



## **basic education**

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REPUBLIC OF SOUTH AFRICA

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**TO: HEADS OF PROVINCIAL EDUCATION DEPARTMENTS  
HEADS OF PROVINCIAL HUMAN RESOURCES SECTIONS  
DISTRICT DIRECTORS  
CIRCUIT MANAGERS  
SCHOOL PRINCIPALS**

**CIRCULAR NO: S29 of 2023**

### **GUIDELINES ON MANAGEMENT OF SCHOOL-BASED EDUCATOR LEAVE FOR PRINCIPALS (“GUIDELINES”)**

#### **1. INTRODUCTION**

Employee leave of absence is one of the basic conditions of employment, which effectively have universal application. It is entrenched in the Basic Conditions of Employment Act, 1998.

As a result, the law allows for certain forms of regulated leave entitlements to be paid leave. This therefore implies that leave becomes part of the remuneration of an employee. By the same token, any absence from duty that is not provided for in terms of the leave policy provisions must always be regarded as unpaid leave otherwise it becomes undue remuneration to the employee.

Managers and supervisors, as part of their leave management responsibility, must ensure that all leave taken is within the policy prescripts and it is accordingly recorded as such. The leave policy prescripts provide for both paid and unpaid leave, which must both be recorded accordingly.

As part of the audit of the management of educator leave in schools for the 2022/23 audit period, the Auditor-General made a finding regarding ineffective management of leave at schools. Some of the specific findings included:

- Educators taking more sick leave days than it is allowed;
- Educators being absent from schools without completing leave forms while others were not completing daily attendance registers; and
- Instances where educators take extended leave due to ill-health while not being on incapacity leave.

In relation to incapacity leave, the auditors indicated that schools, districts, and provincial officials revealed procedural challenge where educators submitted medical certificate monthly making it difficult for the position to be replaced with substitute appointments.

All these matters listed above can be addressed if proper leave management practices are adhered to and all managers apply existing policies and regulations to the letter.

## **2. PURPOSE OF THE GUIDELINES**

To provide clear process guidelines to assist school managers (Principals) regarding the administration and management of leave in general and sick and incapacity leave at schools.

The Guidelines are not in any way intended to re-invent the leave measures or provisions in the Personnel Administration Measures, Education Labour Relations Council (ELRC) Collective Agreements, and Provincial Education Departments (PEDs) leave policies, but

to rather serve as a quick and easy reference to educational policy, legislation, and relevant policies already in place.

The Guidelines are structured so that it assists School Managers/Principals to locate relevant information and sections dealing with leave management. However, in the future, relevant amendments to sections of the Guidelines may be issued by way of the Department of Basic Education (DBE) and PED circulars to incorporate any amendments to source legislation, policies and regulations.

### **3. SCOPE OF THE GUIDELINES**

The guidelines cover the following areas:

- The roles and responsibilities of the Principal, as a school manager, in the administration and management of leave;
- The roles and responsibilities of the employee/educator when taking leave of any type;
- The summary of the policy provisions regarding the types of leave as regulated in the Personnel Administrative Measures (PAM);
- Additional process matters related to sick, and incapacity leave measures;

The Guidelines solely focus on aspects of leave management that form part of the role of the Principal at school as related to educators and do not relate to processes and procedures extending outside of the school. And do not apply to the management of leave of non-educators employed at schools.

### **4. LEGISLATION**

These guidelines are based on the following regulations:

- Employment of Educators Act (EEA), 1998
- Labour Relations Act of 1995 (LRA), as amended.
- Government Gazette No. 38249, dated 27 November 2014
- Basic Conditions of Employment Act (BCEA), 1997

- PSCBC Resolution No. 7 of 2000
- Government Gazette No. 28264, dated 25 November 2005 (8-week rule)
- Government Gazette No. 29248, dated 22 September 2006 (PILIR)
- ELRC Collective Agreement No. 7 of 2001
- Government Gazette No. 22961 of 2001, dated 19 December 2001 (Leave measures)
- Determination and Directive on Leave of Absence in the Public Service (Department of Public Service and Administration, August 2021)
- Government Gazette No. 46789 dated 09 September 2022 (PAM)
- Policy and Procedure on Incapacity Leave and Ill-health Retirement (PILIR), 2021.
- Application of the Compensation for the Occupational Injuries and Diseases Act (COIDA) in the Workplace : A Guide for Government Departments. Issued by the DPSA, 2005.

## **5. ROLE AND RESPONSIBILITIES OF THE PRINCIPAL/MANAGER**

- One of the core administrative duties of the Principal/school manager is the management of all educators and support staff and this includes the administration and management of educator leave.
- The Principal/School Manager is the accounting officer with the responsibility to manage leave at school level.
- In noting that failure to manage and control leave is one of the cost drivers with serious financial implications, and that it adversely affects the delivery of quality education, the responsibility to manage leave thus become very critical.
- The Principal must be familiar with the leave policy, especially sick leave and incapacity leave provisions, in order not only to administer but also to manage leave taken including advising educators on the type of leave to be taken.

- The Principal must ensure that all the administrative processes and controls related to leave management and administration are in place and these will include:
  - Maintenance of leave records including copies of previous leave taken;
  - Ensuring that copies of relevant forms for all types of leave are available for completion;
  - Formally record the process and procedure for submission of all types of leave especially the sick and incapacity leave and ensure that all staff members are familiar with such;
  
- The key responsibilities of the Principal related to the management of sick leave at school include:
  - Monitoring the patterns/trends of the utilisation of normal sick leave by each educator to:
    - Implementing the 8-week rule when needed.
    - Establish possible abuse of sick leave policy where if established, s/he must require the educator to submit a medical certificate from a practitioner, even for periods of sick leave absences of less than 3 days.
    - Advise the educator to apply for incapacity leave if their normal sick leave days have been exhausted.
  
  - Ensure that leave forms with accompanying certificates are submitted and are submitted within the stipulated periods, that is, 5 days after the first day of absence or 2 days after being informed that the documents are outstanding failing which the leave taken will be unpaid leave.
  
- Paragraph H.5.3.7.2 of the PAM clearly states that “failure by the educator to provide his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light”.
  
- Paragraph 5.10. of the Determination and Directive on Leave of Absence in the Public Service further states that “failure by the employee to submit his/her application form

within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken”; and

- The above includes failure to provide relevant documents that are supposed to be part of the application for leave on time.

## **6. ROLES AND RESPONSIBILITIES OF THE EDUCATOR**

- Complete the Leave of Absence Application cover each absence.
- It is the responsibility of the educator to obtain and complete the leave form.
- In the case of sick leave, the educator must inform the Principal or Supervisor via e-mail, telephone, cell phone that s/he will not be present due to illness. A fellow employee or family member must inform the Principal/Supervisor immediately if the nature and/or extent of the illness prevents the educator to do so personally, BEFORE the work-day starts.
  - Submit a medical certificate if absent for 3 days due to ill-ness.
    - If the educator is absent from work on more than two occasions within an 8-week period, s/he must regardless of duration of illness or injury submit a medical certificate.

## **7. SOME KEY DEFINITIONS**

### **Key definitions in the PAM**

“*education institution*” is a public school, training institution or adult education centre as defined in the EEA or any other institution that provides specialised tuition and where learning activities are discontinued during institution closure periods.

“*institution closure period*” is the scheduled period that education institutions close at the end of each term and during which period teaching and learning activities are discontinued.

*“institution-based educator”* means an educator who is employed at an education institution and whose normal duties are discontinued during institution closure periods.

*“scheduled working time”* in respect of institution-based educators means – (a) All the time during a school term, both during and outside the formal school day, that institution-based educators must perform duties in terms of the measures in Chapter A. (b) Days during an institution closure period that have been scheduled by the Minister, in accordance with NEPA for these educators to report for administrative duties or by the Head of Department (HoD) for these educators to report for in-service training in terms of paragraph A.4.2 of Chapter A of these measures.

*“Current leave cycle”* means the leave accrued by office-based educators as from 1 January of the current year of employment up until 31 December of the same year.

*“Capped leave”* is the leave accrued by all educators up until 31 December 2001, which is payable upon early or normal retirement, death or medical boarding. **“Accident”** means an accident arising out of and in the course of an employee’s employment and resulting in a personal injury, illness or death- of the employee (of which the date, time and place are indicated).

### **Key definitions in the COIDA**

*“Commissioner”* means the Compensation Commissioner appointed by the Minister of Labour in terms of section 2(1) (a) of COIDA.

*“Compensation”* means payment of loss of earnings, if any, and the payment of reasonable medical expenses by various institutions and the payment of permanent disablement and pension to dependants.

*“Occupational disease”* means any disease contemplated in Section 65(1) (a) and (b) of COIDA or any disease mentioned in schedule 3 of COIDA.

*“Occupational injury”* means a personal injury sustained because of an

accident arising out of and in the course of employment.

### **Key definitions in the PILIR**

*“Health Risk Manager”* means an independent natural or juristic person appointed by the Employer to advise on the granting of incapacity leave and ill-health retirement of employees.

*“incapacitated”* means the inability to perform some or all of one’s assigned functions because of incapacity.

*“incapacity”* means an illness or injury.

*“Injury on duty”* – refers to an occupational disease or an occupational injury as contemplated in the Compensation for Occupational Injuries and Diseases Act, 1993 as amended.

*“sufficient proof”* means enough accurate information from acceptable medical sources to allow the Employer to make an independent medical assessment regarding the nature and severity of the employee’s medical condition.



## 1. TYPES OF LEAVE, NUMBER OF DAYS, AND ENTITLEMENT

TYPE OF LEAVE AND DEFINITION (PAM REFERENCE)	NUMBER OF DAYS	ENTITLEMENT AND CONDITIONS
1. ANNUAL LEAVE-(Par. H.4)	During school closure periods that are outside of scheduled working time, according to the approved school calendar.	<ul style="list-style-type: none"> <li>• Depending on workload requirements, the educator may be required to perform some of his/her normal duties, such as preparation for the new school term or the marking of internal examination scripts without being required to report at any work place to perform any of these duties.</li> <li>• Only when the educator, after sufficient notice, is required by the employer to report for official duty during an institution closure will s/he be remunerated.</li> <li>• No leave form is completed for annual leave entitlement.</li> <li>• The entitlement in this regard also applies to educators appointed for a fixed term.</li> </ul>
2. NORMAL SICK LEAVE- Par H.5)	36 working days' sick leave with full pay over a three-year cycle.	<ul style="list-style-type: none"> <li>• Unused sick leave credits shall lapse at the expiry of the three-year cycle.</li> <li>• If an educator is unable to report for duty due to sudden illness, he/she must immediately notify his/her immediate supervisor.</li> <li>• Submit an application for sick leave personally or other person within 5 working days after the first day of absence.</li> <li>• Submit a medical certificate if absent three or more sick leave days.</li> <li>• 8-week rule applies-submit a medical certificate if absent due to illness for more than two occasions.</li> <li>• An educator must submit his/her application for sick leave <b>in respect of clinical procedures in advance</b>, unless the treating practitioner certifies that such procedures have to be conducted as an emergency.</li> </ul> <p>Applicable to an educator appointed in a temporary capacity (fixed term contract)</p> <ul style="list-style-type: none"> <li>• granted normal sick leave that is proportional to his/her term of employment at a rate of 1 day's normal sick leave per month of service.</li> </ul>
3. TEMPORARY INCAPACITY LEAVE (Par. H.5.3)	Provisionally granted for 30 consecutive working days with full pay days pending approval of actual days	<ul style="list-style-type: none"> <li>• Granted to an educator who needs sick leave and has exhausted his/her 36 working days sick leave within the cycle and it is not permanent.</li> <li>• Submit an application for sick leave personally or other person within 5 working days if sudden or in advance if in case of planned clinical procedure after the first day of absence.</li> <li>• The application must be submitted with the medical certificate confirming temporary incapacity regardless of the period of absence.</li> </ul>

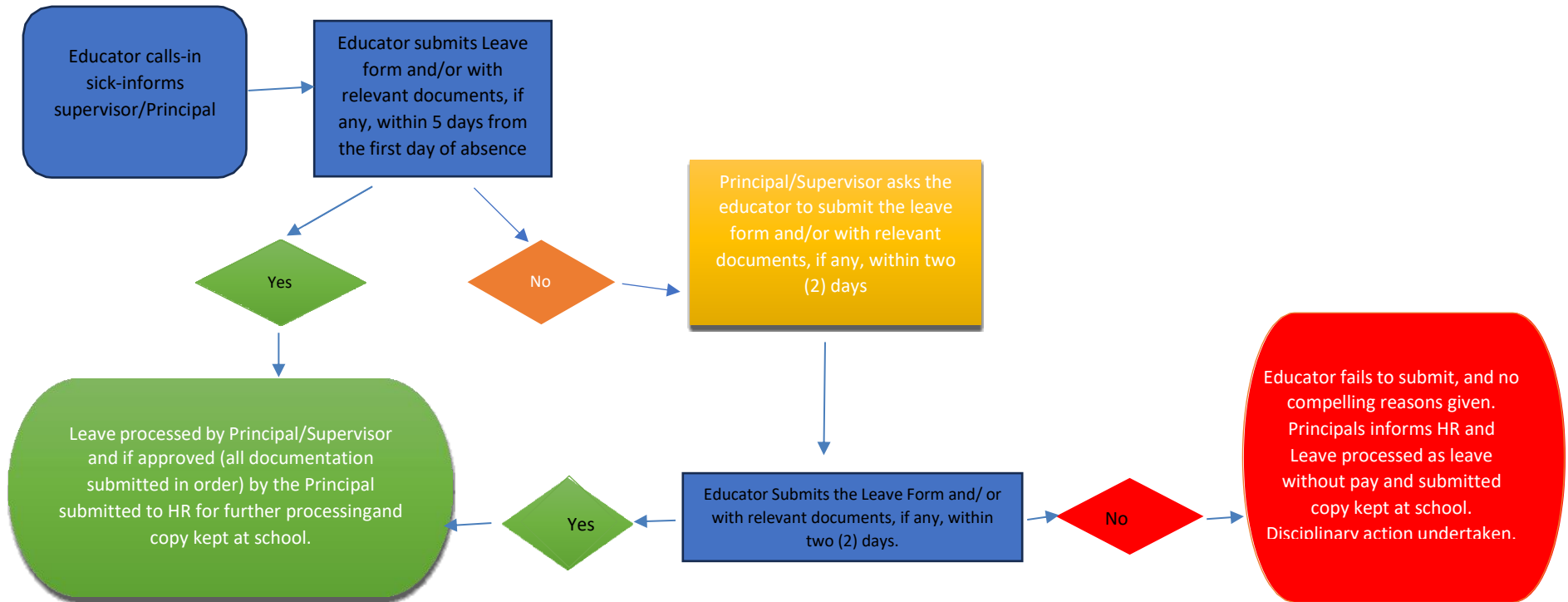
<b>4. PERMANENT INCAPACITY LEAVE (Par H.5.4)</b>	Maximum of 30 working days' or additional days as required and dictated by administrative processes	<ul style="list-style-type: none"> <li>• An educator shall not directly access or apply for permanent incapacity leave.</li> <li>• Only granted after by the HoD may grant an educator up to a maximum of 30 working days' permanent incapacity leave once he/she has, following the assessment and investigations done when submitting leave for temporary incapacity and advice from the Health Risk Manager</li> <li>• The HoD may extend the period of permanent incapacity leave to finalise the investigations.</li> </ul>
<b>5. LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES (Par H.6)</b>	For the period that an educator cannot work.	<ul style="list-style-type: none"> <li>• Granted to an educator who because of work, suffers occupational injury or contract an occupational disease.</li> <li>• May be granted if an educator suffers a work related injury as a result of an accident involving a third party based on certain conditions including submission of medical forms to the HOD and undertakes to apply for compensation to the relevant authority.</li> <li>• When an educator is injured on duty or contracted an occupational disease the employer must pay the educator's medical expenses in terms of the provisions of the Compensation for Occupational Injuries and Diseases Act.</li> </ul>
<b>6. SPECIAL LEAVE FOR QUARANTINE PURPOSES (Par. H.7)</b>	As determined by the medical practitioner	<ul style="list-style-type: none"> <li>• Special leave with full pay may be granted to an educator who has been exposed to a medical condition that requires such person to be placed under quarantine.</li> <li>• Application for such leave must be accompanied by a certificate from a medical practitioner stating the period of quarantine as well as the reasons necessitating such leave.</li> </ul>
<b>7. MATERNITY LEAVE AND PRE-NATAL LEAVE (Par H.8)</b>	4 consecutive months' commencing at least 14 days prior to the expected date of birth and; 8 working days pre-natal leave	<ul style="list-style-type: none"> <li>• May be extended upon application by the granting of sick leave because of a medical complication or up to 184 consecutive days of unpaid leave or using capped leave.</li> <li>• An educator who, during the third semester of her pregnancy, experiences a miscarriage, still birth or termination of the pregnancy will be eligible for six consecutive weeks paid maternity leave, where after sick leave due to medical complications can be granted.</li> <li>• paragraph H.8.2.1 will apply in the event of a medical complication.</li> <li>• 8 working days pre-natal leave, per pregnancy, allowing the educator to attend medical examinations by a medical practitioner or midwife, and tests related to the pregnancy.</li> </ul> <p>Applicable to an educator appointed in a temporary capacity (fixed term contract):</p> <ul style="list-style-type: none"> <li>• Granted paid maternity leave that is proportional to her term of contract at a rate of 10 calendar days' maternity leave with full pay calculated at each month of her term of contract to a maximum of 4 months, where after maternity leave without pay shall be granted.</li> </ul>

8. PARENTAL LEAVE (Not yet on PAM)	Ten consecutive working days	<ul style="list-style-type: none"> <li>• Granted to an educator who is a parent of a child from the first occurring day date between the date the child is born, the date the adoption order is granted; or the date the child is placed in the care of a prospective adoptive parent by a competent court.</li> <li>• Granted in addition to other related leave such as Family Responsibility, Adoption Leave.</li> </ul>
9. FAMILY RESPONSIBILITY LEAVE AND SPECIAL LEAVE FOR URGENT AND PRIVATE MATTERS (Par H.11)	14 days in total	<ul style="list-style-type: none"> <li>• Granted 5 working days leave per annual leave cycle if – <ul style="list-style-type: none"> <li>○ The educator’s spouse or life partner gives birth; or the educator’s child, spouse or life partner is sick.</li> </ul> </li> <li>• Granted 5 working days leave per annual leave cycle if <ul style="list-style-type: none"> <li>○ The educator’s child, spouse or life partner dies; or the educator’s immediate family member dies.</li> </ul> </li> <li>• Granted special leave to attend to an urgent private matter, the nature of which is such that it warrants such an educator’s absence from work. The number of days taken can be up to 14 days noting that this will also exhaust days allocated for family responsibility.</li> <li>• In total the number of days taken for family responsibility and special leave for urgent and private matters must not exceed 14 days.</li> </ul>
10. ADOPTION LEAVE (Par. H.9)	Maximum of 45 working days.	<ul style="list-style-type: none"> <li>• Granted to an educator that has legally adopted a child younger than two (2) years</li> <li>• Therefore, an eligible educator should provide the Department with a certified copy of the adoption order to access the adoption leave benefits.</li> </ul> <p>Applicable to an educator appointed in a temporary capacity (fixed term contract):</p> <ul style="list-style-type: none"> <li>• A temporary educator who adopts a child that is younger than two years, shall qualify for adoption leave at a rate of 4 days paid leave for each month to a maximum of 45 working days.</li> </ul>
11. SURROGACY LEAVE (Par. H.10)	4 consecutive paid leave	<ul style="list-style-type: none"> <li>• Commissioning parent entitled to four consecutive months paid leave commencing from the date of the birth of the child.</li> <li>• All the legal requirements in terms of the relevant laws must have been followed and proof provided as part of the application.</li> </ul>
12. SPECIAL LEAVE FOR PROFESSIONAL AND PERSONAL DEVELOPMENT AND	May not exceed 3 working days per annual leave cycle.	<ul style="list-style-type: none"> <li>• Granted to an educator to engage in activities aimed at his/her professional development or to engage in activities aimed at his/her personal development where such personal development is also in the interest of the employer.</li> <li>• Granted to an educator for the purpose of religious observance.</li> </ul>

FOR RELIGIOUS OBSERVANCES (Par. H.12)		
<b>13. SPECIAL LEAVE FOR PARTICIPATING IN SPORTING, CULTURAL AND OTHER EVENTS</b>	For the approved period.	<ul style="list-style-type: none"> <li>• Special leave for a period and on conditions approved by the HoD to participate in sports, cultural, and other relevant activities.</li> <li>• Participation for which leave may be granted may include representation of the country, province or other comparable level as an actual participant, referee, adjudicator, course or group leader, or for participating in or attending a relevant conference, meeting or other event approved for this purpose by the employer.</li> </ul>
<b>14. SPECIAL LEAVE FOR STUDY PURPOSES</b>	For a period as approved by the employer	<ul style="list-style-type: none"> <li>• Granted to an educator for an approved course of study and for a period approved by the employer, on conditions as approved by the employer, including leave with full or partial pay or without pay.</li> <li>• The employer may call for periodic progress reports in respect of the educator's studies.</li> <li>• Educator shall enter into an agreement with the employer in a form approved by the employer in terms of which: <ul style="list-style-type: none"> <li>• he/she undertakes to serve the employer immediately after completion of the period of special leave for study purposes for a period equal to at least the period for which special leave for study purposes on full pay has been granted to him or her, or for a service period proportional to the person's pay during the period of special leave for study purposes.</li> </ul> </li> </ul>
<b>15. SPECIAL LEAVE FOR EXAMINATION PURPOSES</b>	Day of the examination and an extra day prior.	<ul style="list-style-type: none"> <li>• An educator may be granted special leave for examination purposes with full pay for each day on which such educator sits as a candidate for an examination approved for this purpose by the employer plus one additional day of special leave for study purposes for each such day of examination which may be taken on the working days immediately prior to the days of examination.</li> </ul>
<b>16. UNPAID LEAVE</b>		<ul style="list-style-type: none"> <li>• If an educator has utilised all her or his accrued annual leave, the HoD may grant her or him unpaid leave up to a maximum of 184 consecutive days.</li> <li>• Absences from work due to arrest, imprisonment, or appearance in court on a criminal charge that leads to a conviction must be recorded as unpaid leave.</li> </ul>

## 2. PROCESS MAPS FOR MANAGEMENT OF SELECTED LEAVE TYPES

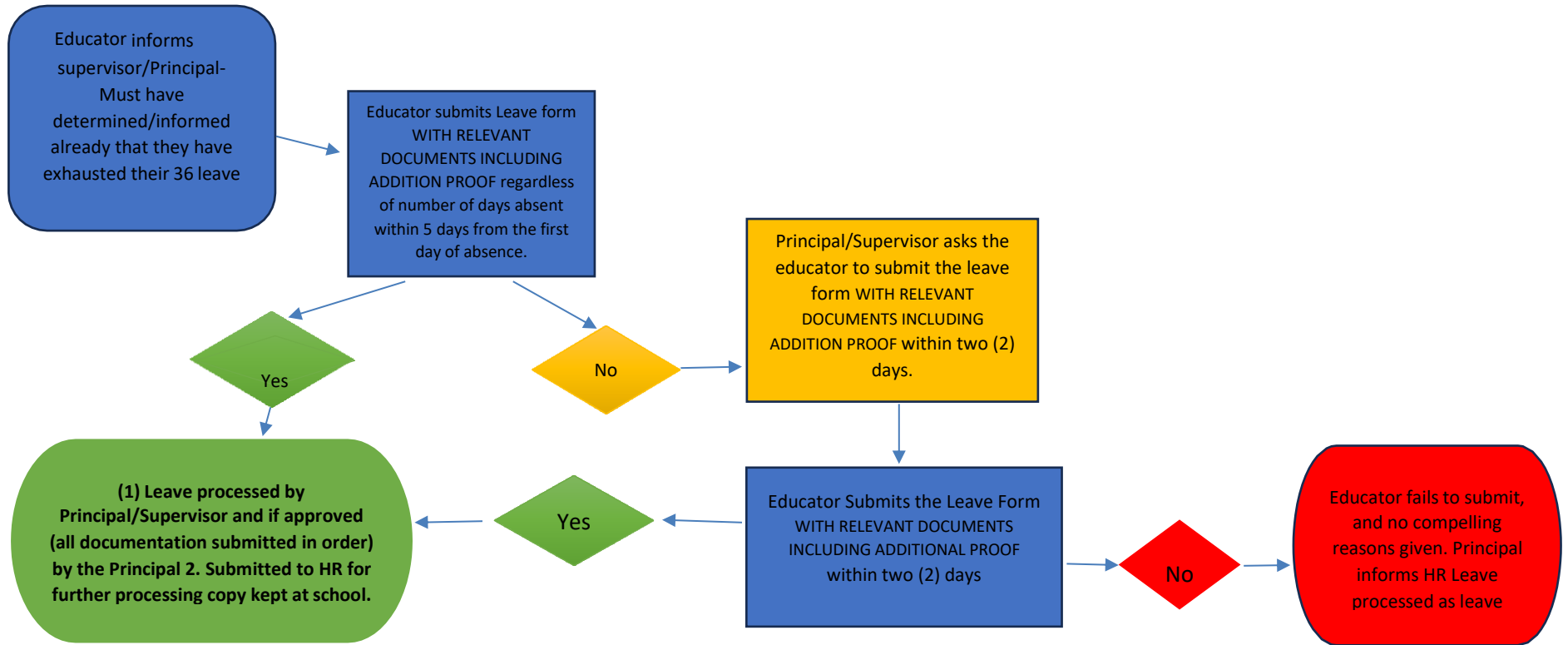
### 2.1. PROCESS FOR ADMINISTRATION AND MANAGEMENT OF NORMAL SICK LEAVE



#### Key policy considerations:

- 36 Sick Leave days allocated in a three-year circle.
- 1-2 days no medical certificate required. Medical certificate attached if absent for 3 or more days.
- If educator has been absent on two or more occasions within an 8-week period-must submit a medical certificate regardless of the period of absence-8-week rule applied.
- If the Principal/Supervisor detects that the employee may be abusing sick leave, an investigation may be initiated, and medical certificates will have to be submitted/produced for the reported sick days.

## 2.2 PROCESS FOR ADMINISTRATION AND MANAGEMENT OF TEMPORARY INCAPACITY LEAVE

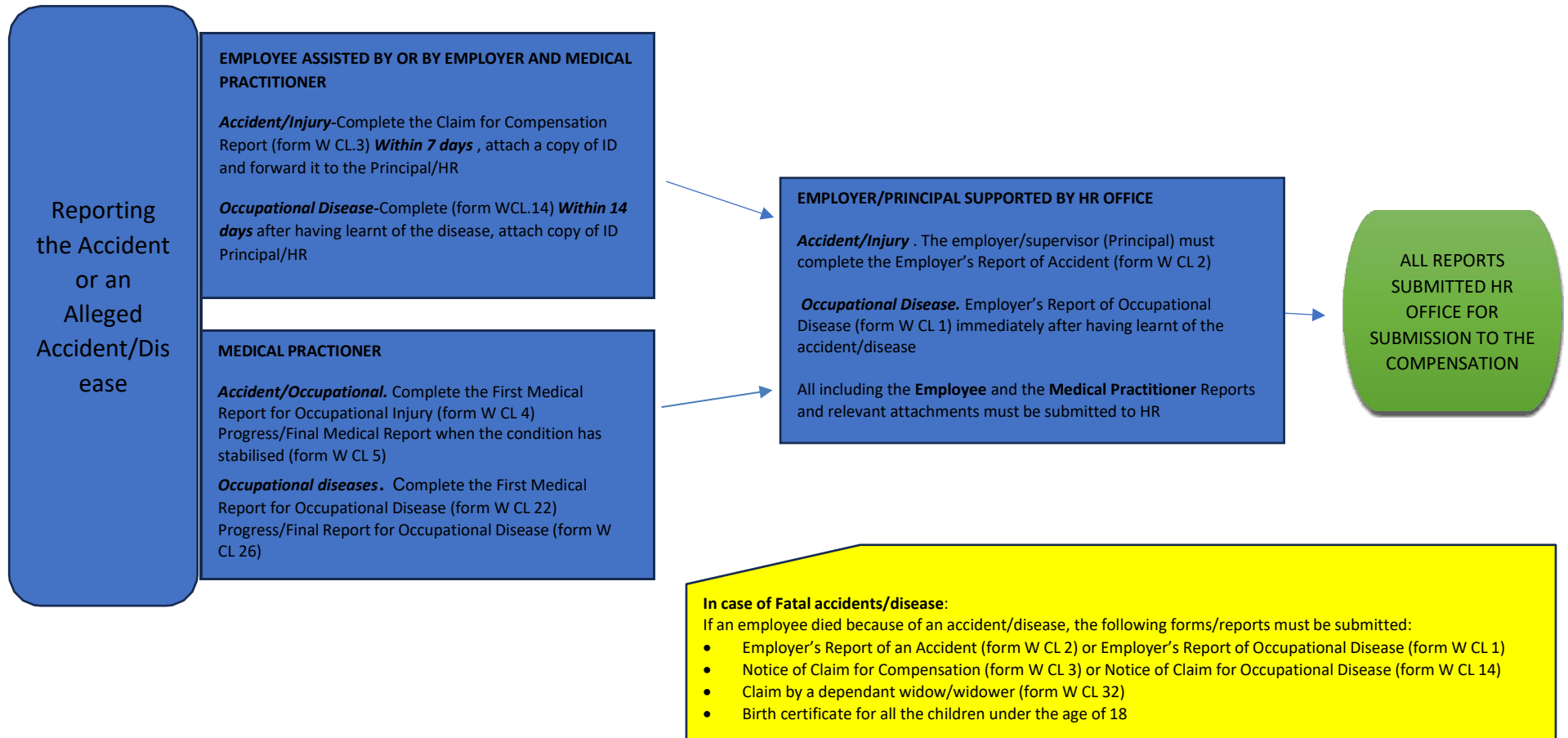


### Key policy considerations:

- not an unlimited number of additional sick leave days at an educator’s disposal. Granted conditionally by the HoD according to PILIR policy.
- Conditionally granted maximum of 30 days upon investigation and sufficient proof.
- The Principal/Supervisor must ensure that the educator has:
  - Submitted sufficient proof that s/he is too ill/injured to perform his/her work satisfactorily.
  - The Application is accompanied by a medical certificate issued and signed by a medical practitioner certifies his/her condition as temporary incapacity and if the educator has consented, the nature and extent of the illness/injury.
- temporary incapacity leave in respect of clinical procedures must be submitted in advance unless the treating medical practitioner certifies that such procedures must be conducted as an emergency.

## 2.2. PROCEDURES IN TERMS OF THE COIDA FACILITATION AT SCHOOL LEVEL

It is expected that copies of all the required Forms are available school.



### **3. DURATION OF APPLICABILITY OF THE GUIDELINES**

The Guidelines are based on the currently applicable leave dispensation as stipulated in various pieces of legislation, policies, regulations, and collective agreements. The Guidelines may be subject to amendment to be aligned with future amendments of the source documents. Otherwise, the Guidelines must always be read in conjunction with any other relevant future amendments.



MR HM MWELI  
DIRECTOR-GENERAL  
DATE: [11/12/2023](#)