



REFERENCE: 3/3/1//1/1-Special Leave

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BRANCH HEADS: DEPARTMENT OF PREMIER

Dear Colleagues

IMPLEMENTATION OF THE WESTERN CAPE GOVERNMENT SPECIAL LEAVE POLICY

Resolution 3 of 1999 stipulates that if the department does not have a written policy on special leave, an Executive Authority shall negotiate a special leave policy.

Accordingly, the Western Cape Provincial Administration (WCPA) negotiated the Special Leave Collective Agreement with the then Provincial Bargaining Council of the Western Cape and adopted as Provincial Resolution P7/2002. The need was identified to review this resolution due to changed methods of assessments at tertiary institutions as well as introducing control measures, particularly in study leave provisions.

The internal and external consultation processes were thoroughly managed and the draft policy was endorsed for consultation by PTM in February 2011. After protracted negotiations with Organised Labour, which lasted more than a year, the Western Cape Government has finally declared for implementation with effect from 1st January 2013, at the start of the next academic year.

The Departmental Executive Management Committees will upon request be offered a policy presentation highlighting the amendments. For this arrangement, Ms Elsa Olivier can be contacted at 021 483 9141 or email: Elsa.Olivier@pgwc.gov.za.

The revised Western Cape Government Special Leave Policy is attached for implementation.

Kindly communicate the content of this circular to all staff members in your department.

Kind regards



ADV. BRENT GERBER

DIRECTOR GENERAL

DATE: 8/6/2012



Western Cape
Government

BETTER TOGETHER.

SPECIAL LEAVE POLICY

DATE OF IMPLEMENTATION 1 JANUARY 2013

1. PREAMBLE

The Western Cape Government (WCG) is a development and career orientated employer. It commits to the responsibility to create a working environment that is supportive for employees' professional growth and development. In supporting employees the WCG acknowledges that special leave is not a right, and as such is subject to operational requirements and pre-approval by the delegated authority.

2. POLICY ISSUE

To regulate an employee's absence from duty by means of granting special leave and to augment the prescripts contained within relevant resolutions of the PSCBC as well as directives issued by the Minister of Public Service and Administration in this regard.

3. LEGAL MANDATE

This policy draws its mandate from the following legislation, PSCBC resolutions and National and Provincial Frameworks and Directives as amended from time to time:

- 3.1. Constitution of the Republic of South Africa, 1996.
- 3.2. Labour Relations Act, 1995.
- 3.3. Basic Conditions of Employment Act, 1997.
- 3.4. Employment Equity Act 1998
- 3.5. National Skills Development Act, 2003
- 3.6. Occupational Health and Safety Act, 1993,
- 3.7. Public Service Act, 1994
- 3.8. Public Service Regulations, 2001.
- 3.9. South African Police Service Act
- 3.10. Defence Act, 2002.
- 3.11. PSCBC Resolutions No. 3 of 1999, 7 of 2000, 5 of 2001, 15 of 2002, 2 of 2004, 1 of 2007
- 3.12. Determination on Leave of Absence in the Public Service, July 2008.
- 3.13. SMS Handbook

4. POLICY OBJECTIVES

The objectives of this transversal Special Leave policy are:

- 4.1 To align the management of special leave with relevant resolutions of the PSCBC;

- 4.2 To, as far as possible, transversally define the events and circumstances which must exist, as well as the related conditions, which must be adhered to by an employee, to qualify for special leave;
- 4.3 To transversally provide for circumstances which will not be covered by this policy;
- 4.4 To provide transversal norms and standards on the basis that special leave is not a right but has to be managed within the various departments of the WCG in order to accommodate the special and unique needs of employees.

5. PRINCIPLES

The following policy principles apply:

- 5.1 Fairness and equity;
- 5.2 Personal growth and development;
- 5.3 Service delivery excellence, and
- 5.4 Responsibility and accountability.

6 SCOPE OF APPLICATION

- 6.1. The provisions of this policy are applicable to employees employed in terms of Public Service Act (1994) on the following basis:
 - 6.1.1 Permanent capacity (full-time employment, including employees still on probation);
 - 6.1.2 Contract capacity (fixed term contract).
 - 6.1.3 The provisions of this policy exclude the office based Educators.

7. APPROVAL

All categories of leave are subject to planning and approval by a person duly authorised to approve such applications.

8. TERMINOLOGY

- 8.1 **“Contract worker”** means a person employed for a fixed term, excluding a casual worker (as defined in the Basic Conditions of Employment Act, as a person employed on a day-to-day basis who is paid a daily wage and who works less than 24 hours a month), or an employee to whom a retirement age applies;
- 8.2 **“Employer”** means the Provincial department whose budget provides for the payment of an employee's remuneration;
- 8.3 **“Head of Department”** means the Head of Department him/herself, or his delegated authority or his/her designated office responsible for leave related matters and/or investigations, and
- 8.4 **“Special leave”** means leave with full pay, which may be granted to an employee in accordance with the various categories of special leave,

9. CATEGORIES OF SPECIAL LEAVE

- 9.1 **The following categories of special leave are provided for in terms of this policy:**
- 9.1.1 Study leave for examination;
- 9.1.2 Study leave for preparation (50/50 basis);
- 9.1.3 Study leave for attending classes/ lectures during office hours;
- 9.1.4 Study leave for post graduate studies;
- 9.1.5 Special leave for office bearers or shopstewards of recognised employee organisations;
- 9.1.6 Absence regarded as being on official duty;
- 9.1.7 Treatment of substance abuse;
- 9.1.8 Military purpose;
- 9.1.9 Quarantine;
- 9.1.10. Sport purpose;

9.1.11. Resettlement (reference);

9.1.12. Miscellaneous.

9.2 Exclusions

This policy does not apply to instances of absence from work on official duty (*refer paragraph 17*) and/or to categories of leave, provided for within other National - and provincial directives and/or policies, including:

9.2.1 Annual leave;

9.2.2 Temporary and Permanent incapacity leave (*to be dealt with in terms of PILIR*);

9.2.3 Sick leave;

9.2.4 Leave for occupational injuries and diseases;

9.2.5 Maternity leave;

9.2.6 Adoption leave;

9.2.7 Family responsibility leave.

9.2.8 Sabbatical Leave (to have a separate policy)

10. STUDY LEAVE

Study leave will only be granted to employees who have submitted evidence that the studies are in the interest of and in line with the core function(s) of the department where she/he is employed.

10.1 STUDY LEAVE FOR EXAMINATION

10.1.1 One day special leave to a maximum of 8 days with full pay may be granted to an employee for each day on which she/he sits for an examination.

10.1.2 Special leave may only be granted for final examinations and not for class tests. For the purpose of this policy, a final examination refers to examinations that lead to the conclusion of a subject (including semester courses) and the subject content is not tested again by the institution.

10.2. SPECIAL LEAVE FOR PREPARATION

- 10.2.1. Special leave is granted on the basis of providing employees with an opportunity to prepare for examinations in their field of study.
- 10.2.2 Special leave with full pay for preparatory purposes to the maximum of 8 days per annum may be granted.
- 10.2.3 If the day of preparation falls on a weekend or public holiday this privilege will not be granted.
- 10.2.4 In the case of a shift worker, the work-day before the day of examination will be considered for this special leave category.

10.3. STUDY LEAVE ON 50/50 BASIS

- 10.3.1 A maximum of 8 days special leave supplemented by 8 or more days vacation leave from current leave credits may be granted to an employee on a 50/50 basis per leave cycle.

10.4 STUDY LEAVE FOR ATTENDING CLASSES/LECTURES DURING OFFICE HOURS.

- 10.4.1 Study leave to attend lectures/practical classes/tutorials in any subject during normal working hours, will only be granted if lectures/practical classes/tutorials in that subject are not lectured outside normal working hours.
- 10.4.2 An employee who studies part-time or by means of correspondence at a university or other recognised educational institution and who as a result of his/her studies is required to attend classes during working hours may be granted (one) 1 day vacation leave with full-pay and one day special leave for every accumulated 16 hours when released from duty.
- 10.4.3 In instances where the employee has exhausted the vacation leave credits in a leave cycle, there will be no special leave.

10.5. STUDY LEAVE FOR POST GRADUATE STUDIES (THESIS BASED STUDIES)

- 10.5.1. Employees who participate in post graduate studies requiring research, development and submission of a thesis document for achievement of Higher Diplomas, Honours-, Masters- and Doctoral qualifications may only utilise study leave (50/50 basis) for all

the actions that leads to the preparation and completion of their said thesis documents. The employer may only give the employees a maximum of 8 days special leave supplemented by 8 or more days vacation leave credits for study leave towards preparation and completion of the said thesis documents within the parameters provided for within this policy.

10.5.2 Sufficient evidence must be submitted that the studies are within the interest and core function(s) of the department where employed, aligned to the current career path of the employee and will enhance the competencies and professional capabilities of the employee.

11. ABSENCE REGARDED AS BEING ON OFFICIAL DUTY

11.1. The following instances of absence from official duty shall not be regarded as leave and shall be recognised as being on official duty:

11.1.1. When an employee is called as a witness for the State:

- (a) In a court case;
- (b) In a departmental/public service misconduct case;
- (c) Before a commission or committee of inquiry appointed by the State;
- (d) At an inquiry (established by a recognised government body);
- (e) By Conciliation, Mediation and Arbitration processes.

11.1.2 When an employee is a defendant or co-defendant in a civil court case arising from her / his official duties and in which the State has a direct interest;

11.1.3 When an employee assists or represents a colleague during a departmental disciplinary or misconduct inquiry or during an investigation into a complaint or grievance; and/ or representing a colleague or being called as a witness in Conciliation, Mediation and Arbitration processes.

11.1.4 When an employee is charged with misconduct and is required to attend a disciplinary or misconduct enquiry.

11.2 Absence from duty with full pay for the purpose of attending conferences, symposia, short courses, lectures, seminars, congresses etc., and study tours abroad may be granted to an employee provided that:

11.2.1 Departments have a direct interest therein;

11.2.2 Departments have the necessary funds available;

11.2.3 The operational requirements of the department are fully considered.

11.3. Absence from duty with full pay may be granted to an employee who is employed in a nursing capacity and who has been nominated to receive basic and post-basic training, which consists in part, or mainly of practical work at an institution/region/educational institution of a government department.

12. TREATMENT OF SUBSTANCE ABUSE

12.1 Subject to HOD's approval, employees may be granted special leave with full pay for treatment of substance abuse (alcohol/drug related), including the attendance of an after-care programme, up to a maximum of 42 calendar days once only and subject to the verification of the relevant medical practitioner of a recognised institution offering rehabilitation services.

12.2 The special leave contemplated in **subparagraph 12.1 shall** be granted in terms of the rehabilitation programme and may consist of consecutive days, in instances where the programme requires institutionalisation and/or separate days/parts of days, upon which rehabilitation sessions are scheduled.

12.3 If a period longer than 42 calendar days is required, special leave for substance and drug abuse will be considered on condition that:

12.3.1 The individual agrees to be referred to an Employee Assistance Programme and/or other medical professional of the employers' choice.

12.3.2. The employee agrees that the relevant medical- and leave records will be referred to the Health Risk Manager for an opinion and recommendation on treatment.

12.4 In the event of failure to rehabilitate, the prescribed processes in terms of Resolution 12 of 1999 will be followed.

13. MILITARY PURPOSES

Absence due to duty in terms of the Defence Act, Police Act or any regulations published in terms of these acts, shall be recorded as special leave. When not specifically provided for, travelling time will be granted at the discretion of the Head of

Department. In order to qualify for said leave, prior authorisation and official documentary proof must be provided.

14. QUARANTINE

Subject to the submission of a certificate by a registered medical practitioner indicating the period and reasons, special leave will be granted to an employee who is absent from duty as a result of separation or isolation on medical instructions, e.g. where he/she was in contact with a person who has contracted or is suspected of having contracted an infectious or contagious disease.

15. SPORT PURPOSE

15.1. For purposes of interpreting the provisions of this section special leave may be granted for the participation in amateur sporting events on a provincial, National or International basis.

15.2 Special leave may be granted when an employee is selected by a registered not for profit sports association/organisation to, upon an amateur basis:

15.2.1 Represent South Africa as a competitor at a national/international sporting event(s) within- and/or outside of the Republic of South Africa.

15.2.2 Represent her/his province as a competitor at interprovincial level or a level between provincial and national level against an international team within- and/or outside of the Republic of South Africa and by such representation.

15.2.3 Accompany a foreign national team visiting the Republic of South Africa, as a representative of the registered national sports association/organisation organising the tour, and/or;

15.2.4 Serve as a referee, coach, manager, technical advisor or a judge at an organised amateur sporting event at provincial/national/international level within- or outside of the Republic of South Africa, on proviso that there is no payment received for such a service,

15.3 An employee must apply at reasonable timeframes in advance before any competition takes place for special leave to participate in such competition and her / his application must be accompanied by official documentation signed by the chairperson of the organisation/association organising the event, stating:

- 15.3.1 That the employee has been selected to participate in the event;
 - 15.3.2 The capacity in which the employee has been selected to participate in the event;
 - 15.3.3 The duration of the event; and
 - 15.3.4 The monies to be paid to the individual.
- 15.4 Special leave granted for sport purposes in terms of the provisions of this policy, shall be for the duration of the employee's participation within the competition/event.

16. RESETTLEMENT

Details are contained in the WCG Resettlement Policy as approved in 2006.

17. MISCELLANEOUS

Special leave with full pay may be granted to an employee when:

- 17.1 She / he is arrested or has to appear before a court of law on a criminal charge and she / he is subsequently acquitted or the charge is withdrawn;
- 17.2 In the case of a disabled person, she / he must attend a recognised programme where support is given to better cope with the disability and/or assistive technology, which will enhance such person's performance;
- 17.3 The area in which the employee works/resides is struck by a natural disaster and the head of department is satisfied that it is impossible for the person concerned at that time to continue with his/her official duties;
- 17.4 As a result of a civil war in the area in which the employee works/resides, he/she is prevented at that time from continuing his/her official duties; and
- 17.5 In exceptional circumstances not provided for in this policy and/or any other policy/directive covering leave of absence, the Head of Department may, after consultation with Chief Director Human Resource Management in the Department of the Premier approve such applications based upon the principle of reasonableness, fairness as well as the operational requirements of the employer.

18 PROGRESS MONITORING

- 18.1. Every employee who is granted special leave for academic study purposes, shall as soon as possible after the completion of each academic year or after completion of the course or subject whichever is the earlier, furnish evidence of study progress. A copy of such a report should go on the employee's leave file for easy reference.
- 18.2 A Head of Department or delegated authority may, at any time, require any employee to submit evidence of satisfactory attendance at and/or progress in the course/subject.
- 18.3 No study leave with pay will be granted to an employee to repeat a subject in the event of a failure by that employee to successfully complete a subject for which study leave has previously been granted.

19. NON-COMPLIANCE

The normal disciplinary procedures will be applied to those employees who do not adhere to the provisions set out in the policy. Those employees who register grievances flowing from the application of this policy shall have the normal recourse through the prescribed grievance procedures.

20. DATE OF IMPLEMENTATION

To be announced after adoption through a circular.

21. DATE OF REVIEW

The policy shall be reviewed when leave dispensation requires.



ADV. BRENT GERBER

DIRECTOR-GENERAL

DATE: 30/6/2012

ROLES AND RESPONSIBILITIES

ANNEXURE A

HEADS OF DEPARTMENT

1. Must ensure that leave forms are submitted for all absences and that all outstanding leave forms are followed up timeously.
2. Must further ensure that all leave taken is forwarded to the relevant HRM Admin component to capture on a daily basis. The relevant HR component must ensure that there are no backlogs in respect of the processing of leave applications.
3. Will be the ultimate authority in terms of resolving any dispute, which may arise due to the interpretation of any of the provisions contained within this policy.

SUPERVISOR

1. Receives applications for special leave from the employee(s), reporting to him/her.
2. Scrutinises all applications in order to verify that the said applications conform to the provisions contained within this policy.
3. Keeps record and timeously inform employees of special leave approved or not approved. These records shall contain all supporting documentation, which shall be verified by the supervisor.
4. In consultation with the Head of Department and CSC, determines the operational requirements of the Department, which may affect the approval/ non approval of each individual application.

EMPLOYEES

1. Must submit a written application for special leave in accordance with the provisions of this policy and well in advance of any occasion which may be covered by this policy and only in exceptional circumstances will this requirement be waived by the Head of Department.
2. Shall ensure that all applications, which must be submitted through the employee's direct supervisor on the leave application form, are accompanied by acceptable, relevant, official and substantiating documentation.
3. Shall ensure that her / his application for special leave has been approved before being absent from work.
4. In the event of a dispute as to the validity of a claimed absence, the dispute will be referred to the Directorate Employee Relations in the CSC excluding Health and Education departments.
5. An employee may elect, with the consent of her/his supervisor, to take leave without pay or annual leave for the circumstances listed, or to extend special leave with such leave without pay if required or if circumstances dictate.