



Circular Letter 0058/2023

**To: The Managerial Authorities of Recognised Primary,
Secondary, Community and Comprehensive Schools and
The Chief Executives of Education and Training Boards**

Force Majeure Leave and Illness in Family Leave for Registered Teachers employed in Recognised Primary and Post Primary Schools

The Minister for Education, pursuant to the power contained in Section 24 of the Education Act (as amended), directs employers to implement the regulations and procedures, as stated in this Circular, for eligible registered teachers employed in approved teaching posts funded by monies provided by the Oireachtas.

All employers and teachers must adhere to the agreed terms and conditions as stated with immediate effect.

This Circular supersedes all previous Circulars, memoranda, rules and regulations in relation to Force Majeure and Illness in Family Leave for teachers in recognised primary and post primary schools.

Please ensure that the contents of this Circular are brought to the attention of all members of the Board of Management/Education and Training Boards and all teachers in your employment, including those on leave of absence.

All queries should initially be brought to the attention of the employer who may wish to consult with their representative organisation. Any further queries may be directed to the Department at the following email addresses:

- a) Queries on terms and conditions for Force Majeure Leave and Illness in Family Leave:- teachersna@education.gov.ie
- b) Queries on recording of leave on OLCS:- onlineclaims@education.gov.ie
- c) Queries on salary:- [Payroll Query Form \(education.gov.ie\)](#)

This Circular can be accessed on the Department's website at www.gov.ie.

James Walsh
Principal Officer
Teacher/SNA Terms and Conditions Section

15 November 2023

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Definitions and Abbreviations

For the purposes of this Circular, the following terms shall have the meanings assigned to them here unless the context indicates otherwise:

Employer – means an Education and Training Board (ETB) for vocational schools/community colleges, community national schools, and a Board of Management/Manager in the case of primary (excluding community national schools), voluntary secondary, community, and comprehensive schools. The ETB or Board of Management/Manager may delegate as appropriate responsibility for matters set out in this Circular.

ETB – means an Education and Training Board, established under and governed according to the Education and Training Boards Act 2013.

On Line Claims System (OLCS) – means the system for recording absences and claiming substitution currently operating in primary, voluntary secondary, community and comprehensive schools.

Paymaster – means the organisation in charge of paying salaries. This is the Department of Education in the case of primary (including community national schools), voluntary secondary, community and comprehensive teachers, and the ETBs in the case of ETB/vocational/community college teachers.

Recognised School – means a school which is recognised by the Minister for Education in accordance with Section 10 of the Education Act 1998.

School Year – as defined by the Minister for Education from time to time currently beginning on 1st September and ending on 31st August.

Teacher – means a person registered with the [Teaching Council](#).

The Department – means The [Department of Education](#).

1. Force Majeure Leave

- 1.1 Under the [Parental Leave Act 1998](#) and the [Parental Leave \(Amendment\) Act 2006](#), a teacher is entitled to apply for Force Majeure Leave, which is a statutory special leave with pay for urgent family reasons.

2. Eligibility to Force Majeure Leave

- 2.1 In determining eligibility for Force Majeure Leave, the specific circumstances must be:-

- a) considered urgent owing to an illness/injury of an immediate relative, where the teacher has to act without delay
and
- b) the immediate presence of the teacher is indispensable, to provide support at the place where the ill or injured immediate relative is located.

- 2.2 The immediate relatives that qualify a teacher for Force Majeure Leave are listed at [Appendix A](#) of this Circular.

- 2.3 Force Majeure Leave is not applicable to accompany a sick or injured relative to a scheduled medical appointment.

- 2.4 It is important to note when an employer is determining eligibility, that paragraph 2.1 a) and b) must apply on each individual day for which Force Majeure Leave is requested, not just the first day.

3. Entitlement to Force Majeure Leave

- 3.1 Force Majeure Leave consists of one or more school days, but must not exceed a maximum total of:

- a) 3 school days in 12 consecutive months
or
- b) 5 school days in 36 consecutive months

4. Illness in Family Leave

- 4.1 Illness in Family Leave is a non-statutory special leave with pay provision.

5. Eligibility to Illness in Family Leave

- 5.1 In determining eligibility to Illness in Family Leave, the specific circumstances must be:-

- a) in the event of the serious and unforeseen illness of, or injury to a teacher's immediate relative /near relative and where alternative domestic arrangements cannot be made
and
- b) in any case where Force Majeure Leave has been exhausted or does not apply

6. Entitlement to Illness in Family Leave

- 6.1 Illness in Family Leave consists of one or more school days, but must not exceed a maximum total of:
- a) 5 school days in each school year, in respect of an immediate relative
or
 - b) 3 school days in each school year, in respect of a near relative
- 6.2 The maximum Illness in Family Leave entitlement in a school year, is 5 school days. This is inclusive of the Force Majeure entitlements set out at 3.1.
- 6.3 The immediate relatives and near relatives that qualify a teacher for Illness in Family Leave are listed at [Appendix A](#) of this Circular.

7. Arrangements whilst on Force Majeure and Illness in Family Leave

- 7.1 A teacher who is absent on another form of statutory or non-statutory leave may not be granted Force Majeure or Illness in Family Leave, instead of that leave.
- 7.2 Absence on Force Majeure or Illness in Family Leave for part of a school day constitutes an absence for a full school day.

8. Application Procedures

- 8.1 The approval of the employer must be sought for Force Majeure Leave and Illness in Family Leave.
- 8.2 A teacher who avails of Force Majeure Leave or Illness in Family Leave is required to complete the Application Form at [Appendix C](#) of this Circular. The Application Form should be completed and submitted to the employer, as soon as is reasonably practicable after availing of such leave.
- 8.3 Where a teacher is employed by an ETB, there may be an online facility to make application for Force Majeure Leave or Illness in Family Leave, rather than completion of the Application Form at Appendix C.
- 8.4 The employer should satisfy themselves that, in the circumstances, an application for Force Majeure Leave or Illness in Family is fully justified and can be granted. An employer may at their discretion, request supporting documentation, such as a medical letter to support the teacher's application. The medical letter does not need to state the nature of the medical condition. It only needs to be a statement of fact that the person is, or was, in need of significant care or support for a serious medical reason.
- 8.5 An employer may only approve Force Majeure Leave and Illness in Family Leave at the time of the illness or injury to the immediate relative or near relative.

9. Recording of Leave

- 9.1 Following the employer's approval of Force Majeure Leave or Illness in Family Leave, the absence must be recorded by the employer in a timely manner, on the OLCS/relevant ETB system.

9.2 For schools using the Department's OLCS, Force Majeure and Illness in Family Leave is recorded under 'Personal Leave', and then sub-category 'Force Majeure' or 'Illness in Family', as appropriate.

10. Status during Force Majeure Leave and Illness in Family Leave

10.1 A teacher on Force Majeure Leave or Illness in Family Leave, is deemed for all purposes to be in employment at that time including for remuneration and superannuation. Force Majeure Leave and Illness in Family Leave is fully reckonable for seniority and progression on the incremental salary scale.

11. Replacement Teacher

11.1 In line with the relevant Department publications, the following rules apply in relation to a replacement teacher:-

a) Primary:- the first day of Force Majeure Leave and Illness in Family Leave is covered by the Supervision Scheme. However, due to the alleviation measures that apply, the employer may appoint a substitute teacher, paid by the Paymaster, in the following circumstances:

- for a teacher's first day of Force Majeure Leave or Illness in Family Leave in schools with two or less classroom teachers.
OR
- In the event that two or more teachers in a school are absent on the first day of Force Majeure Leave or Illness in Family Leave, for the second and subsequent teachers.

b) Post Primary:- the first day of Force Majeure Leave and Illness in Family Leave is covered by the Supervision and Substitution Scheme.

11.2 The employer may appoint a substitute teacher, paid by the Paymaster for consecutive Force Majeure Leave or consecutive Illness in Family Leave, that occurs after the first day of absence e.g. on day 2 of the absence. Where Force Majeure Leave or Illness in Family Leave is non-consecutive, each day of the absence (within the allowed limits) is regarded as a first day's absence for substitute cover purposes.

12. Employment while on Force Majeure Leave and Illness in Family Leave

12.1 A teacher on Force Majeure Leave or Illness in Family Leave may not engage in any type of teaching or other paid employment.

13. Leave Entitlements for Fixed Term/Fixed Purpose Appointments

13.1 A teacher who is on a fixed term/fixed purpose contract of employment shall, during the term of the contract, have full Force Majeure Leave and Illness in Family Leave entitlements. The granting or taking of this leave should not affect a fixed term/fixed purpose appointment or the renewing of such an appointment.

13.2 A teacher's entitlement to Force Majeure Leave and Illness in Family Leave shall cease on the expiry of a contract and that contract not having been renewed unless that contract is followed directly by a 'back to back' contract in an approved teaching post funded by monies provided by the Oireachtas.

14. Data Protection

- 14.1 All documentation relating to the teacher's absence on Force Majeure Leave and Illness in Family Leave must be retained by the employer with the relevant personnel records in a safe and secure manner and in line with the employer's data protection policy and data protection regulations. These records may be selected for inspection by nominated Department officials.

15. Compliance

- 15.1 Failure to abide with the regulations and procedures set out in this Circular may be dealt with under the agreed disciplinary procedures and may lead to cessation of salary for a teacher or withdrawal of substitute cover for a school.

Appendix A - Force Majeure Leave and Illness in Family Leave Entitlements

1. Force Majeure Leave Entitlements

Relative of the Teacher	Leave Entitlement
<p>Immediate Relative (as defined in the Parental Leave Act)</p> <ul style="list-style-type: none">• Spouse (including a cohabiting partner)• Child (including adopted child, step-child and child being cared for on the basis of 'in loco parentis')• Brother• Sister• Mother• Father• Grandfather• Grandmother• Any person in a relationship of domestic dependency (meaning the ill person shared accommodation with the teacher and also relied on them for their care)	<p>a) Maximum of 3 school days in 12 consecutive months or b) Maximum of 5 school days in 36 consecutive months</p>

2. Illness in Family Leave Entitlements

Relative of the Teacher	Leave Entitlement
<p>Immediate Relative</p> <ul style="list-style-type: none"> • Spouse (including a cohabiting partner) • Child (including adopted child, step-child and child being cared for on the basis of 'in loco parentis') • Father • Mother • Step-father • Step-mother • Step-son • Step-daughter • Any person in a relationship of domestic dependency (meaning the ill person shared accommodation with the teacher and also relied on them for their care) 	<p>Maximum of 5 school days in a school year</p>
<p>Near Relative</p> <ul style="list-style-type: none"> • Brother • Sister • Grandfather • Grandmother • Uncle • Aunt • Niece • Nephew • Grandchild • Mother-in-law • Father-in-law 	<p>Maximum of 3 school days in a school year</p>

Appendix B - Examples of Force Majeure Leave and Illness in Family Leave

Force Majeure Leave Entitlement	Illness in Family Leave Entitlement
<p>Force Majeure Leave consists of one or more school days, in respect of an immediate relative, and must not exceed a maximum total of:-</p> <p>a) 3 school days in 12 consecutive months or b) 5 school days in 36 consecutive months</p>	<p>Illness in Family Leave consists of one or more school days, and must not exceed a maximum total of:-</p> <p>a) 5 school days in each school year, in respect of an immediate relative or b) 3 school days in each school year, in respect of a near relative</p>
<p>Where the maximum Illness in Family Leave entitlement is availed of in a school year, there is no further entitlement to Force Majeure Leave in that school year.</p>	

Example 1 – Force Majeure Leave

- 1) John has availed of Force Majeure Leave, in respect of his child (immediate relative), on the following dates:-
 - a) 4th October 2022
 - b) 25th April 2023
 - c) 15th May 2023

- 2) John applies to his employer for Force Majeure Leave, in respect of his spouse, for an absence on the following date:-
 - a) 20th September 2023

John has already availed of 3 days Force Majeure Leave in the previous 12 consecutive month period, counting from 4th October 2022. Therefore, he has no entitlement to Force Majeure Leave on 20th September 2023, so his employer must refuse this application.

- 3) John applies to his employer for Force Majeure Leave, in respect of his child, for an absence on the following date:-
 - a) 6th October 2023

- 4) Subject to John meeting the eligibility criteria under this Circular, his employer can approve Force Majeure Leave, as he is within the maximum limits permitted i.e. 5 school days in 36 consecutive months counting from 4th October 2022.

- 5) John applies to his employer for Force Majeure Leave, in respect of his child, for an absence on the following date:-
 - a) 16th May 2024

Subject to John meeting the eligibility criteria under this Circular, his employer can approve Force Majeure Leave, as he is within the maximum limits permitted i.e. 5 school days in 36 consecutive months counting from 4th October 2022.

- 6) John has availed of 5 days Force Majeure Leave in a 36 month consecutive period.

Example 2 – Approval of Illness in Family Leave, in lieu of refused Force Majeure Leave

- 1) Mary applied to her employer for Force Majeure Leave, in respect of her grandchild (immediate relative), for an absence on the following date:-
 - a) 26th May 2023
- 2) Mary's employer refused her Force Majeure Leave application, because the relative (grandchild) does not qualify her under this Circular.
- 3) Mary subsequently applies to her employer for Illness in Family Leave, in respect of her grandchild (near relative), for her absence on 26th May 2023.
- 4) Mary's employer can approve her Illness in Family Leave application, because it meets the eligibility criteria under this Circular.

Example 3 – Combined Force Majeure Leave and Illness in Family Leave, within permitted limits

- 1) Joe has availed of Force Majeure Leave, in respect of his spouse (immediate relative), on the following dates:-
 - a) 11th October 2022
 - b) 19th January 2023
 - c) 17th April 2023
- 2) Joe has availed of the maximum Force Majeure Leave limits permitted i.e. 3 school days in 12 consecutive months.
- 3) Joe applies to his employer for Illness in Family Leave, in respect of his grandmother (near relative), for an absence on the following dates:-
 - a) 14th to 15th May 2023 (2 days)

Subject to Joe meeting the eligibility criteria for Illness in Family Leave under this Circular, Joe's employer may approve 2 days Illness in Family Leave for 14th to 15th May 2023.

- 4) Joe has availed of 3 days Force Majeure Leave between 11th October 2022 and 17th April 2023. Joe has availed of 2 days Illness in Family Leave in the 2022/23 school year. Joe is not entitled to avail of any further Force Majeure Leave in the 12 consecutive month period counting from 11th October 2022.

Example 4 – Illness in Family Leave application exceeds permitted limits, when combined with Force Majeure Leave

- 1) Jane has availed of Force Majeure Leave, in respect of her spouse (immediate relative), on the following dates:-
- a) 7th February 2023
 - b) 20th March 2023
 - c) 11th April 2023

Jane has availed of the maximum Force Majeure Leave limits permitted i.e. 3 school days in 12 consecutive months taken between 7th February and 11th April 2023.

- 2) Jane applies to her employer for Illness in Family Leave, in respect of her brother (near relative), for an absence on the following dates:-
- a) 16th to 18th May 2023 (3 days)

Jane's employer can only approve her application for Illness in Family Leave for 2 days (16th to 17th May 2023). The combined total of 3 days Force Majeure Leave already granted, and the application for 3 days Illness in Family Leave, exceeds the maximum Illness in Family Leave entitlement for a school year, which is 5 days.

Example 5 – Combined Force Majeure Leave and Illness in Family Leave granted over the 12/36 consecutive months

- 1) **2022/23 school year**
Paul has availed of Force Majeure Leave, in respect of his child (immediate relative) on the following dates:-
- a) 14th September 2022
 - b) 29th September 2022
 - c) 24th January 2023

- 2) Paul has now availed of the maximum Force Majeure Leave limits permitted i.e. 3 school days in 12 consecutive months

- 3) Paul applies to his employer for Illness in Family Leave, in respect of his grandmother (near relative) for an absence on the following dates:-

a) 13th to 14th March 2023 (2 days)

Subject to Paul meeting the eligibility criteria for Illness in Family Leave under this Circular, his employer can approve the 2 days Illness in Family Leave, as he is within the maximum limits permitted i.e. 5 school days in a school year where Illness in Family Leave and Force Majeure Leave are combined.

- 4) Paul has now availed of the maximum of Illness in Family Leave /Force Majeure Leave limits permitted (where combined) i.e. 5 school days in a school year.

1) **2023/24 school year**

Paul has availed of Force Majeure Leave, in respect of his brother (immediate relative) for absences on the following dates:-

a) 18th September 2023

b) 23rd October 2023

- 2) Paul has now availed of the maximum Force Majeure Leave limits permitted i.e. 5 school days in 36 consecutive months.

- 3) Paul applies to his employer for Illness in Family Leave, in respect of his brother (near relative) for an absence on the following dates:-

a) 12th to 14th December 2023 (3 days)

Subject to Paul meeting the eligibility criteria for Illness in Family Leave under this Circular, his employer can approve the 3 days Illness in Family Leave, as he is within the maximum limits permitted i.e. 5 school days in a school year where Illness in Family Leave and Force Majeure Leave are combined.

- 4) Paul has now availed of the maximum Illness in Family Leave/Force Majeure Leave limits permitted (where combined) i.e. 5 school days in a school year.

Appendix C - Application for Force Majeure Leave/Illness in Family Leave

The Application Form should be fully completed and submitted to the employer as soon as is reasonably practicable after the absence.

PART 1A – TEACHER APPLICATION

Teacher’s Name: _____ Contact No: _____

Home Address: _____

E-mail Address: _____

PPSN: _____

School Name: _____ Roll No: _____

PART 1B – LEAVE DETAILS

Leave Type applied for (please tick relevant box)

Force Majeure Leave Illness in Family Leave

Start date: _____ End date: _____ Duration (Days) _____

No. of days Force Majeure taken in past (a) 12 months: ____ (b) 36 months: _____

No. of days Illness in Family Leave taken in school year to date: _____

I hereby apply for Force Majeure Leave/Illness in Family Leave for the following reason:-

For Illness in Family Leave please tick relevant box to indicate relationship:

Immediate Relative: Near Relative: -

Declaration

I wish to apply for Force Majeure Leave/Illness in Family Leave in accordance with Circular 0058/2023. I confirm that the information provided in the application is true and accurate.

I have not exceeded my entitlement to Force Majeure Leave/Illness in Family Leave, as detailed in Circular 0058/2023.

Signature of Teacher: _____ Date: _____

Data Protection Privacy Statement

The main purpose for which the Department requires you to provide this personal data to your employer is to enable your Force Majeure/Illness in Family Leave application to be processed. Your employer will retain your application form and accompanying documents in accordance with their Data Protection policy. Further information in relation to this policy is available on request from your employer.

The Privacy Notice outlining further information in relation to this Application Form can be found on gov.ie. Full details of the Department's Data Protection policy setting out how we will use your personal data as well as information regarding your rights as a data subject are available on gov.ie. Details of this policy are also available in hard copy from Teacher/SNA Terms & Conditions Section, Department of Education, Cornamaddy, Athlone, Co. Westmeath, N37 X659, or teachersna@education.gov.ie, upon request.

PART 2– EMPLOYER DECISION

I certify that I have approved/refused (delete as appropriate) the Force Majeure/Illness in Family Leave in accordance with Circular 0058/2023. The following documents have been retained on file for audit purposes:

- 1) Application for Force Majeure Leave/Illness in Family Leave under Circular 0058/2023
- 2) Copy of Decision Notice issued to teacher

Approved Force Majeure/Illness in Family Leave has been recorded on the OLCS/relevant ETB system

Signature: _____ Date: _____
(Employer)

Application Form/Supporting Documentation should NOT be submitted to the Department of Education. They should be retained in the school/ETB with any other relevant documentation for record and audit purposes with the relevant personnel records.