

## Leave win for surrogacy and out-of-home care

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After lengthy negotiations led by Federation and other public sector unions, and amid delays by NSW Treasury, teachers can finally access leave for surrogacy and permanent out-of-home care.

Teachers who become parents through a surrogacy under the NSW Surrogacy Act 2010 can now access 14 weeks' paid leave from the date of taking custody of the child. The conditions will match maternity leave, including 12 months' unpaid leave and the right to request an extension or part-time work.

If both new parents are employed by the Department, only one will be able to access the paid leave. Any teachers acting as surrogate parents for others will continue to be eligible for maternity leave in relation to the birth. Commercial surrogacy continues not to be recognised under NSW law.

Teachers taking on the care of children through permanent out-of-home care (foster care) will now have access to up to 12 months leave (plus the right to request) for the purpose of caring for the child. Unfortunately, at this stage, the provision is only for unpaid leave.

The argument from Treasury was that there was not enough data to know how much paid leave would cost. In negotiations, unions successfully pushed for the leave to be reviewed after 12 months with a view to developing a case for paid leave.

[The Determination](#) issued by NSW Treasury will apply to all public service employees. The Department has confirmed it is granting the leave according to the Determination and that industrial instruments will be amended to reflect the changes.

Federation will continue to advocate for parental leave for teachers to be improved and reflect the diversity of families. This includes paid leave for permanent out-of-home care and making adoption leave available earlier where a period of care precedes a formal adoption.

Federation's advice will be amended accordingly. If members have any questions they can contact Professional Support on 1300 654 367.

