

Know Your Agreement

Time in Lieu

Clause 59.3

Time in Lieu under the Victorian Catholic Agreement

Along with a more regulated working week comes the introduction of 'time in lieu' (TIL) for teachers. Teachers accrue TIL for any required attendance at structured activities (including camps, parent-teacher interviews, information nights, graduations, open days, excursions and sport) which occur outside of their normal hours of attendance.

For every hour of attendance (or for every 2 hours when 'on-call' overnight on camps), a teacher is entitled to a paid hour off work.

If the employer and the employee agree, it can instead be granted as additional payment at the teacher's normal hourly rate.

Can accrued TIL be balanced against an early end to the school year?

Yes it can, provided this is agreed to by the Consultative Committee. However, it's important to ensure that this does not disadvantage any teachers who have not accumulated adequate TIL, particularly where this is due to family or caring responsibilities.

One acceptable model that many schools have agreed to through their consultative procedures is to have teachers finish (for example) six days before the end of the gazetted school year regardless of their TIL balance, and individual negotiations with those who have accrued a higher balance about their additional time off (or payment in lieu).

Given that this Agreement is expected to come into legal effect in the middle of the 2023 school year, it's important that this is done in a fair manner which either accounts

for additional hours worked in the first half of the school year, or which (via consultation) ensures that staff are not disadvantaged by the fact that these hours have not been accounted for.

Can existing student-free days be used for TIL acquittal?

Only if this is reasonable and does not simply displace work that needs to be done anyway. For example, if a school traditionally provides a student-free day for report writing in Terms 2 & 4, it would clearly not be reasonable to count this as TIL acquittal if it simply means that teachers need to find additional time elsewhere for report writing.

On the other hand, where a school provides an additional day free of any duties during the gazetted school term (for example adjacent to a public holiday) or an early end to the school year, this could be used to acquit TIL balances.

Can my principal 'bank' time each week by not allocating duties for the third additional hour, then require teachers to attend additional duties to 'pay this off'?

As is made clear in the employers' implementation guides, the effective management of TIL involves three steps, in the following order.

1. Plan & approve,
2. Accrue,
3. Acquit.

There may be some instances where by agreement either at the individual level or via the Consultative Committee

It is appropriate for acquittal to occur before accrual, but these should be the exception rather than the rule. It is the responsibility of the employer to ensure efficient and effective utilisation of the three employer-directed hours which fall outside of the school day. Along with meetings, directed professional development and compliance training, these three hours encompass all other directed work adjacent to the seven-hour day including before- & after-school yard/bus/gate duties or other student supervision, PSGs/parent meetings, directed collaboration and before-school briefings.

Again, because we can't say it often enough – the Agreement is clear that Time in Lieu planning must occur in advance through the Consultative Committee, so this is the place to discuss and negotiate arrangements around the accrual and acquittal of TIL.

Can schools demand participation in an activity outside school hours?

Employers can require attendance at a structured school activity outside of regular attendance hours only if such attendance is necessary and reasonable notice is provided.

Teachers have the right to request not to attend an activity if it unreasonably affects their personal or family commitments. Your employer can only refuse this request if they have reasonable grounds to do so.

The Consultative Committee must be involved in the planning process, which should take place in Term 4 of the prior year. A key part of the role of the Consultative Committee in this process is ensuring that expectations are fair and reasonable and provide flexibility for staff with particular needs or responsibilities.

What happens to TIL accrued from the start of 2023?

Employers are legally obliged to implement TIL from the approval date of the proposed Agreement. Commitments

made by employers regarding the accrual and acquittal of TIL over the first two terms of 2023 vary. In most cases, they have agreed to count TIL accrued at school camps since the start of the year.

The arrangements for accrual of TIL in 2023 should be taken into account by Consultative Committee in ensuring that there is fairness and equity around acquittal.

How should my Employer be implementing these changes?

The Consultative Committee will hold discussions regarding annual planning for TIL. Planning for the following year should occur during Term 4.

Because these provisions only become legally binding upon approval of the Agreement in mid-2023, planning for this year cannot occur in this way – but employers are still obliged to consult with the Consultative Committee prior to requiring teachers to participate in required school activities outside of normal attendance time.

There may be occasions where school activities cannot be planned this far in advance. In this situation, as much written notice as possible should be provided to the teacher required to undertake the duties. This notice must set out the date, time and, whenever possible, the number of hours required for the performance of the additional duties.

What happens if I am not able to attend a structured school activity?

Under clause 59.3(d) of the proposed Agreement, a teacher can request not to attend the activity if it unreasonably affects their personal or family commitments. The Employer can only refuse the request with reasonable grounds.

Camps and TIL

When a teacher is performing duties (including supervising students) on a school camp outside of their normal hours, they will accrue TIL.

When a teacher is on call and available to perform duties (such as overnight), TIL will accrue at 50% – or at a rate of half an hour for each hour on call. If an on-call teacher is needed to perform duties, they will receive TIL at full rates for the time spent on duty providing they notify their employer of this.

TIL arrangements for part-time Teachers

Part-time teachers will accrue TIL when they are required to attend a structured school activity outside of regular attendance time requirements. If a part-time teacher is required to work additional hours during student instruction time, the teacher should be paid for each additional hour at their normal hourly rate of pay plus an 18% loading.

Overtime and Time in Lieu arrangements for Education Support Staff & School Services Officers

The long-standing provisions for overtime & time in lieu for non-teaching staff continue to operate. See *Clauses 71.5 & 71.6 (ES) and 74.4 – 74.7 (SSO)*.

These are fundamentally different to the new TIL arrangements for teachers, but the fact that teacher TIL arrangements have been introduced is a good opportunity to ensure that these existing provisions are being correctly followed.

Key differences include:

- By default, ES staff & SSOs should be paid for their overtime, with a loading (33.3% for ES, at least 50% for SSOs). By mutual agreement, they can instead take it as Time in Lieu. If this is TIL not

acquitted within four weeks, they can require their employer to pay it as overtime.

- ES staff cannot be required to perform over three hours of overtime each week, except by mutual agreement. This in effect means that they cannot be required to attend school camp, but can do so by mutual agreement.

It is important to ensure that ES & SSO staff are not disadvantaged under cover of the introduction of TIL for teachers. For example, it would be clearly unreasonable to introduce new requirements to accrue TIL on days which by custom and practice staff have not previously been required to work.

Who keeps track of Time in Lieu?

It is your employer's responsibility to track all Time in Lieu accrual, and principals have been provided with detailed instructions around this.

However, we advise all members to keep their own records as a backup. It would be enough to keep a central file with a brief note of each activity, the date and the number of hours of TIL accrued.

Time in Lieu implementation process

The following checklist provides guidelines for implementing Time in Lieu (TIL) through the Consultative Committee. It outlines the steps for planning, approving, accruing, and acquitting TIL.

Step 1: Plan school activities that may attract TIL

- Compile information on all school activities that will require duties exceeding 38 hours in a week (or normal hours for a part-time teacher).
- Create a list of all school activities that require the attendance of teachers or education support employees (noting that ES staff have different TIL provisions – see previous page).
- Examples of structured school activities may include parent-teacher interviews, excursions, concerts, parent information sessions, after-hours sport, camps, graduations, and open days.
- If your employer is considering other structured activities not listed, it is recommended that you seek advice from the IEU.
- For each school activity that requires the attendance of teachers or education support employees, the principal should assess:
 - The number of staff required.
 - The estimated number of hours in excess of 38 hours per week (or normal hours for a part-time teacher) that will be accrued per employee for the activity.

Step 2: Develop a TIL acquittal plan

The IEU encourages the use of the following mechanisms to acquit TIL:

- Earlier finish dates at the end of the year. One model that many schools have agreed to through their consultative procedures is to have teachers finish a certain number of days before the end of the gazetted school year regardless of their TIL balance, with individual negotiations with those who have accrued a higher balance around their

additional time off.

- Agreed school closure days throughout the year. It is important that school closure dates do not simply shuffle workload requirements – for example it would not be reasonable to rebadge a report-writing day as a day of TIL acquittal if the report writing requirements remain and time for this is not provide in some other way.
- Providing individually negotiated time off from normal duties. Ideally this should be done at a time and in a manner which provides workload relief at a time when it would be most beneficial – for example providing a morning or full day off immediately following a school camp.
- Reducing meetings during times that other out-of-hours work is required, such as in the week of parent-teacher interviews.
- Late start or early finish times.
- Payment for TIL remunerated at the teacher's normal rate of pay. Note: if accrued TIL has not been granted to a teacher by 1 March of the following school year, the principal must grant TIL equivalent to the owed time, commencing immediately, or pay the teacher for the time owed at 150% of the teacher's normal rate of pay.

Step 3: Approve TIL

Once planning is completed and the principal has determined which teachers are required and the number of hours expected:

- The principal approves the accrual of Time in Lieu and records the approval and balance of planned TIL for each employee.
- The principal advises each teacher of the expected hours of TIL that will be accrued for each school activity, and discusses with them of the plan for acquittal.
- After the school activity, if a teacher was not advised they would be required to work or worked more hours than expected, the principal should resolve any inconsistencies.
- The school must maintain a record of each employee's TIL.

Time in Lieu clause

59.3 Time in lieu

(a) The Employer may require a Teacher to attend a school activity outside the normal attendance of the Teacher where such attendance is required and reasonable notice is provided.

(b) School activity for the purpose of clause 59.3 refers to a structured activity organised by the school such as a parent-Teacher meeting/interview, a camp, an excursion, a concert, open days, parent sessions or after-school hours sport.

(c) Where a Teacher is required to attend a school activity outside the normal attendance for a Teacher on that day, and the Teacher's attendance in that week exceeds 38 hours for a full-time Teacher or on a pro-rata basis for a part-time Teacher, time in lieu will be provided to that Teacher over the course of that school year.

(d) A Teacher may request not to attend the school activity outside the normal attendance of the Teacher where this will unreasonably affect the Teacher's personal or family commitments. The Employer may only refuse the request on reasonable grounds.

(e) Annual planning for time in lieu for Teachers will be discussed at the Consultative Committee. This planning should occur at the end of the previous year or the beginning of the school year as far as practicable.

(f) All work required in excess of 38 hours per week for a full-time Teacher (or on a pro-rata basis for a part-time Teacher) must be documented by the Employer.

(g) For Teachers' attendance at a school camp, time in lieu will be calculated on the basis of 100% time in lieu for the time the Teacher is performing duties and 50% for the time the Teacher is on call and available to perform duties.

(h) As an alternative to time in lieu, the Principal, as the Employer's representative, and the Teacher may agree to payment for time in lieu owed at the Teacher's ordinary rate of pay.

(i) Unless otherwise agreed between the Principal, as the Employer's representative, and the Teacher, where accrued time in lieu has not been granted to a Teacher by 1 March of the following school year, the Employer must:

(i) grant time in lieu equivalent to the time owed immediately; or

(ii) pay the Teacher for the time owed at 150% of the Teacher's ordinary rate of pay.