

## Advice on the operation of Circular 62/2017: Assault Leave

### Assault Leave for SNAs

Every employer has a duty under Section 8 of the Safety, Health and Welfare at Work Act 2005 to “ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees”.

Sometimes, given the nature of the job Special Needs Assistants do, it is not always possible to avoid assault & SNAs are more likely to be in a position where they are physically assaulted. Therefore a special scheme of assault leave was put in place in September 2017. This is a bank of leave, separate to sick leave, which is specifically to be used in cases of assault.

As part of their processes all Boards of Management should have in place a clearly defined policy or Safety Statement which includes procedures that must be implemented in the event of an assault on an employee.

These procedures should include;

1. seeking medical assistance, where necessary,
2. immediate reporting of incidents to School Management,
3. recording of incidents in an Incident Report Book,
4. reporting of the incident to the Health and Safety Authority,
5. reporting to the Gardaí, where appropriate,
6. ensuring that all appropriate safeguards have been put in place to protect persons at risk and to prevent, in so far as is practicable, the occurrence of assault.

**An SNA should not return to work after assault until they are fully recovered. If they do so and need to go back out they will then go onto Sick Leave not Assault Leave.**

If these steps are not followed it could have negative consequences for the SNA involved.

### What is assault?

*Assault is defined as physical contact from a third party causing physical injury to a special needs assistant in the course of the special needs assistant's duties and during approved school activities.*

## What if it was an accident?

Any injury caused from physical contact from a 3<sup>rd</sup> party is defined as assault. It is not relevant if this was intentional or an accident.

## What if I hurt myself some other way?

Generally a physical or other injury that happens in the workplace that is not caused by assault is covered by regular sick leave. If you are injured during duties that are not the role of an SNA, you may not be entitled to assault leave.

## How much time is given as part of Assault Leave?

The maximum leave available under the Scheme is 3 months (92 days) at full pay. In exceptional cases, such as where a significant period of hospitalisation is required or in situations of a second or subsequent incident of assault, the leave may be extended for a further period not exceeding 3 months (91 days) at full pay, subject to an overall limit of 6 months (183 days) at full pay in a rolling 4 year period.

Assault Leave includes weekends, school closures & days on which an SNA would not be working.

If a person has used assault leave in the 4 years before an assault then the days taken will be deducted when calculating the amount of assault leave that is available to them.

## How does Assault Leave affect my other terms and conditions?

If you are out on Assault Leave under this scheme you are fully reckonable as normal for all purposes including seniority, determination of panel rights, etc. Assault Leave does not affect your Sick Leave record unless you use up all available Assault Leave.

## What happens while I am out?

If you are out on Assault Leave for 28 Days or more, or your Assault Leave plus normal Sick Leave amounts to 28 Days or more your employer will have no choice but to send you on a non-discretionary referral to the Occupational Health Specialists. This is a standard rule for people out on Assault/Sick Leave and is a requirement on them to do so.

A substitute SNA may be employed by the Board of Management/ETB to cover an SNA who has been granted Leave of Absence following Assault and such substitute SNA will be paid by the Department/ETB.



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## What happens if I run out of Assault Leave?

An SNA who has used all the assault leave available to them under the scheme and who is still medically unfit to return to work can then use regular Sick Leave as per the normal sick leave rules. If this is coming close to running out please contact your local Branch or Official who can be of assistance.

## How does Assault Leave End?

- The medical certification by a medical practitioner ends,
- The leave is all used up,
- You are certified fit to return to work,
- A fixed term/specific purpose contract SNAs contract ends

## How do I apply for Assault Leave, what do I do?

To apply for Assault Leave an SNA & Principal/Employer need to fill out the application form at the end of Circular 0062/2017 Scheme for Leave of Absence following Assault for Special Needs Assistants (Pages 8 & 9). This application must be filled out and sent to the Department or Education Training Board **within a week of the incident taking place.**

If an SNA cannot fill out their part of the application within a week of the incident due to physical incapacity, this period may be extended by the employer – applications must be forwarded to the Department/ETB within a reasonable period in this event. The Application Form must set out details of the incident and be accompanied by copies of the required reporting documentation.

These documents are:

- A copy of the report in Incident Report Book,
- A copy of the correspondence with the Health and Safety Authority,
- A copy of any correspondence with An Garda Síochána if it was appropriate to report it to them.

Only absences medically certified as a physical injury qualify for leave under this scheme, therefore your Doctor must write Physical Injury on your medical certificate.

**If you are assaulted you should leave and attend a medical practitioner immediately as in some instances Assault Leave has been denied for this reason.**

While on Assault leave you will be paid by the Department of Education however the Department will be aware that you will be entitled to Illness Benefit from the Department of Social Protection and will seek to reclaim that money from your wages.

You will need to fill out the Illness Benefit 1 form and particularly Section 7 which deals with work related Injury Benefits. It must be filled in by both you and your employer

## Where do I get more Information?

<https://www.education.ie/en/Education-Staff/Services/Breaks-Leave/Assault->



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## Appendix A

## Application Form for Leave of Absence following Assault

Completed forms, with attachments, should be submitted to Department of Education and Skills, Teacher/SNA Terms and Conditions Section, Cornamaddy, Athlone, Co Westmeath; or to the relevant Education and Training Board as appropriate.  
*(A copy of the completed form should be retained in the special needs assistant's personnel file).*

Name of SNA:

PPSN:

School Name: \_\_\_\_\_ Roll No.: \_\_\_\_\_

Date and Time of incident:

Place where incident occurred:

Brief summary of incident:

[illegible]

I, the undersigned, declare that the above information is true, accurate and complete; that I have read Circular 0062/2017, and that the leave of absence applied for is in accordance with the terms of that circular.

**Signature:** \_\_\_\_\_

**Date:** (SNA)

**To be completed and signed by the Employer**

Period of leave of Absence following Assault: From \_\_\_\_\_ to \_\_\_\_\_.

I confirm that (*please tick as appropriate*):

- ☐ I have received medical certification in relation to the period of absence above in accordance with the scheme as set out in Circular 0062/2017.
- ☐ The incident has been recorded in the Incident Report Book.  
(*Copy of record to be attached*)
- ☐ The incident has been reported to the Health and Safety Authority.  
(*Copies of relevant correspondence to be attached*)
- ☐ The incident has been reported, where appropriate, to An Garda Síochána.  
(*Copies of relevant correspondence to be attached*), **OR**
- ☐ The incident was considered inappropriate to be reported to An \_\_\_\_\_ Garda Síochána,.
- ☐ All appropriate safeguards have been put in place to protect persons at risk, and to prevent, in so far as is practicable, the re-occurrence of a similar incident.

I, the undersigned, declare that I have read the circular, that the information recorded in this form is true, accurate and complete and that the leave of absence applied for is in accordance with the terms of the circular.

**Signature:** \_\_\_\_\_  
(*Principal/Chairperson, on behalf of Employer*)

**Date:** \_\_\_\_\_

Full name and address of school: \_\_\_\_\_

\_\_\_\_\_  
Email address: \_\_\_\_\_ Telephone number: \_\_\_\_\_

**Data Protection Notice**

The Department of Education and Skills will treat all personal data you provide on this form as confidential and will use it solely for the purpose intended. The information will only be disclosed as permitted by law or for the purposes listed in the Department's registration with the Data Protection Commissioner - REF 10764/A. If the information you have provided is to be used for purposes other than outlined in the Department's registration with the DPC your permission will be sought here.