or

(b) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or

(c) the employee, or the employee's spouse or de facto partner, has a miscarriage.

Compassionate leave is not available to an employee if the miscarriage results in a stillborn child; or to a former spouse, or former de facto partner, of the employee.

Compassionate leave will be paid leave for full-time and part-time employees engaged on a continuing or contract basis, and unpaid compassionate leave is available for casual employees.

Compassionate leave may be taken in a single, unbroken period or in separate periods of one day each, or as agreed by the employer and the employee.

Where the need arises to take compassionate leave, the employee is requested to advise The Principal as soon as possible so that arrangements can be made to cover the period of absence. In some cases, the School may require supporting evidence which may include a statutory declaration to justify the leave.

2.7 ENTITLEMENT TO COMMUNITY SERVICE LEAVE

Employees, including casual employees, can take community service leave for certain activities, such as:

- a) voluntary emergency management activities
- b) jury service.

Community service leave is unpaid, with the exception of jury service.

2.7.1 Payment for Jury Service

An employee (other than a casual employee) is entitled to payment for jury service, according to the following terms.

Employees are required to provide the School with written proof of the payments made by the Court authorities with respect to the employee's period of jury service.

Provided that the employee supplies the relevant written documentation, the School will pay the difference between the amount that the employee receives in jury payments and the employee's expected earnings for the period.

2.7.2 Voluntary Emergency Management Activities

An employee engages in a voluntary emergency management activity if:

- the activity involves dealing with an emergency or natural disaster
- the employee engages in the activity on a voluntary basis
- the employee is a member of, or has a member-like association with, a recognised emergency management body
- the employee was either requested to engage in the activity, or it was reasonable to expect that a request would have been made if circumstances had permitted.

An employee is entitled to take community service leave while the employee is engaged in the activity and for reasonable travel and rest time. There is no limit to the amount of community service leave an employee can take.

An employee must give notice as soon as practicable (which may be at a time after the leave has started) advising the school of the period, or expected period, of the leave.

An employee may be required to give evidence that would satisfy a reasonable person that the leave was taken to engage in an eligible community service activity.

3. DEFINITIONS

Immediate family means:

- a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee, or
- a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

De facto partner means:

- a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes), and
- includes a former de facto partner of the employee.

4. FURTHER INFORMATION

Further information concerning any aspect of this policy may be directed to the Principal.

EVALUATION

This policy will be reviewed as per our three-year review cycle or more often if necessary due to changes in regulations or circumstances.

Approval date:	Approved by:	Next review:
December 2023	School Board	December 2026



The Currajong School acknowledges the traditional owners of this country throughout Australia and their continuing connection to land and community. We pay our respects to them and their cultures and to the Elders past, present and emerging.