

Special Leave

Human Resources Policy

Effective Date: July 2008

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1 PURPOSE

To outline employee entitlements and expenses relating to special leave.

2 APPLICATION

Special leave applies to all permanent, temporary, full-time and part-time Queensland Health employees. Casual employees are not entitled to any special leave provisions.

3 GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

4 DELEGATION

The 'delegate' is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- *Anti-Discrimination Act 1991*
- *Disaster Management Act 2003*
- *Public Safety Preservation Act 1986*
- *Public Service Act 2008*
- Queensland Health Code of Conduct
- Directive 8/06 – Special Leave
- PSC Guideline for Public Sector Employees Contesting Elections
- Surplus Employees HR Policy B36

6 SUPERSEDES

- IRM 11.5-1 Leave - Special - Sporting Competitions
- IRM 11.5-5 Leave - Special - Federal, State and Local Government Elections and Local Authority Leave
- IRM 11.5-6 Leave - Special - Reserve Forces Training
- IRM 11.5-7 Leave - Special - Flood, Cyclone, Bushfires and Storm
- IRM 11.5-8 Leave - Special - Attendance At Declared State of Emergency or State of Disaster
- IRM 11.5-9 Leave - Special - Attendance at Emergencies
- IRM 11.5-10 Leave - Special - Attend Emergency Management Courses
- IRM 11.5-11 Leave - Special - Overseas and Australian Travel for Private Purposes
- IRM 11.5-12 Leave - Special - Leave Without Pay - In other cases
- IRM 11.5-13 Leave - Special - Interviews - Time Off to Attend During Working Hours - All Staff
- IRM 11.5-14 Leave - Special - Cultural Leave
- IRM 11.5-15 Leave - Special - To Attend Pre-Retirement Planning Seminars
- IRM 11.5-16 Leave - Special - To Attend Red Cross Society Blood Donation Sessions

7 POLICY

This policy is to be interpreted in conjunction with specific Awards, Agreements, administrative arrangements and HR policies applying to occupational groups.

7.1 Superannuation

An employee taking special leave without pay may wish to contact QSuper about the impact of their leave without pay on superannuation contributions and entitlements.

Information on the QSuper Superannuation Scheme is available from the QSuper website.

8 BLOOD OR PLATELET DONATION SESSIONS

An employee who attends blood or blood platelet donation collection sessions conducted by the Red Cross Society is entitled to special leave to attend the sessions.

Special leave to attend the sessions is subject to the following conditions:

- Special leave is granted on full pay and is not debited to any leave account.
- Blood and platelet donations are to be made at the nearest Red Cross blood donation centre.
- Blood and platelet donations may be made at any time during the normal working hours of the Red Cross blood donation centre. Employee attendance at blood donation sessions is subject to organisational convenience. If the time requested by the employee is not organisationally convenient, a suitable alternative time is to be negotiated.
- Blood and platelet donations are made as a voluntary commitment on the part of employees.
- Normal sick leave arrangements apply if an employee becomes sick while donating blood or platelets.
- Proof of attendance may be required.

9 CULTURAL LEAVE

Queensland Health recognises and values the cultural diversity and contribution of all employees. This part ensures that employees can observe days of cultural, ceremonial and/or religious significance.

9.1 Eligibility and entitlement for cultural leave

An employee who is required by their cultural, religious and/or ethnic background to participate in significant cultural, ceremonial and/or religious obligations is provided reasonable opportunity to do so by Queensland Health.

When attendance requires time away from work, an employee is entitled to access paid leave from their accrued annual recreational leave entitlement. An employee may alternatively elect to access up to 10 days unpaid (non cumulative) leave per annum.

9.2 Application for cultural leave

An employee is required to submit a completed leave application form to their manager stating the reason(s) for leave (refer HR forms on QHEPS). The completed leave form is to indicate the type of leave being requested (i.e. paid recreation or unpaid).

An employee is requested to provide as much notice as possible of intended leave. A minimum notice period of one week is required when applying for cultural leave.

For Aboriginal and Torres Strait Islander employees, cultural leave days may include (and are not limited to) tombstone openings, smoking of houses, initiation ceremonies, National Aborigines and Torres Strait Islanders Observance Day, Coming of the Light or other ceremonies demanded by the Elders to be significant.

Other employees may request cultural leave to attend ceremonies significant to their religious beliefs or cultural heritage.

Managers are to ensure all leave applications are handled in a sensitive, fair and reasonable manner. Applications are to be processed appropriately and the applicant advised of the approval for leave and the type of leave to be debited.

10 DECLARED STATE OF EMERGENCY/ DISASTER ATTENDANCE

An employee who has been directed to assist in an emergency situation or a state of disaster in accordance with section 8 of the *Public Safety Preservation Act 1986* or part 4 of the *Disaster Management Act 2003* respectively, is to be granted leave in accordance with Directive 8/06 - Special Leave.

Leave is granted on full salary as required and is not debited from any leave account.

11 ELECTIONS AND LOCAL AUTHORITY LEAVE

It is not necessary for intending election candidates to resign from Queensland Health to contest a state or local government election. In most cases, it is necessary for intending election candidates to resign from Queensland Health to contest a federal election.

Queensland Health employees, like other members of the community, are entitled to contest local, state and federal elections. When Queensland Government employees have been unsuccessful in contesting elections and have sought reappointment within the time limit, the candidates have been re-appointed to public sector employment.

11.1 Contesting an election

11.1.1 Local government elections

There is no objection to any employee accepting nomination for election to a local government council and there is no need for employees of Queensland Health to resign to contest a local government election.

Employees are to advise the Director-General if they are nominating for:

- local government elections as candidates for mayor or chair
or
- as candidates for a member of council.

11.1.2 State elections

There is no need for employees of Queensland Health to resign to contest a state election. The *Public Service Act 2008* provides that an employee who is successful automatically vacates their public sector employment from the time they are appointed as a member of parliament.

11.1.3 Federal elections

Section 44 of the Commonwealth Constitution requires a state public sector employee to resign from public employment before contesting an election for a seat in federal parliament, or risk that their election be declared invalid by a Court of Disputed Returns (refer to the decision of the High Court of Australia, *Sykes v Cleary and Others 1992*).

The case of *Sykes v Cleary* indicates that if resignation does not occur before polling day, a challenge to a candidate's election in the Court of Disputed Returns is likely to be successful. It may be appropriate (subject to specific legal advice) for an employee's resignation to take effect **before** nominating (with the Australian Electoral Commission) to contest the election.

11.2 Leave to contest elections (campaign leave)

11.2.1 State elections and local government elections

Special leave for campaigning purposes is granted on the basis of a total period not exceeding two months. Paid leave credits (i.e. accrued recreation leave or long service leave) may be used. Otherwise the leave is granted without salary.

An employee who intends to contest a state or local government election need not resign from Queensland Health, and is to be granted leave for campaigning purposes in accordance with Directive 8/06 - Special Leave.

11.2.2 Federal elections

No specific campaign leave provision is available. Accrued recreation leave or long service leave may be used if the employee has not resigned.

11.3 Reinstatement of unsuccessful election candidates

11.3.1 Local government elections

An employee of Queensland Health who is elected to councils may need to resign from their public sector job.

An employee can no longer hold full-time public sector employment if they are elected as mayor of a category three or higher council or as a councillor of a category five or higher council.

11.3.2 State elections

An employee of Queensland Health is not required to resign to contest a state election. If an employee does resign and is unsuccessful in the election, reappointment on the same conditions as employees who resign to contest a federal election is provided for under the *Public Service Act 2008*.

11.3.3 Federal elections

Section 130 of the *Public Service Act 2008* provides for reappointment of an employee who resigns from a permanent position to contest a federal election, and who was unsuccessful.

Application in writing for reappointment is to be made by the former employee/defeated candidate **within three months** after the return of the election writ.

The Director-General (or delegate) may reappoint the former employee to their role previously vacated, or to any other role having the same or lower classification level.

11.3.4 Continuity of service

Section 132 of the *Public Service Act 2008* provides continuity of service of an employee reappointed after unsuccessfully contesting an election. Service is deemed to not be broken by the resignation. The period during which the employee was not employed is not to be taken into account in calculating aggregate continuous service.

11.4 Permanent part-time employees

Special leave is granted on a proportionate basis of the entitlements applicable to full-time employees with the exception of election leave (campaign leave). Campaign leave is granted on a calendar basis.

11.5 Intending election candidates to seek advice

Intending federal election candidates are to seek specific legal advice about the requirements for resignation (in the Commonwealth Constitution and other legislation) before contesting a federal election.

Intending state or local government election candidates are to seek specific advice from their district HR unit about taking leave before contesting a state or local government election.

11.6 Code of Conduct requirements

The conduct of Queensland Health political candidates is required to conform to the standards outlined in the Queensland Health Code of Conduct. The Code recognises that employees of Queensland Health have the right to undertake party political

activity, provided it is conducted in a private capacity, and in private time. The political rights of all Queensland citizens are protected by the *Anti-Discrimination Act 1991* and protection against unlawful discrimination includes Queensland Health employees.

Party political activity by employees may have the potential to cause concern about the professional integrity of individuals and Queensland Health. The Code of Conduct requires that Queensland Health employees provide conscientious service to the elected government of the day, irrespective of their personal political allegiance. Employees are expected to exercise care in ensuring that particular political activities (e.g. holding office in a party, or being a member of a party committee) do not give rise to a conflict with official duties.

In considering whether a particular political activity involves a possible conflict of interest, the facts of each case are to be considered, and a reasonable assessment is to be made as to the extent of any specific conflict. Relevant factors may include the personal integrity of the employee concerned, and the powers and duties of the employee's role.

A potential conflict of interest may be resolved satisfactorily by an appropriate rearrangement or reassignment of the employee's duties.

It is expected that Queensland Health employees intending to become election candidates arrange their campaign activities to avoid any appearance that their campaign is being supported through their employment with Queensland Health.

11.7 Timing of resignation and campaign leave

The timing of a resignation (for a federal election), or taking campaign leave (for a state or a local government election) requires careful consideration.

Intending candidates for elections may resign or take leave at any time prior to the election (noting that special leave is available for a maximum of two months as indicated in section 11.2).

The latest acceptable date to resign or take leave is to be either:

- the date of formal nomination with the Australian Electoral Commission as a candidate for a federal election (the issue of the date of resignation is strictly a candidate's concern and not that of Queensland Health). Refer section 11.1 or
- the date when a candidate for a state or local government election cannot meet the obligation to perform their employment duties because of active campaigning (including obligations under the Queensland Health Code of Conduct to avoid conflicts of interest).

11.8 Mayor of category three or higher council, or as councillor of a category five or higher council

An employee can no longer hold full-time public sector employment if they are elected as mayor of a category three or higher council, or as a councillor of a category five or higher council.

The categories are taken from the remuneration levels issued by the local government remuneration tribunal, and encompass mayors on a salary of \$69,610 or more and councillors on \$60,120 or more. This means the requirement is to apply to a public servant elected as a councillor on 16 of Queensland's 72 councils, or as a mayor of one of 34 councils.

11.9 Leave for successful candidates in local government elections

An employee who is successful at a local government election in other categories as listed in section 11.8, may be granted local authority leave in accordance with Directive 8/06 - Special Leave.

11.9.1 Local authority leave

An employee who has been elected to hold office as mayor, chair or member of a council, is granted special leave for attendance at council meetings or for undertaking council business.

11.9.2 Special leave on full salary – employees elected as mayor or chairperson

Up to a maximum of five working days per calendar year (non-cumulative) is granted.

11.9.3 Employees elected to other positions

Up to a maximum of three working days per calendar year (non-cumulative) is granted.

11.9.4 Special leave without salary

Additional leave may be granted as required. Leave in connection with mayoralty, chairpersonship, statutory meetings, etc. is to be approved by the Director-General (or delegate).

Local authority leave is subject to the following conditions of approval:

- An employee who has been granted special leave on full salary to attend council meetings or council business and receives payment, is to submit the payment to Queensland Health. When the salary of the employee is less than the amount received for the time spent on council business, the employee is entitled to retain the difference between the salary and the amount paid by the council.
- When determining the amount paid by the council, expenses for travel and accommodation are not to be taken into account.
- When an absence may cause disruption to transport or essential services, the granting of leave is subject to approval (including the consideration of organisational needs).

The above conditions do not apply to employees elected as full-time councillors, and who are paid a salary for holding such office.

11.10 Leave entitlement for returning officers and other polling officials

11.10.1 State elections

An employee appointed as a returning officer at a state election may be granted leave in accordance with Directive 8/06 - Special Leave.

Reasonable special leave on full pay not chargeable to any leave account may be granted to returning officers to undertake their electoral duties. The granting of special leave is at the discretion of the district CEO. The HR Branch may be contacted to clarify if an application for special leave is reasonable.

11.10.2 Federal elections and local government elections

An employee who acts as a polling official is granted special leave and has the option to take accrued recreation leave or leave without pay.

12 EMERGENCY ATTENDANCE

An employee who is a member of the State Emergency Service (SES), voluntary member of a local fire fighting unit, member of a Rural Fire Brigade, auxiliary of a Fire Brigade, Honorary Ambulance Officer or St. John Ambulance volunteer may be granted leave when called out for emergencies or to fight fires in accordance with Directive 8/06 - Special Leave.

12.1 Entitlement

Leave is subject to organisational convenience. Leave on full salary is not available for training purposes. Queensland Health is not responsible for payment of any travelling or other expenses which may be involved during the period of absence.

Leave on full salary not debited from any account is to be granted as required.

13 EMERGENCY MANAGEMENT COURSE ATTENDANCE

An employee who is selected to attend an emergency management course or seminar organised by the Australian Emergency Management Institute, Mt Macedon, Victoria or the SES may be granted leave to attend the course or seminar in accordance with Directive 8/06 - Special Leave.

All leave is subject to organisational convenience and the employee providing documentary evidence of selection and attendance at the course or seminar.

13.1 Entitlement

An employee may be granted:

- leave necessary to attend an Australian Emergency Management Institute course
- up to a maximum of five non-cumulative working days per calendar year to attend an SES course.

Leave is granted on full pay and is not debited to any leave account. Queensland Health is not responsible for payment of travelling and other expenses involved during the employee's period of absence.

14 FLOODS, CYCLONES, BUSHFIRES AND STORMS

An employee who is prevented from attending their normal place of employment because of floods, cyclonic disturbances, bushfires or severe storms may be granted leave on full pay not deducted from any leave account in accordance with Directive 8/06 - Special Leave.

An employee is eligible for leave because of floods, cyclonic disturbances, bushfires or severe storms when:

- prevented from attending their normal place of employment and it is not practicable for them to attend for duty at another government office
- absent from their usual place of residence on approved leave or during a weekend and are unable to return in sufficient time to attend the normal place of employment or it is not practicable to attend duty at another government office
- required to return home before the usual ceasing time to ensure personal safety, the protection of their family and property or the availability of transport facilities which may be disrupted or discontinued because of weather or environmental conditions
- required, out of necessity, to remain at home to safeguard their family or property
- remaining at home to have temporary repairs effected, restore belongings, clean up etc.
- travelling on transfer and unavoidably delayed from arriving at the destination (an employee may also be allowed reasonable expenses necessarily incurred for accommodation and meals for the employee and their family).

14.1 Entitlement and approval

An employee is entitled to the following leave because of floods, cyclonic disturbances, bushfires or severe storms:

- When an employee's absence from duty is less than one working day, necessary leave may be granted for the absence.
- When absences from duty are taken as whole working days, up to a maximum of five non-cumulative working days may be granted per calendar year.
- The district CEO may consider additional special leave on full salary in exceptional and deserving cases or when an employee is affected by more than one disaster in any one year.

Approval of leave is subject to the district CEO being satisfied that the absence is unavoidable or justified. When practicable, employees are to report for duty at another government office within the vicinity.

15 INTERVIEW ATTENDANCE

An employee is granted time off to attend interviews during working hours as below. Alternatives such as recreation leave are only to be considered when the request for time off exceeds the parameters of these entitlements.

Location of role	Entitlement	Conditions
Within Queensland Health	<p>Reasonable time off not debited to any leave account to attend interview including travel and excluding preparation time.</p> <p>Reasonable travel costs to be met by interviewing facility/branch when the applicant is required by the panel to attend a face-to-face interview or other assessment, unless otherwise agreed.</p>	<p>Applicants are not to be excluded from consideration for short listing on the basis of possible interviewing costs.</p> <p>Alternatives are available to face-to-face interviewing such as telephone interviewing.</p> <p>If the applicant wants to attend a face-to-face interview and it is not required by the panel, the applicant is to meet all costs including the necessary time unless the interviewing facility/branch chooses to meet all or part costs.</p> <p>The time of attendance for interviews is subject to negotiation between the applicant and the manager having regard to work demands and the panel's time frame.</p>
Another Queensland Government department	Time off not debited to any leave account to attend interview including travel and excluding preparation time.	
Queensland Government Statutory Authority	Travel costs to be met by interviewing department unless otherwise agreed.	
Local government	Nil	
Commonwealth Government departments And agencies	Nil	
Other state government departments and agencies	Nil	
Private sector	Nil	

16 LEAVE WITHOUT PAY IN OTHER CASES

An employee may be granted leave of absence without pay for a particular purpose (not provided for in any other provision) by the district CEO (or delegate). The leave of absence without pay is subject to any directives, determinations or rulings made from time to time in accordance with Directive 8/06 - Special Leave.

The following conditions apply to the granting of leave of absence without pay:

- The granting of leave is subject to organisational convenience.

- When the special leave without pay is for a period of greater than 12 months the employee is to relinquish their substantive role (unless otherwise agreed) in accordance with Surplus Employees HR Policy B36.
- The district CEO (or delegate) is to determine whether accrued recreation leave or long service leave is to be taken prior to commencement of any leave without salary.
- The district CEO (or delegate) may as a result of organisational requirements:
 - recall an employee from special leave
 - cancel the approval or granting of any special leave
 - or
 - defer the taking of the special leave.

16.1 Entitlement

Leave of absence without pay may be approved for any minimum or maximum period determined by the district CEO (or delegate).

A maximum period of up to two years applies to service overseas with the Australian Volunteers Abroad.

17 OVERSEAS AND AUSTRALIAN TRAVEL FOR PRIVATE PURPOSES

An employee may be granted up to three years special leave of absence without pay to travel within or outside Australia for private purposes subject to the following conditions:

- The granting of leave is subject to Queensland Health convenience.
- The employee is required to use all long service leave and recreation leave due at the time of proceeding on special leave of absence without pay.
- The total period of absence at any one time is not to exceed three years.
- Evidence of proposed overseas travel is to be provided (if appropriate).
- Certification of proposed travel within Australia is to be provided (if appropriate).
- Leave is not for the purpose of short organised tours of less than six weeks' duration.

The granting of leave is not affected by any travel commitments made by employees (e.g. bookings) before the approval of the leave. Employees are to ensure that leave is approved before making booking commitments.

If an employee completes their travel arrangements before the expiration of the period of special leave without pay, they are to arrange to resume duty as early as practicable at the convenience of Queensland Health. The employee is to also cancel any balance of special leave of absence without pay that is not required.

18 PRE-RETIREMENT PLANNING SEMINARS

An employee who attends a pre-retirement planning seminar may be granted leave to attend the seminar in accordance with Directive 8/06 - Special Leave. The following conditions apply to the granting of leave to attend pre-retirement planning seminars:

- The granting of leave is subject to organisational convenience.

- Employees are granted the necessary special paid leave from their work location for their attendance at the seminar (including travelling time to and from the nearest centre at which the seminar is conducted).
- Travel, accommodation and other expenses are the responsibility of the employee.
- Special leave is not to be granted when an employee chooses to attend a seminar during recreation leave or long service leave.

Information on pre-retirement seminars is available from QSuper.

19 RESERVE FORCES TRAINING

19.1 Eligibility for special leave for reserve forces training

An employee who is a member of the Reserve Forces may be granted leave (in accordance with Directive 8/06 - Special Leave) on full pay for:

- attendance at continuous training which includes camps, field exercises, schools, classes or courses and may involve more than one absence in a financial year and/or for deployment situations
- travel from their place of residence and return for attendance at continuous training
- to participate in an advance or rear party in connection with a period of continuous training.

19.2 Entitlement to special leave for Reserve Forces training

Special leave for reserve forces training may be granted up to a **maximum** of 32 calendar days per financial year for Army Reserve, Naval Reserve and Air Reserve, plus an additional 14 calendar days per financial year during employee's first year of reserve service when attending recruit/initial training. The maximum number of days includes Saturdays and Sundays.

Up to a maximum of four days per financial year may also be granted for:

- travel from the employee's place of residence and return to attend continuous training
or
- participation in an advance or rear party in connection with a period of continuous training.

19.3 Application for leave

At least three months notice prior to commencement of leave is to be provided when possible.

Evidence of the necessity for the employee's attendance for continuous training in the form of a training notice is to be submitted with the employee's application. The employee is to submit a certificate of attendance from the commanding officer after the conclusion of the event.

When organisational convenience does not permit an employee to attend a period of training, an employee may be granted leave at another time during the year to attend a similar activity with another unit or alternative activity with the employee's unit.

Additional leave for travel or to participate in an advance or rear party is subject to certification by the commanding officer that the additional days are required.

19.4 Employer support payment scheme

As a means of recognising the efforts of employers who release employees for reserve service, an employers support scheme has been introduced which provides direct financial benefits to districts that employ reservists. The scheme is known as the Australian Defence Force (ADF) Reserves Employer Support Payment (ESP) scheme.

The scheme, which came into effect from 5 June 2001, provides financial support to employers who support the absence of their employees for reserve service and, as a result, incur workplace disruption and additional costs.

The qualifying period for establishing entitlement to the ESP is the completion of fourteen days of continuous defence service. The qualifying period can be undertaken as a single period or as multiple periods of continuous service as long as each period of continuous service is a minimum of five consecutive days. ESP is provided for most categories of reserve service short of call-out and is payable to a maximum of 78 weeks for a single period of continuous defence service from the third week (or part thereof) and subsequent weeks of reserve service.

If the employee is on extended reserve service, payment is to be made on a fortnightly basis until the completion of the period of reserve service or the expiration of 78 weeks, whichever is the sooner.

Prior to undertaking reserve service, the employee is to provide the health service district with an ADF ESP scheme claim form. Copies of the form can be obtained from the reserves website. Included on the claim form is an employer's acknowledgment that confirms the grant of leave for the employee to undergo reserve service and a requirement for the district to verify their status as a bona fide employer of the reservist.

Once this acknowledgment has been signed and returned to the reservist's military unit, payment of the ESP can commence.

20 SPORTING COMPETITIONS

20.1 Eligibility and entitlement

An employee may be granted leave for sporting competitions, in accordance with Directive 8/06 - Special Leave, if they are selected as:

- a competitor, team manager or team coach of a state or national team participating at a major national or international sporting competition
or
- an umpire or referee at those competitions.

The term competitor includes reserve competitors. Single competitors selected in events such as the marathon are included in the category of state or national team.

An employee may be granted up to a maximum of five working days paid leave per calendar year (non-cumulative) for the purpose of:

- participation
- necessary travel to and/or from the competition
- mandatory periods of training.

An employee who is selected as a competitor or official at the Olympic Games, Commonwealth Games or International Games for the Disabled, may be granted leave for the games. The period an employee is required to be absent from duty to permit their attendance at the games is to be granted.

20.2 Conditions of approval

Leave for sporting competitions may be granted subject to:

- the employee producing documentary evidence of selection by the recognised governing body and the period when participation of the employee is required
- organisational convenience
- the major sport being one which has at least a registered minimum membership in Australia of 20,000 or is listed as a recognised sporting event at the Olympic or Commonwealth Games (the requirement for a minimum membership of 20,000 is waived in the case of disabled employees).

21 DEFINITIONS

Full salary	<ul style="list-style-type: none"> • the ordinary hours worked by the employee; and • the amounts payable to the employee for those hours, including (for example) projected allowances, loadings and penalties, but excluding reimbursement allowances; and • any other amounts payable under the employee's employment contract.
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22 HISTORY

July 2008	Amended to reflect <i>Public Service Act 2008</i> .
April 2008	Developed as a result of the HR policy consolidation project.