



Operational Policies

3.16 Leave Policy

Classification: Human Resources

Date: May 2023

Applies to: All Employees

Review Date: May 2026

Approved by: General Manager

Purpose:

- To ensure equity of leave provisions and requirements for all teachers employed by The Association in all models of services.
- To ensure consistent treatment for leave requests.
- To balance leave requests with the needs of the service.

References:

- Kindergarten Teachers Collective Agreement (KTCA).
- Individual Employment Agreement (IEA)
- Holidays Act 2003.
- Employment Relations Act 2000.
- The Domestic Violence – Victims’ Protection Act 2018
- Parental Leave and Employment Protection Act 1987.
- Kaitiaki Kindergarten’s Return to Work Policy (7.08)

National Education and Learning Priorities – NELPs considered:

- None

Definitions:

- Kaitiaki Kindergartens – is referred to as ‘The Association’
 - Head Teachers and Centre Managers – are referred to as Service Leaders
 - Kindergartens and Early Learning Centres – are referred to as services
 - Teachers – are qualified and certificated teachers
 - Non-teaching employees – all employees who are not employed as qualified and certified teachers
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Policy

1. The Association acknowledges that any conditions defined in the KTCA or IEAs can only be implemented when they are in excess of the provisions and conditions as defined in legislation referred to in this policy.
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2. **For teachers employed under the KTCA:** Provisions and entitlements specified in the KTCA will be adhered to for teachers in respect of all applications for leave and the provision of term breaks and professional time.
3. **For teachers employed under an Individual Employment Agreement (IEA):** Provisions and entitlements laid out in the teacher's IEA will be adhered to in respect of all applications for leave and the provision of professional time.
4. **For all non-teaching employees:** Clear and fair provisions and entitlements will be defined and adhered to.
5. The needs of the children and the efficient running of the service/office must be considered for every application.
6. The Association is committed to supporting a family friendly work environment.
7. Leave will be managed and allowed in consideration of the wellbeing of staff, the needs of the service and in support of The Association's values and objectives.
8. The following Leave types are covered in this policy:
 - Public Leave
 - Annual Leave
 - Sick Leave
 - Bereavement Leave/Tangihanga Leave
 - Parental Leave
 - Jury Service / Court Leave
 - Domestic Violence Leave
 - Special Purpose Leave
 - Leave Without Pay

To avoid doubt, if any of the provisions in this policy are less than those contained in an employee's employment agreement, the provisions of the employment agreement shall apply.

Procedures

All leave must be applied for using The Association's leave form. The form will be submitted to the Service Leader for approval before being forwarded to The Association.

Public Holiday Leave

Employees are entitled to all public holiday leave as contained in the Holidays Act 2003. These are: Christmas Day, Boxing Day, New Year's Day, the 2nd of January, Waitangi Day, Matariki, Good Friday, Easter Monday, ANZAC Day, King's Birthday, Labour Day and Auckland Anniversary Day.

Generally speaking, employees of The Association will not be required to work on a public holiday. However, if this is required, the employee shall be paid time and a half for hours worked on the public



holiday and where this is otherwise a working day for the employee, the employee shall be allowed an alternative day's holiday in accordance with the requirements of the Holidays Act 2003.

Public leave in relation to annual leave

A public holiday that occurs during an employee's annual leave must be treated as a public holiday and not as part of the employee's annual leave.

Annual leave

Teachers

Teachers' annual leave entitlements are detailed in the KTCA or their IEA.

Non-Teaching Employees

- Non-teaching employees accrue their annual leave at a rate of 8%.
- For services administrators and Support Teachers, this is paid out as an Annual Leave Clearance Payment during the last pay period of the year.

Term Breaks: For services that cease usual service during school term breaks

Teachers

The Association undertakes the following with regard to term breaks for teachers in the kindergartens:

- Teachers will be advised of the dates for term breaks prior to the commencement of the applicable calendar year.
- Teachers in kindergartens are generally required to take one week of their annual leave as the first week of the first, second and third term breaks and the balance of their annual leave at the Christmas break. However, teachers may opt to work at a service running a term break programme if there is a need for the teacher to do so.
- Kindergarten teachers are required to be available for work and/or professional development during the second week of each term break. Should a teacher not be available during this week, then an application for leave without pay must be made a minimum of four weeks in advance. This may be granted at The Association's discretion.

Non-Teaching Employees

- Services administrators and Support Teachers are required to take leave without pay for the duration of each term break as per their IEA.

Sick Leave

Teachers

Teacher's sick leave entitlements are in line with the conditions laid out in the KTCA or their IEA which are inclusive (and may exceed) the conditions laid in the Holidays Act 2003



Non-Teaching Employees

Non-teaching employees are entitled to sick leave in line with the conditions laid in the Holidays Act 2003.

All Employees

Employees may take sick leave if:

- (a) The employee is sick or injured; or
- (b) The employee's spouse (or partner) is sick or injured; or
- (c) A person who depends on the employee for care is sick or injured.

The Association may require a Medical Certificate from a registered medical or dental practitioner:

- For absences of 3 days or more;
- When extending previously advised sick leave duration;
- Prior to returning to work early from an existing medical certificate (stating fitness);
- Prior to returning to work after an absence on sick leave for greater than one month;
- At other times where it is considered warranted by The Association.

If an employee is required to provide medical certificates and fails to do so in the absence of an acceptable reason, The Association may initiate disciplinary procedures (refer to The Association Disciplinary Policies and Procedures) which may result in disciplinary action.

For leave relating to medical appointments:

The Association may grant sick leave to enable an employee to attend a medical appointment. Applications must be submitted for approval prior to the requested leave date.

Sick leave beyond entitlement

Once an employee has used all of his/her sick leave entitlement, subsequent sick leave shall generally be unpaid.

If an employee regularly uses more sick leave than he/she is entitled to in the absence of an acceptable reason, The Association may initiate a process to review the situation. Such a process may result in disciplinary action.

Prolonged absences – sickness or accident

The General Manager must be advised of any probable or actual prolonged absence from work due to sickness or accident.

The Association may at any time seek and obtain a prognosis from the employee's doctor of the likelihood of an early return to work. If the prognosis indicates that it is unlikely the employee will be able to return to work within an appropriate timeframe, then The Association, in consultation with the employee, shall review the sustainability of the employee's employment.

In reviewing the sustainability of the employee's employment, the General Manager will (where practicable) meet with the employee, outline the concerns and the employee will have an opportunity to be heard before any decision to terminate the employee's employment is made.



In the event of a prolonged absence (i.e. more than four weeks) beyond an employee's entitlement due to either sickness or accident, The Association will make periodic checks on the employee's process of recovery or rehabilitation.

Throughout a period of prolonged absence, employees are expected to:

- Maintain regular contact with The Association; and
- Inform The Association of any change in their condition or prognosis; and
- Participate actively and cooperatively in the planning process for their return to work, including the provision of medical or other information and participating in a rehabilitation programme where appropriate.

Where possible, suitable "alternative duties" will be identified and arranged to ensure the employee can safely return to work at the earliest possible time.

Sick leave in relation to a period of annual leave

When sickness occurs during annual leave, The Association shall permit the period of sickness to be debited against sick leave entitlement except where this occurs following relinquishment of office (after a resignation), provided:

- The period of sickness is more than three days;
- A medical certificate is produced, showing the nature and duration of the illness.

In cases where the period of sickness extends beyond the approved period of annual leave, approval shall also be given to debit the portion which occurred within the annual holiday against sick leave entitlement if the total continuous period of sick leave exceeds three days.

Annual leave may not be split to allow periods of illness of three days or less to be taken as sick leave.

Annual leave in relation to sickness or injury arising before scheduled annual leave

If an employee has been allowed to take annual leave and before commencing that leave the employee becomes sick or injured, or has a spouse or partner or dependent that becomes sick or injured, The Association will allow the employee to take:

- Any period of sickness or injury that the employee would otherwise take as an annual leave as sick leave

Annual leave in relation to exhausted sick leave

If an employee has exhausted his/her entitlements to sick leave but then:

- Becomes or remains sick or injured; or
- Has a spouse or partner or dependent who becomes or remains sick or injured

The Association may agree, if requested by the employee, to the leave being taken as annual leave to which the employee is entitled.

The Association cannot require an employee to take annual leave in circumstances set out above.



Bereavement Leave/Tangihanga Leave

1. An employee shall be granted Bereavement Leave/Tangihanga Leave with pay to discharge their obligation and/or pay their respects to a deceased person with whom they have had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at all or part of a Tangihanga (or its equivalent).
2. In granting time off therefore, and for how long, the Association will administer these provisions in a culturally sensitive manner, taking into account the following points:
 - a. the closeness of the relationship between the employee and the deceased. (*Note: This need not be a blood relationship*);
 - b. whether the employee has to take significant responsibility for any or all of the arrangements to do with the ceremonies resulting from the death;
 - c. the amount of time needed to discharge properly any responsibilities or obligations;
 - d. reasonable travelling time should be allowed, but for cases involving overseas travel that may not be the full period of travel;
 - e. a decision must be made as quickly as possible so that the employee is given the maximum time possible to make any arrangements necessary. In most cases the necessary approval will be given immediately, but may be given retrospectively where necessary;
 - f. if paid leave is not appropriate then leave without pay should be granted, but as a last resort.
3. In operating provisions 1 and 2 above, the Association shall recognise at least the minimum entitlements provided under statute being:

Each employee gets Bereavement Leave/Tangihanga Leave for a minimum of:

- three days per death if a spouse or partner, parent, child, sibling, grandparent, grandchild, or spouse or partner's parent dies.
- one day on the death of another person if their employer accepts they've had a bereavement.

This is based on:

- how close they were with the deceased person
- whether they have to take a lot of the responsibility for all or any of the arrangements for the ceremonies relating to the death
- if they have any cultural responsibilities in relation to the death.

Employees need to tell their employer as soon as possible when they have a bereavement they want to take leave for.

If an employee suffers more than one bereavement at the same time, he or she may take paid Bereavement Leave/Tangihanga Leave in respect of each bereavement.

If an employee can't take the Bereavement Leave/Tangihanga Leave they want

If an employee wants to take extra Bereavement Leave/Tangihanga Leave (eg wants to take 5 days for the death of their grandparent), then the Association may agree that the employee can take the leave as annual holidays.

An employer can't make an employee take Bereavement Leave/Tangihanga Leave as annual leave.



Payment for Bereavement Leave/Tangihanga Leave

Payment for Bereavement Leave/Tangihanga Leave is only made if the employee would have otherwise worked on the day. Payment should be the employee's relevant daily pay or, if this isn't possible or practical, then the average daily pay should be used. Payment for Bereavement Leave/Tangihanga Leave is made in the normal pay cycle.

Payment for Bereavement Leave/Tangihanga Leave and annual leave

If the employee is:

- about to take annual leave s but have a bereavement before they go, the employer must let the employee take Bereavement Leave/Tangihanga Leave for the relevant period.
- already taking annual holidays and have a bereavement, the employer must let the employee take Bereavement Leave/Tangihanga Leave instead of annual leave for the relevant period.

The Relevant and Average daily pay calculator can help calculate sick leave and Bereavement Leave/Tangihanga Leave entitlements.

Parental Leave

Parental Leave is granted in accordance with the provisions of the Parental Leave and Employment Protection Act 1987 and the applicable employment agreement. There are two key conditions that the employee must satisfy to be eligible for Parental Leave:

- The employee must have been employed for not less than 6 months for an average of 10 hours per week (with at least 1 hour per week) at the commencement of the proposed parental leave; and
- The employee must make a request for Parental Leave at least three months before the estimated date of delivery or as soon as possible in the case of an adoption.

All applications for Parental Leave must be made to the General Manager.

Teachers employed under the KTCA: are entitled to a maternity grant, as specified in the KTCA.

Jury Service / Court Leave

Teachers will be paid for Court Leave as per the entitlement in the KTCA. Other staff will be provided with Jury Service/Court Leave as specified in their employment agreement, or as outlined in New Zealand law. Any monies received from the Courts, other than travel expenses, shall be paid to the Association.

Domestic Violence Leave

The Domestic Violence – Victims' Protection Act 2018 provides for up to 10 days paid domestic violence leave per year in addition to sick leave entitlements, with the following parameters:

- Entitlement to Domestic Violence Leave arises once the employee has reached the same tests as are applicable for sick leave and Bereavement Leave/Tangihanga Leave (ie, the employee has six months' current continuous employment with the employer);
- The entitlement is for 10 days per annum, payable at the relevant daily pay or average daily pay;
- If someone is on annual leave and applies for Domestic Violence Leave, it must be granted;
- Where Domestic Violence Leave is exhausted, employees are allowed to use their annual leave;



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- The normal obligations in regard to keeping accurate records of leave apply equally in relation to Domestic Violence Leave.

Special Purpose Leave

Special Purpose Leave may be granted for, but not limited to, the following:

- An employee's Marriage/Civil Union – one day's leave with pay when the marriage/civil union takes place during a term.
- An employee's graduation – one day's leave with pay.
- Leave for special occasions – this will generally be LWOP.
- Special leave for family reasons – this will generally be LWOP

All applications for Special Purpose Leave must be in writing for consideration by the General Manager generally not less than 10 days before the date of the commencement of the leave. Leave for family reasons must be in writing as soon as possible the need for the leave is known.

Leave Without Pay (LWOP)

The Association **may** grant LWOP when requested by the employee in extenuating circumstances. All LWOP must be pre-approved by the Association.

The Association will consider each leave request on its own merit, taking the following into consideration:

- Past leave taken;
- Length of service;
- Impact on the service/the Association;
- Impact on the remaining team members;
- Availability of a suitable reliever;
- Recruitment and retention;
- Staff turnover; and
- The nature of the leave requested.

The following conditions shall apply:

- All permanent employees may apply for a maximum of 5 days LWOP (pro rata for part time employees) in any calendar year. This entitlement cannot accumulate across years. This is conditional upon:
 - (a) The LWOP not coinciding with an already designated association-wide professional learning day; and
 - (b) A trained registered reliever is available (where applicable); and
 - (c) The Service Leader agrees that there are no operational reasons why the LWOP should not be taken.
- Applications for LWOP of up to 5 days must be submitted in advance on the leave form, signed by the Service Leader and submitted to the Professional Practice Leader for approval.
- For all other permanent non-teaching employees, the entitlement to apply for LWOP will only occur after all annual leave has been exhausted and the General Manager agrees to the taking of leave.



Kaitiaki Kindergartens

- Applications for LWOP of more than 5 days must be in writing for consideration by the General Manager not less than one month before the proposed commencement date of the leave.
- Clause 3.9 of the KTCA shall apply to teaching staff taking LWOP in excess of 5 working days in any 12 months preceding their annual leave anniversary date.

Sabbatical Leave (KTCA Clause 4.9)

From the start of 2024 sabbatical leave places are available for Head Teachers through application to the Ministry of Education. Criteria will be developed by the Ministry, NZEI, Te Riu Roa and Kindergarten Association employer representatives. Any application for sabbatical leave must be with the Association's endorsement.

Signed:

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General Manager

Date: 28/9/23

Endorsed by

Signed:

A handwritten signature in black ink, appearing to be a stylized 'P' or similar character, followed by a long horizontal stroke.

President of the Board

Date: 28/9/23