COVID-19: Extension of COVID-19 Diagnosis Special Leave with Pay
For staff other than persons employed as teachers and special needs assistants employed in Education and Training Boards whose post is wholly funded by monies provided by the Oireachtas

Definitions
For the purposes of this temporary scheme the following Information Note shall have the meanings assigned to them here unless the context indicates otherwise:

The Department – means the Department of Education.

Employer – means an Education and Training Board.

Employee – means a member of staff of an ETB other than persons employed as a teacher/SNA, who is in receipt of salary under a permanent contract, contract of indefinite duration (CID), or fixed-term contract as defined in the Protection of Employees (Fixed Term Work) Act 2003.

1. Introduction
1.1 When special leave with pay for COVID-19 diagnosis was introduced in March 2020, it was understood, based on public health advice at the time, the period of self-isolation/illness would be for approximately 14 days.

1.2 As the COVID-19 pandemic has evolved, it is now understood that in some cases the recovery time for people who contract COVID-19 can last longer.

1.3 In this regard, from 1st January, 2021, where an employee has been diagnosed with COVID-19 and remains absent, special leave with pay may be granted by the employer for up to a maximum of 28 calendar days, subject to the employee providing satisfactory and ongoing medical certification to the employer.

1.4 Similar to the terms and conditions of the Sick Leave Scheme, an employer must refer an employee to the Occupational Health Service (OHS), where he/she is absent or expected to be absent on special leave with pay for a period of 28 days duration.

2. Extended Special Leave with Pay beyond 28 days
2.1 From 1st January, 2021 special leave with pay may be extended by the employer beyond 28 days, subject to the provision of satisfactory and regular medical certification and provided the criteria, as described below, are met.
(a) **Workplace Attendance** - the employee was in the workplace\(^1\) (outside the home) during any of the 14 calendar days, prior to commencing the self-isolation period for COVID-19 diagnosis. Therefore, an employee who was not in the workplace during any of the 14 calendar days, prior to commencing the self-isolation period for COVID-19 diagnosis, does not meet the criteria for extended special leave with pay beyond 28 days. Any workplace attendance must have been known to and agreed by the employer in advance. In this regard, employers are advised to keep an updated record of all employees in attendance in the workplace.

(b) **COVID-19 Test Result** – the employee must provide the employer with satisfactory medical evidence of the COVID-19 test date and the positive test result. A copy of the relevant HSE text message notification to the employee is acceptable. It is recognised that at the start of the pandemic, universal COVID-19 testing was unavailable. Thus, on a case-by-case basis, medical evidence that the clinical presentation indicated a high probability of COVID-19 may suffice.

(c) **OHS Health Assessment Report** – the OHS must provide the employer with a report to state:
   i. the employee is medically unfit to resume work
   ii. the employee’s absence relates primarily to ongoing COVID-19 illness
   iii. the employee is accessing appropriate medical care

2.2 For example, on 14\(^{th}\) February, 2021 an employee commenced special leave with pay following a COVID-19 diagnosis. Where satisfactory medical certification is provided, the employee will be recorded as absent on special leave with pay, up to a maximum of 28 days under paragraph 1.3 above, unless the criteria at paragraph 2.1 are met in which case the special leave with pay may be further extended.

2.3 Where an employee commenced special leave with pay following a COVID-19 diagnosis in 2020 and remains absent on 1\(^{st}\) January, 2021, the new arrangements for extended special leave with pay, as detailed in this Information Note will apply from the initial date of absence, where the criteria at paragraph 2.1 above are met. The employee must be referred to the OHS, if not already done so.

3. **OHS Referral Procedure**

3.1 Where the employee is absent on special leave with pay for 28 days, the employer must make a non-discretionary referral to the OHS.

3.2 The employer must, as part of the referral process:

   a) inform the employee of the decision to refer him/her to the OHS.
   b) complete a secure on-line referral form through the dedicated online OHS portal. The referral should be titled "COVID-19 Diagnosis Special Leave with Pay Extension".
   c) send to the OHS (quoting the referral number provided by the OHS) a copy of the medical evidence of the positive COVID-19 test, including the test date.
   d) provide the employee with a copy of the referral.

3.3 The OHS will provide the employer with a referral number immediately after submitting the on-line referral.

3.4 The OHS will arrange an appointment for the employee with an Occupational Health Physician.

3.5 Following the medical assessment, the OHS will provide a Health Assessment Report to the employer to indicate the following:

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\(^1\) The workplace includes any location, outside the home, an employer requires an employee to attend as part of the role.
a) Whether the employee is fit or unfit for work.
b) If unfit for work whether the absence relates primarily to ongoing COVID-19 illness.
c) If unfit for work whether the employee is accessing appropriate medical care.
d) If unfit for work the likely duration of absence, or, if it is not possible to establish a return to work date, the date for review.
e) Any other relevant information in keeping with medical confidentiality.

3.6 Where an employee was recorded on the ETB system as absent on leave due to COVID-19 diagnosis in 2020 and absent on 1st January, 2021, an employer must also refer him/her to the OHS.

3.7 Where ETBs do not use the same OHS provider as that available for Teachers and SNAs (Medmark), they should arrange for referral to their provider applying the same principles outlined in this Information Note.

4. **Recording of Leave Beyond 28 Days**
4.1 The following process must be followed for the recording of special leave with pay:

4.1.1 Where an employee is absent in excess of 28 days and pending the employer’s receipt of the OHS Health Assessment Report, the absence should be recorded on the relevant ETB system as ‘COVID-19: Diagnosis’.

4.2 Where the criteria at paragraph 2.1 are not met, the absence in excess of 28 days must be recorded by the employer as Sick Leave on the relevant ETB System and the terms and conditions of the Sick Leave Scheme will apply.

4.3 The relevant ETB procedure for monitoring and approval of extended leave must be followed when recording leave category ‘COVID-19: Diagnosis Extension’ in respect of an employee, upon receipt of the OHS Health Assessment Report. The required information is set out in Appendix A (exemplar).

5. **Appeal of OHS Advice**
5.1 An employee may appeal the OHS decision in accordance with the procedures detailed below. The medical review appeal is only to determine if the absence relates primarily to COVID-19 illness. Only an employee who has already been assessed by the OHS as medically unfit for work due to a non-COVID-19 related illness has the option to appeal.

a) The employee informs the employer of his/her intention to appeal the OHS decision.
b) The employee sends a request for the appeal to the OHS (by post/e-mail) within 14 days from the date of the OHS decision.
c) The OHS provides a list of appeal doctors (specialists in occupational medicine) to the employee.
d) The employee subsequently informs the OHS of his/her choice of appeal doctor.
e) It is the responsibility of the employee to arrange the appointment with the appeal doctor.
f) The OHS forwards the medical reports that were submitted by the employee to the OHS at the time of the initial assessment to the chosen appeal doctor.
g) Only medical information that was available at the time of the initial OHS assessment can be submitted to the appeal doctor by the OHS and the employee is not permitted to submit any additional information to the appeal doctor.
h) The appeal doctor sends a report to the OHS with an opinion regarding the COVID-19 relatedness of the absence.
i) The OHS subsequently notifies the employer with regard to the outcome of the appeal.
j) The cost of the appeal is €350 payable by the employee to the appeal doctor (the cost of the appeal may differ for other OHS providers). If the appeal is successful, the cost of the assessment will be refunded by the OHS.

k) The employer informs the employee of the appeal outcome.

5.2 Where ETBs do not use the OHS service available for teachers and SNAs, they should put in place an appeals procedure following the general principles as outlined in 5.1 above.

6. Review of extended COVID-19 Special Leave with Pay
6.1 The new arrangements for extended COVID-19 special leave with pay are temporary and will be monitored by the Department of Public Expenditure and Reform (DPER). A review will be carried out by DPER not later than 31st March, 2021.

7. Circulation of Information Note
7.1 Please ensure that this Information Note is circulated to all members of the Board of Management/Education and Training Boards and its contents are brought to the attention of all employees in your employment, including those on leave of absence.

7.2 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 address: esr@education.gov.ie

Mark Bohan
Principal Officer
External Staff Relations

Teresa Mc Neill
Principal Officer
ETB Financial & Administrative Personnel Section

19 March, 2021
Appendix A

Employer Approval Form

Extension of COVID-19 Special Leave with Pay

This Employer Approval Form must be completed where an employer has approved the leave category ‘COVID-19: Diagnosis Extension’ in respect of an employee, upon receipt of the OHS Health Assessment Report.

Part 1 – Employee Details
Employee’s Name: ___________________________ Contact No.: ____________________________
Home Address: _____________________________________________________________________
E-mail Address: __________________________ PPSN: ______________________________________
Work Location: _____________________________________________________________________
Roll No. (if applicable): __________________________

Part 2 – Employer Approval

1. The employee was in the workplace1 (outside the home) during any of the 14 calendar days, prior to commencing self-isolation for COVID-19 diagnosis. The workplace attendance was agreed by me in advance.

2. The employee has provided me with satisfactory medical evidence of the COVID-19 test date and the positive test result.

3. I have received the OHS Health Assessment Report in respect of this employee which states the following:
   (a) the employee is medically unfit to resume work
   (b) the employee’s absence relates primarily to ongoing COVID-19 illness
   (c) the employee is accessing appropriate medical care

I have approved the extension of leave category ‘COVID-19: Diagnosis’ for the period, as detailed below.

Date From: __________________________
Estimated End Date (as provided in the OHS Health Assessment Report): _______________

Signature: ___________________________ Date: __________________________
(Employer)

Supporting Documentation should be retained in the HR Department of the ETB with any other relevant documentation for record and audit purposes with the relevant personnel records.

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1 The workplace includes any location, outside the home, an employer requires an employee to attend as part of the role.
Data Protection Privacy Statement

Each ETB insert privacy statement