

Advice on unpaid leave

The leave scheme for SNAs was outlined in Department of Education Circular 32/2010.

It obliges each employer to develop its own policy on SNA absences and must include reference to approval of brief absences.

A school cannot simply introduce a 'blanket ban' on leave. Any leave refusals should include a reason and that reason should be linked back to the school policy.

While the circular does not introduce deadlines by which a school should accept leave applications, any policy should have reasonable deadlines. If there is an attempt to introduce a policy with unreasonable application deadlines, the members can discuss the possibility of referring the policy to mediation at the workplace relations commission with Fórsa.

The union should be contacted for advice in circumstances where leave is refused without a valid reason or where leave is refused and it transpires that the school has failed to draw up a leave policy as required by the circular.

The circular lists the following information about specific types of leave – all of which should be referred to in the school policy:

General Information

The term “brief absence” is used to describe short-term occasional absences sanctioned by the employer during the school year.

- The prior approval of the employer must be sought and granted for all absences under this circular.
- Each employer shall develop and maintain as part of an overall policy on SNA absences, a policy statement specific to the needs of the school authority, in relation to the approval of brief absences.
- In drawing up this policy, the welfare and educational needs of the pupils shall take precedence over all other considerations and absences should be kept to a minimum to avoid disruption to the SNA duties and to guarantee continuity for all pupils being catered for including ensuring the services of a fully and suitably qualified replacement SNA is available to take up duty if required.
- Pro-rata entitlements to absences under this circular will apply to SNAs employed on a part-time basis.
- Absence for part of a school day constitutes an absence for a full school day.
- Any absence without the approval of the employer will be regarded as unapproved leave, will be dealt with under disciplinary procedures and could lead to the cessation of salary .
- Absences shall not extend beyond the duration of the SNA's contract of employment.

Bereavement Leave - Substitution paid by the Department/VEC Bereavement involving a family member

Special leave with pay is allowed to an SNA in the event of the bereavement of a family member.

- (a) **5 consecutive days (including weekends)** in the case of a spouse, partner, child, or a person to whom the SNA is in loco parentis.
- (b) **3 consecutive days (including weekends)** in the case of a parent, brother, sister, parent-in-law, step-parent, grandparent or a person who resides with the SNA in a relationship of domestic dependency.

Should the death occur after school hours the special leave commences from the following day. Should the death occur at the weekend, for example, a Saturday, the special leave commences from the day directly following the death i.e. Sunday.

Discussions on new entitlements are ongoing.

Force Majeure Leave - Parental Leave Act 1998 - Substitution paid by the Department/VEC

Force Majeure leave allows an SNA leave with pay where for urgent family reasons, owing to an injury or the illness of a family member, the immediate presence of the SNA at the place where the family member is, whether at his/her home or elsewhere, is indispensably required.

Force Majeure leave is limited to a maximum of 3 days in 12 consecutive months, or 5 days in 36 consecutive months. School Authorities must ensure that these limits are not exceeded.

In this context "family member" means the following; child or adoptive child, spouse/partner, a person to whom the SNA is in loco parentis, a brother or sister, a parent or grandparent or a person who resides with the SNA in a relationship of domestic dependency.

General Brief Absences

The following tables outline the instances where approval for brief absence may be granted, the maximum numbers of days allowable in respect of each absence and the position regarding substitution. **Please note documentary evidence must be retained by the employer and notification of absence must be submitted to the Department (via the OLCS) or ETB where appropriate.**

- (a) **Paid Leave will be allowed for the following absences. Substitution will be paid by the Department/ETB.**

Reason for Absence	Maximum Number of Days
Jury Service	Number of days as deemed necessary by the court.
Court Attendance related to school	Number of days as deemed necessary by the court.

- (b) **Paid Leave will be allowed for the following absences. Substitution will not be paid by the Department/ETB.**

Reason for Absence	Maximum Number of Days
Marriage Leave	7 consecutive days (including weekends) and applicable only if the marriage takes place during the school term. If the marriage occurs during the holidays no leave in lieu is allowable.
Wedding of *immediate family member. *means child or adoptive child, a person to whom the SNA is in loco parentis, a brother or sister, or a parent.	1 day and applicable only if the wedding takes place on a day when the school is open
Witness in Court	The number of days as required by the summons or subpoena.
Examination Leave relevant to SNA duties.	The days of the examinations only

Unpaid Leave - Substitution paid by the Department/VEC

- Absences in excess of the provisions outlined in Paragraphs 2-4 of this circular must only be considered in the most exceptional of circumstances, where the employer is satisfied that there is a compelling obligation involving absence from duty. Absences under this heading must not be used to substitute other forms of leave, statutory or otherwise and **must not be** of a recurring nature.
- The maximum amount of unpaid leave which may be taken is **10 school days** in a school year.
- The employer shall submit notice of all unpaid leave to the Department (via the On Line Claims System)/VEC regardless of whether or not a substitute SNA was employed. Applications for unpaid leave should be entered on the OLCS system as early as possible after they are approved by the employer to ensure that deductions from pay are made at the correct time. It should be noted that an absence for unpaid leave cannot be changed once it is processed on the On Line Claim System.
- Absences under this heading do not impinge on entitlements under Statutory Leave.

