Term Time Leave of Absence- FAQs for Parents- from September 2024
This document has been updated to reflect changes from September 2024 in the law and information from the new National Framework for the issuing of penalty notices for unauthorised absence from school.

1. **Who can make the decision not to agree / authorise the requested leave of absence?**

   The headteacher at the school makes the decision about whether to authorise term time leave requests. **However, statutory regulations make it clear that headteachers are not allowed to class any term time holiday as exceptional.**
   Therefore, headteachers can only grant leave in 'exceptional circumstances'. There is no statutory criteria for exceptional circumstances but some of the following reasons may apply:

   - Service personnel returning from active deployment
   - Where inflexibility of the parents' leave or working arrangement is part of the organisational or company policy. This would need to be evidenced by the production or confirmation from the organisation/company
   - Where leave is recommended as part of a parents' or child's rehabilitation from medical or emotional problems. Evidence must be provided
   - When a family needs to spend time together to support each other during or after a crisis

   Leave is only authorised where such 'exceptional circumstances' apply and cannot be granted on the basis of attendance record, academic performance or the 'experience' offered by being out of school. The potential savings made by travelling on holiday during term time are also not a factor which can be considered.

2. **What evidence is required for meeting the criteria for 'exceptional circumstances'?**

   Supporting evidence **must** be submitted if parents wish the headteacher to consider their application as an 'exceptional circumstance'. This would be in the form of a letter (must be dated and on official headed paper) or email from a verified email account. Examples may include:
   Deployment records
   Correspondence from an employer stating that no other dates are available for their employee to take leave during any of the 13 week school holidays available
   Medical records or a letter from a medical practitioner

This evidence forms part of the legal record for authorising absence. The headteacher reserves the right to independently verify the source of the source of the evidence and may make contact with employers, if required.

If the request for leave of absence does not have supporting evidence then leave of absence will be unauthorised and a Penalty Notice may be issued if the leave is taken without the permission of the Head teacher.

3. **Can a leave of absence be agreed/ authorised retrospectively?**

No. If parents/carers have not applied to the school in advance then the request cannot be agreed / authorised retrospectively and should be coded as unauthorised absence. Leave of absence cannot be applied for retrospectively. Parents must apply for leave of absence at least 6 weeks prior to the first date of absence. Parents must obtain permission from the school before making any arrangements for leave.

4. **When are penalty notices (fines) issued by the Local Authority? (This has changed from September 2024)**

Penalty notices will be issued when the threshold is met. The threshold is:

10 sessions of unauthorised absence in a rolling period of 10 school weeks.

A school week means any week in which there is at least one school session. A session is a morning or afternoon- each school day consists of 2 sessions.

This can be met with any combination of unauthorised absence :
e.g. 4 sessions of holiday taken in term time plus 6 sessions of arriving late after the register closes all within 10 school weeks.

These sessions can be consecutive (e.g. 10 sessions of holiday in one week)
or not (e.g. 6 sessions of unauthorised absence taken in 1 week and 1 per week for the next 4 weeks).
The period of 10 school weeks can also span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

*** NEW From September 2024 * Two penalty notice limit and escalation in cases of repeat offences**

A penalty notice is an out of court settlement which is intended to change behaviour without the need for criminal prosecution.

From the start of the autumn term 2024, **only 2 penalty notices can be issued to the same parent in respect of the same child within a 3 year rolling period and any second notice within that period is charged at a higher rate**:

• The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days. (previously £60 if paid within 21 days)

• A second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.

• A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first.

In a case where the national threshold is met (10 sessions of unauthorised absence in a rolling period of 10 school weeks) for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. **This will often include considering prosecution**, but may include other attendance legal interventions.

Once 3 years has elapsed since the first penalty notice was issued a further penalty notice can be issued, but in most cases it would not be the most effective tool for changing what may have now become an entrenched pattern of behaviour.

5. How do I apply for term time leave of absence?

Parents must complete an official request form and submit it to school at least 6 weeks prior to the first day of absence requested. Forms are available from the school office or can be downloaded from the school website. Evidence must be provided if parents wish the headteacher to consider any exceptional circumstances.

6. How will I be notified of the decision?

The headteacher will respond in writing to your request. As the letter is key evidence in any possible future court case, the letter is posted out to you. This ensures that the letter is deemed as served to you, the parent, with regard to legal requirements.

We will address the letter to both parents if they live in the same household. If parents live in separate households, we will also send the letter to the absent parent.

7. Will children under 5 years be issued with a penalty notice if un agreed leave of absence is taken in term time?

Children become of mandatory school age the term after their fifth birthday Only children of mandatory school age come under the regulations. This means that some children in EY may not be of statutory school age and therefore no penalty notice would be issued.

8. Does the school or the LA make the decision to pursue the issuing of a penalty notice?

Following parents/carers taking the child/ren on un agreed/ unauthorised leave of absence which meets the criteria for the issuing of a penalty notice i.e. 10 school sessions within rolling 10 school weeks, the Headteacher must submit relevant documentation to the LA as follows:

- Certificate of absence for un agreed leave of absence for the period in question
- Witness statement written and signed by the Head teacher
- Copy of leave of absence application form from parent/carer including reason for request and the Head teacher's reply (if possible)

The LA will then determine whether a penalty notice should be issued.

9. What if I take my child out of school without completing prior a written application?

No request for leave of absence can be granted retrospectively so in such circumstances, leave would be unauthorised.

10. Is the Penalty Notice issued per parent per child?

A penalty notice of £80/ child is payable within the first 21 days and rises to £160 thereafter. The Local Authority will consider taking legal action if the penalty notice is not paid within 28 days of date of issue. Legal action may result in a fine of up to £1,000 and a criminal record for each parent/carer.

Legislation indicates that the LA can issue penalty notices per parent per child. However, current NYCC policy is to issue penalties per child per family. The authority will determine on a case by case basis which option is most suitable based on information received but can still exercise its legal right to issue penalties per child per parent.

11. If the Penalty Notice is not paid, what happens next?

The LA would consider progressing the case to the magistrates' court under the Education Act 1996 Section 444 (1). An officer of the Education Social Work Service would present the case initially but, if a not guilty plea is entered by the parent, then the initial hearing would be adjourned to prepare for a full trial.