

**Senate Community Affairs Committee**  
**ANSWERS TO ESTIMATES QUESTIONS ON NOTICE**  
**FAMILIES, HOUSING, COMMUNITY SERVICES AND**  
**INDIGENOUS AFFAIRS PORTFOLIO**  
**2010-11 Additional Estimates Hearings**

**Outcome Number:** Cross

**Question No:** 25

**Topic:** Cultural Leave

**Hansard Page:** 24/2/2011 – CA7

**Senator Fifield** asked:

Could you advise what constitutes cultural leave?

What are the criteria used to determine what is appropriate for cultural leave?

Could you provide a copy of those guidelines (including NAIDOC guidelines)?

**Answer:**

Employees are eligible to seek 2 days paid and/or 2 months unpaid cultural leave to take part in activities associated with their culture or ethnicity. The appropriateness of leave under this provision is considered on a case by case basis.

Employees who may apply for cultural leave are employees:

- identifying as an Aboriginal and/or Torres Strait Islander; and
- from culturally and linguistically diverse backgrounds.

Cultural leave is only granted where the public holiday substitution provisions contained in the FaHCSIA Collective Agreement are not suitable and/or where the circumstances cannot be accommodated under other leave provisions.

Examples of when paid leave may be appropriate include:

- Greek Orthodox Christmas;
- Eid-ul-Adha (Islamic “Feast of Sacrifice”); or
- the funeral of an Indigenous person’s extended family member or respected community representative (e.g. Chairperson, councillor or community elder).

General periods of celebration would not meet the requirements for paid leave under this clause.

Examples of circumstances where approval may be given for cultural leave without pay include:

- the full period of Ramadan;
- Chanukah;
- Chinese New Year.

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The Australian Public Service Bargaining Framework requires agencies to include flexible attraction and retention initiatives, including terms and conditions which assist employees in maintaining a healthy work-life balance and improve diversity. Ceremonial or cultural leave (including NAIDOC leave) are included as one of the recommended initiatives. These leave types are also one of the 'Recommended Common APS Terms and Conditions of Employment'.

A copy of the Cultural Leave and NAIDOC Leave guidelines are at **Attachments A and B** respectively.

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**Attachment A**

## **CULTURAL LEAVE**

1. All ongoing and non-ongoing employees are eligible to seek leave to take part in activities associated with their culture or ethnicity. However, non-ongoing employees will not be able to take leave that extends beyond the period of their current contract.

### **Principles**

2. FaHCSIA is committed to diversity and to supporting its culturally diverse employees.
3. FaHCSIA recognises that these employees may need to meet cultural obligations, or otherwise wish to participate in culturally based occasions, ceremonies or activities that require time away from work.
4. FaHCSIA recognises that attending some cultural activities will be of significant benefit to FaHCSIA and could be considered as a part of normal work.
5. FaHCSIA also recognises that this time away from work is important for employees to attain a better work-life balance.
6. Delegates considering cultural leave applications will take account of FaHCSIA's operational requirements.

### **Definitions**

7. "Culturally diverse" covers:
  - employees identifying as an Aboriginal and/or Torres Strait Islander; and
  - employees from culturally and linguistically diverse backgrounds.
8. The National Multicultural Advisory Council's definition of people from cultural and linguistically diverse backgrounds has been adopted by all Australian Government employers:

*"People from culturally and linguistically diverse backgrounds is a term which replaces the Non-English Speaking Background. It is a term which includes those whose first language is one other than English, or whose family background involves migration from a non-English speaking country. It includes immigrants and refugees from Non-English speaking countries as well as the children of migrant or refugee parents".*

### **Cultural occasions and activities**

9. It is expected that, in normal circumstances, the public holiday substitution provisions of clause 7.63 of the FaHCSIA CA would be used where an employee's cultural obligations differ from those of the general community, refer Hours of Work Guide.

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10. Where for work or personal reasons it is not feasible to use the substitution provisions, and where it is necessary for an employee to fulfill cultural obligations, and doing so requires the employee to be absent from the workplace, cultural leave may be appropriate.
11. Such leave should only be granted where the circumstances cannot be accommodated under other leave provisions, e.g. NAIDOC Leave.
12. While the appropriateness of leave under this provision will need to be considered on a case by case basis, examples of cultural obligations that could necessitate absence from work include but are not limited to:
  - Greek Orthodox Christmas;
  - Eid-ul-Adha (Islamic “Feast of Sacrifice”); or
  - the funeral of an Indigenous person’s extended family member or respected community representative (e.g. Chairperson, councillor or community elder).
13. General periods of celebration would not meet the requirements for paid leave under this clause.
14. Examples of circumstances where approval may be given for cultural leave without pay include, but are not limited to:
  - the full period of Ramadan;
  - Chanukah;
  - Chinese New Year.

**Amount of leave available**

15. Approval may be given for up to 2 days paid leave, where it is not feasible to use the substitution provisions outlined in 9 above, and/or 2 months’ unpaid cultural leave to count as service each calendar year. Any additional unpaid leave for this purpose, greater than 2 months, would not count as service.
16. Longer periods of leave for cultural purposes can be granted under the provisions for miscellaneous leave, but would be without pay and subject to operational requirements. Depending on the length of absence, such leave could be approved to count as service for all other purposes.
17. As with all leave, granting of cultural leave is subject to FAHCSIA operational requirements.

**How to apply**

18. Application should be made through the ESS facility on IMPACT using leave types LWP – Cultural Leave (with pay) and LWOP – Cultural Lve TCAS (without pay).

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**Attachment B**

**NAIDOC LEAVE**

1. Employees may be granted one day's miscellaneous leave with pay each year to participate in NAIDOC Week celebrations.
2. Information on NAIDOC week celebrations is available at: <http://www.naidoc.org.au>