

31 August 2015

EDUCATION BUREAU CIRCULAR NO. 16/2015

**Granting of Paternity Leave to Staff in Aided, Caput and
Direct Subsidy Scheme Schools**

[Note : This circular should be read by -

- (a) Supervisors/Heads of all aided schools (including special schools), caput schools and DSS schools -- for necessary action; and
- (b) Supervisors/Heads of schools other than (a) above and heads of sections -- for information]

SUMMARY

This circular sets out the new administrative arrangements of paternity leave for eligible male employees of aided and caput schools with effect from ~~1 September 2015~~ **11 December 2020**. Eligible male employees of Direct Subsidy Scheme (DSS) schools should also benefit from the provision of paternity leave. This circular supersedes the respective Education Bureau (EDB) Circular No. 18/2012 on Granting of Paternity Leave to Staff in Aided, Caput and Direct Subsidy Schools.

BACKGROUND

2. The Employment (Amendment) Ordinance 2014 on statutory paternity leave commenced on 27 February 2015. It sets out that eligible male employees with child born on or after the above date are entitled to paid paternity leave if they fulfill other requirements as stipulated in the law. ~~Subject to the provision of the statutory paternity leave, the administrative arrangements of paternity leave in aided and caput schools with effect from 1 September 2015 are set out below.~~ After the Employment (Amendment) Ordinance 2020 took effect on 11 December 2020, the period for taking paternity leave has extended.

GENERAL ARRANGEMENTS

(a) Service criterion for paternity leave

3. Staff in aided and caput schools **with not less than 40 weeks' continuous service**¹

¹According to Employment Ordinance (Cap.57), an employee who has been employed continuously by the same employer for 4 weeks or more, with at least 18 hours worked in each week is regarded as being employed

immediately before taking the paternity leave is eligible for **paid** paternity leave.

(b) Duration and period for taking paternity leave

4. Up to **five working days** of paternity leave with full-pay may be granted to an eligible staff on each occasion of childbirth. Eligible staff may choose to take paternity leave during the period **from four weeks before the expected date of childbirth to ~~ten-14~~ weeks beginning on the actual date of childbirth**. Any untaken paternity leave after the stated period will not be allowed to be encashed nor carried forward to a future childbirth.

(c) Mode of taking paternity leave

5. An eligible staff may take paternity leave in one stretch or in splits with half-day as the smallest unit. In this connection, schools should formulate a school-based mechanism of taking paternity leave in consultation with their staff as early as possible, and make the arrangements known to all staff. There is **no limit on the number or the place of childbirth** for the grant of paternity leave.

6. In the unfortunate event of stillbirth but where delivery has taken place as affirmed by a medical practitioner in the form of a medical certificate, an eligible staff may be granted paternity leave. In other circumstances where a delivery has not taken place (such as miscarriage) as indicated by the medical certificate, paternity leave is not applicable. However, upon application, schools should sympathetically consider granting special leave with pay (a maximum of 2 days per school year) / no-pay leave to the teacher concerned or annual leave/no-pay leave to the non-teaching staff concerned, to take care of his spouse.

(d) Documentary requirements

7. An applicant for paternity leave has a duty to submit documentary proof to substantiate the father-child relationship (e.g. copy of a birth certificate). The school may require the staff to produce the original copy of the documents where necessary. The documents should be submitted within **~~10-14~~** weeks after the childbirth or within 3 months after the first day on which the paternity leave is taken (whichever is later), or any extended period of time as determined by the school having regard to the justifications provided by the applicant. In any cases, the requisite documents should be submitted before cessation of his employment.

8. Where the requisite documents are not available at the time of application (e.g. a copy of the birth certificate will not be available when paternity leave is taken before the expected date of childbirth or a few days immediately after the actual date of childbirth), paternity leave may be granted on a provisional basis pending the submission of documentary proof. The provisionally approved paternity leave will be rescinded if the applicant fails to produce documentary proof to the satisfaction of the school within the

period specified in paragraph 7 above. Where paternity leave is rescinded, the applicant will need to cover his absence by no-pay leave (applicable to teachers) or annual leave/no-pay leave (applicable to non-teaching staff) retrospectively.

9. If the applicant can subsequently provide the requisite documents to the school within 12 months after the first day on which he takes the paternity leave, or in case the applicant has ceased to be employed by the school and he can provide documentary proof to the school within 12 months after the first day on which he takes the paternity leave or within 6 months after the cessation of employment (whichever period expires first), the school must pay him the paternity leave pay in respect of the leave day again.

APPLICATION FOR PATERNITY LEAVE

10. The approving authority for paternity leave is basically the same as the prevailing approving authority for the granting of leave, that is by the Principal. Applications related to the birth of a child outside Hong Kong should be considered on a case-by-case basis. The applicant is required to submit documentary proof or written declaration stating the father-child relationship when necessary. For unusual cases, the applications should be considered by the School Management Committee(SMC)/Incorporated Management Committee(IMC). Schools should keep a record of the related documents and results of the applications for checking by the EDB where necessary.

11. To facilitate manpower planning of the school, an applicant who intends to apply for paternity leave should notify his school his leave plan **eight weeks in advance** of the expected date of childbirth. Where the aforesaid notice cannot be given due to special circumstances, such applicant should still notify his school of the expected childbirth or actual childbirth date as soon as reasonably practicable if he plans to apply for paternity leave.

SUPPLY STAFF

12. The implementation of paternity leave shall adhere to the existing principles of leave arrangement². No changes will be made to the standing rules and conditions guiding the granting of leave in schools. Notwithstanding, IMC schools can use EDB Form No. 110 “Aided Schools with Incorporated Management Committee Claim Form for Reimbursement of Daily-Rated Supply Teacher Grant” at EDB Homepage to claim **reimbursement** of the salaries of the supply teachers substituting the teachers remunerated under Salaries Grant who are on paternity leave, on condition that the prevailing criteria for employing supply teachers (i.e. teachers on approved leave of 3 or more consecutive days) have been met.

² For the granting of leave, please refer to EDB Circular No. 1/2006 and its Annex ‘Guidelines for Granting of Leave’. For the employment of supply staff, IMC schools may refer to Section 13.11 of the *Code of Aid (CoA) for Aided Schools* and Section 7B of *Compendium to CoA for Aided Schools*. Schools which have not yet established an IMC may refer to Section 31, 32 and 34 of *CoA for Primary Schools*, Section 32 and 33 of *CoA for Secondary Schools*, and Section 35 to 40 of *CoA for Special Schools*.

Schools which have not yet formed an IMC can handle matters relating to supply staff in accordance to the existing arrangements. For staff employed with other grants on paternity leave, schools have to follow the prevailing subvention policy of meeting the expenses of supply staff with the respective grants or Operating Expenses Block Grant/Expanded Operating Expenses Block Grant. Caput schools can follow the existing arrangement of recording the expenses of supply staff under the relevant account.

DIRECT SUBSIDY SCHEME SCHOOLS

13. The EDB will include the expenses arising from implementing paternity leave in aided schools in the DSS unit subsidy. DSS schools are required to, by making reference to the administrative arrangements set out in this circular, devise school-based arrangements in granting paternity leave with full-pay to eligible staff as appropriate.

FREQUENTLY ASKED QUESTIONS AND ENQUIRY

14. To enable schools and their staff better understand the measure, a set of frequently asked questions and answers on paternity leave has been uploaded to the page “[Guidelines on Granting of Leave](#)” on EDB homepage and will be updated where necessary. Schools should let their staff know about the arrangements of paternity leave as set out in this circular. For enquiries related to the statutory paternity leave, please contact the Labour Department direct. For enquiries about this circular, please contact the respective Senior School Development Officer.

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for Permanent Secretary for Education