

PREGNANCY & PARENTAL LEAVE

A GUIDE TO RIGHTS &
RESPONSIBILITIES

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Dear ETFO Member:

Congratulations! This is a very exciting time for you. As with all new experiences, there is always some anxiety and trepidation attached. We hope the information contained within this resource will help reduce some of this anxiety and allow you to focus your energies on your very important role as a new parent.

This booklet has been prepared to assist you by considering the many questions and concerns you may have as you prepare for the birth or the adoption of a child. It contains summary descriptions and is provided for your information only. It is not legal advice.

For definitive advice pertaining to pregnancy and parental leaves and benefits in Ontario, please refer to the *Employment Standards Act (ESA)* and Regulations, and the *Employment Insurance Act (EI Act)* and Regulations, as well as your collective agreement.

Contact Numbers:

ETFO Provincial Office 1-888-838-3836 or 416-962-3836

Teachers' Pension Plan Board 1-800-668-0105

Service Canada 1-800-622-6232

Ontario College of Teachers 1-888-534-2222

College of Early Childhood Educators 1-888-961-8558

OMERS Pension

1-800-387-0813 Last update: January 2023

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LEGISLATION AND COLLECTIVE BARGAINING ENTITLEMENTS GOVERNING PREGNANCY AND PARENTAL LEAVE

Employment Standards Act

The *Employment Standards Act (ESA)* provincial legislation sets out minimum employment standards for terms and conditions of employment in Ontario. The *ESA* establishes minimum rights to leaves from work for pregnancy and parental needs.

Employment Insurance Act

The *Employment Insurance Act (EI Act)* is federal legislation sets out the terms and conditions for entitlement to employment insurance benefits during pregnancy and parental leaves. The benefits are administered by Service Canada on behalf of Employment and Social Development Canada.

Human Rights Code

Ontario's *Human Rights Code (Code)* prohibits discrimination on the basis of sex which is defined to include pregnancy. Many arbitrators have relied upon the *Code* when deciding how to interpret legislation or collective agreement language relating to pregnancy and parental leaves.

Collective Agreements

Collective agreements contain clauses pertaining to statutory pregnancy and parental leaves as well as extended leaves. They frequently set out protections and benefits available during leaves and upon return from leaves. Sometimes there can be disputes about what the language in a collective agreement means and when the language can be applied. Disputes about the interpretation of collective agreement language are decided by arbitrators. Arbitration decisions issued by arbitrators have interpreted rights relating to entitlement to sick leave and other benefits during a pregnancy leave. They have also addressed issues that have arisen when employees complete such leaves and wish to return to work.

LEAVE ENTITLEMENTS

How much time will I have away from work to be with my child?

The *ESA* and your collective agreement are the mechanisms by which you will have entitlement to a leave for pregnancy or parental reasons. This is the time away from work, not the money you might receive during that time.

Financial benefits during pregnancy and parental leaves are discussed in the sections entitled **Benefit Entitlements** and **Collective Agreement Benefits** in this Guide. The *ESA* provides basic minimum entitlements. Collective agreements sometimes offer more than this.

FOR BIRTH MOTHERS/BIRTHING PARENTS

Parents who give birth are entitled under the *ESA* to a pregnancy leave immediately followed by a parental leave. Parents who adopt or parents through surrogacy are not entitled to a pregnancy leave under the *ESA*. The extent of the pregnancy and parental leaves for parents who give birth is set out in the *ESA* and is described below:

Pregnancy Leave

You may take as many as 17 consecutive weeks as pregnancy leave. You may start it as early as 17 weeks before the expected birth date (but you will not be eligible for EI benefits until 12 weeks before the birth). The latest you may commence a pregnancy leave is the earlier of your due date or date of delivery. The *ESA* does not set out an option for splitting or deferring any part of the pregnancy leave.

In order to qualify for a pregnancy leave, you must have at least 13 weeks of employment with your school board before the expected date of birth.

Parental Leave

You may take as many as 61 consecutive weeks of parental leave. It must begin when your pregnancy leave ends unless, because of hospitalization or otherwise, the child is not then in your custody, care and control for the first time.

The *ESA* does not establish a general entitlement for the birthing parent to delay commencing the parental leave.

For birth mothers/birthing parents who have custody, care and control of their child during the pregnancy leave, their parental leave runs for 61 consecutive weeks right after the pregnancy leave. For birth mothers/birthing parents who have custody, care or control sometime after the end of the pregnancy leave, the parental leave must start within 78 weeks of their first having custody, care or control.

The *ESA* does not entitle you to split a parental leave into separate installments. It also only provides for full leaves from employment: it does not contemplate partial leaves to allow people to work part-time and be on leave part-time.

Extended Leaves

Refer to your local collective agreement to determine if you may extend your parental leave beyond the minimum statutory 61-week period. Many collective agreements include the option of extending a leave. There may also be discretion under a collective agreement for a partial leave or reduced assignment arrangement. Leaves under a collective agreement will not necessarily have all of the protections that a statutory leave provides for under the *ESA*.

FOR PARENTS WHO HAVE NOT GIVEN BIRTH TO THE CHILD

You will be entitled to a parental leave under the *ESA* if you are a parent of the child. This is an entitlement to any person who is a parent, including birth fathers, partners of the birthing parent, adoptive parents, or parents through surrogacy. Generally, the *ESA* will consider you to be a parent if you have the legal status of parent or if you are in a relationship of some permanence with a parent of a child and you intend to treat the child as your own.

The nature of the entitlement to parental leave differs slightly between birth mothers/birthing parents and parents who have not given birth. The extent of the leave for parents who have not given birth is established in the *ESA* as follows:

Parental Leave

You may take as many as 63 consecutive weeks of parental leave. It may begin as early as the birth of the child, but it must start no later than 78 weeks after the child is born or comes into your custody, care, and control for the first time.

In order to qualify for a parental leave, you must have at least 13 weeks of employment with your school board before the leave may be taken.

There is no entitlement under the *ESA* to defer the parental leave beyond the period outlined above. There is also no entitlement under the *ESA* to split a parental leave into separate installments. Further, the *ESA* only provides for full leaves from employment: it does not contemplate partial leaves to allow people to work part-time and be on leave part-time.

Extended Leaves

Refer to your local collective agreement to determine if you may extend your parental leave beyond the minimum statutory 63-week period. Many collective agreements include the option of extending a leave. There might be discretion under a collective agreement for a partial leave or reduced assignment arrangement. Leaves under a collective agreement will not necessarily have all of the protections that a statutory leave attracts under the *ESA*.

IN THE EVENT OF STILLBIRTH OR MISCARRIAGE

If you experience miscarriage or stillbirth more than 17 weeks before your due date, you are not entitled to a pregnancy or parental leave under the *ESA*. You may be entitled to sick leave under your collective agreement, depending on your circumstances.

In the event of stillbirth or miscarriage occurring within 17 weeks before the due date, you remain entitled to a pregnancy leave but you will not be entitled to a parental leave. If you are entitled to a pregnancy leave, it will end 17 weeks after it began or 12 weeks after the stillbirth or miscarriage, whichever is latest. As such, if you have already used as much as 17 weeks of pregnancy leave prior to the stillbirth or miscarriage, you may still have some additional weeks of leave for recovery even though you will not be entitled to a parental leave. The entitlement does not exceed 27 weeks.

IN THE EVENT OF ADOPTION OR SURROGACY

If you have given birth but will not have custody, care, and control of the child (as in the case where the child is to be adopted or you are the surrogate), you will remain entitled to a full pregnancy leave. However, the pregnancy leave must end on the later of either the expiry of 17 weeks after the pregnancy leave began, or 12 weeks after the birth of the child.

NOTICE REQUIREMENTS

How much notice do I have to give my school board?

The ESA outlines the following minimum notice requirements:

Notice to Begin a Leave

For pregnancy leave:

You are required by law to provide a minimum of two weeks written notice of the date your leave will begin. The *ESA* allows employees to change their mind and start earlier or later as long as the employee provides a new two weeks written notice of the changed date.

Where the school board requests it, the written notification must include a certificate from a legally qualified medical practitioner stating the expected date of birth.

Where you have to stop work because of complications due to pregnancy, prior notice is not required to start the pregnancy leave. However, within two weeks of having stopped work, you must provide written notice to the school board of when the pregnancy leave is to begin and, if the school board requests it, you must provide a certificate from your medical practitioner confirming you are unable to work because of the complications.

Where you have to stop work because birth (or stillbirth or miscarriage) occurs earlier than the expected date of birth, prior notice is not required to start the pregnancy leave. However, within two weeks of having stopped work, you must provide written notice to the school board of when the pregnancy leave is to begin and, if the school board requests it, you must provide a certificate from your medical practitioner confirming the due date or the date of birth, stillbirth, or miscarriage.

If the school board has requested a medical certificate, the *ESA* stipulates that it may be provided by a doctor, a midwife, or a Nurse Practitioner.

For parental leave:

You are required to provide at least two weeks written notice of the date the leave is to begin. The *ESA* allows employees to change their mind and start earlier or later as long as the employee provides a new two weeks' written notice of the changed date.

Where you have to cease work suddenly because the child comes into your custody, care, and control for the first time sooner than expected, your leave commences the day you stop working but you must, within two weeks after stopping work, provide written notice to your school board that you are taking the leave.

Notice to Change the Beginning or Ending of a Leave Period

Where you have already provided notice but want to change the start date of the leave to an earlier or later date, you must provide:

- At least two weeks written notice of the new start date, unless complications related to the pregnancy or the child arriving earlier than expected are the reasons for the change.

Where you have already provided notice but want to change the end date of the leave to an earlier or later date, you must provide:

- At least four weeks written notice of the new end date.

OTHER *ESA* ENTITLEMENTS

What other protections and entitlements will I have while on leave?

When you take all or part of the statutory pregnancy (17 weeks) or parental leave (61 or 63 weeks) established by the *ESA*, the *ESA* establishes numerous protections for you. These protections will not necessarily apply to extended leaves taken under your collective agreement.

Benefit Plans

Employees taking a statutory leave have the right to continue to participate in benefit plans. This applies to pension plans, life insurance plans, accidental death plans, extended health plans, dental plans, and any prescribed type of benefit plan.

NOTE: Amendments to the *ESA* in 2017 expanded the length of pregnancy and parental leaves. ETFO Employee Life and Health Trust (ELHT) benefits funding has expanded to a longer period of time, to a maximum period of 18 months. The ELHT will fund health, dental and basic life (1x salary) benefits premiums for eligible ETFO members who elect to continue benefits during this period. This benefit premium coverage will be pro-rated for part-time members, where applicable.

Long-Term Disability Premiums While on Leave

Teacher Members

Under the provincial Long-Term Disability (LTD) plan, coverage is mandatory for both full-time and part-time leaves. In other words, you cannot opt out of the plan while you are on a statutory or extended pregnancy or parental leaves.

You must contribute premium payments to the LTD plan during your statutory leave: you will not be entitled to claim LTD benefits for the duration of your leaves but, if you remain absent after your leaves because of disability, you may be entitled to LTD benefits then, even if the disability arises from an illness or accident that occurred in the leave period.

If you access an extended parental leave after the statutory leaves, you are required to contribute premium payments to the LTD plan, as well. However, your coverage under the plan generally will not extend beyond 24 months of leave unless your collective agreement provides for a longer extended leave.

No premiums payments are required once coverage has ceased. Your coverage under the LTD plan should be reinstated when you return to work but there may be some limits on your entitlements for disability arising within the first year, where pre-existing conditions are involved.

Education Worker Members

ETFO's Education Worker members -- Designated Early Childhood Educators (DECE), Education Support Personnel (ESP), Professional Support Personnel (PSP) and other education workers -- are not part of the provincial LTD plan. Please check with your ETFO local to determine if you have an LTD plan, whether coverage is mandatory or optional, and how you can opt in or out during a leave.

If you choose to opt out of LTD during a leave, there may be some limits on your entitlements for disability arising after returning to work where pre-existing conditions are involved.

LENGTH OF EMPLOYMENT

When calculating an employee's length of employment, service or seniority, the employer is obligated to include the period of statutory leaves.

Exception: In the case of a member on a probationary term, the period of leave is not included in determining completion of a probationary period under an employment contract.

RETURNING FROM A LEAVE

At the completion of a statutory leave, the school board is obligated to reinstate an employee to the position most recently held, if it still exists, or to a comparable position, if it does not.

Members often regard their "position" in the education sector as their specific grade or assignment. However, some arbitration decisions have held that, for teachers involved in those cases, their "position" was their teaching job in the elementary panel, and **not** a specific grade, division or assignment. In those cases, the grade or assignment of their position would be determined by normal staffing processes rather than protected in connection with the statutory leave.

There may be facts about your case that allow for a different outcome regarding your assignment upon return from a leave, and your collective agreement language might provide for a greater entitlement.

NO REPRISALS

The *ESA* prohibits employers from penalizing an employee who exercises or attempts to exercise a right under the *ESA*, including the right to take a pregnancy or parental leave. Most collective agreements prevent discipline except where there is just cause and taking a statutory leave is not just cause for discipline. Collective agreements also frequently have human rights protections precluding discrimination on the basis of sex, including pregnancy, as well as family status.

EXTENDED LEAVES

If you have taken an extended leave under a collective agreement, you may no longer have the protections in place for statutory leaves.

Check your collective agreement or consult your local to see what benefits, if any, may be affected by an extended leave. For example:

- Do you accrue seniority beyond the statutory period?
- Do you continue to receive a wage increment during the leave?
- Do you return to the same assignment or same school following the extended leave?

EMPLOYMENT INSURANCE BENEFITS ENTITLEMENTS & BENEFITS ENTITLEMENTS

What benefits might I receive during my leave?

You may be entitled to pregnancy or parental benefits under the *EI Act* if you have at least 420 hours** of insurable employment in the 52-week period preceding the period for which you are claiming benefits. You are particularly vulnerable to not having enough hours of insurable employment in the following circumstances:

- you have only recently started to work;
- you are hired for less than a 0.5 assignment;
- you are on, or have recently returned from, an unpaid leave of absence or a deferred salary leave;
- you are on, or have only recently returned from, a pregnancy and/or parental leave; or
- you have an open claim for regular benefits (applicable to occasional teacher, ESP/PSP and DECE members).

**The number of required hours of insurable employment is subject to change and should be verified with Service Canada prior to commencing a leave.

What is my entitlement to pregnancy benefits?

Pregnancy benefits are only available to birth mothers/birthing parents. They are not paid to adoptive parents or parents through surrogacy.

You will have to serve a one week waiting period before receiving any benefits. The one week waiting period is calculated from the Sunday of the week of application

before benefits are payable. You may then be eligible for a maximum 15 weeks of benefits for pregnancy.

A claim for pregnancy benefits may begin up to 12 weeks before the birth is expected. Benefits will not extend more than 17 weeks in total and must end by 17 weeks after the birth. The claim for benefits cannot be split: a claim can only consist of consecutive weeks.

What is my entitlement to parental benefits?

Parental benefits are available to new parents related to birth or placement for adoption. Where a child/children cannot yet be legally adopted, parental benefits may still be available where the child/children have been placed for adoption and the new parent can attest that they consider the placement permanent.

There are two options for how this benefit may be claimed:

- a person can elect to receive a maximum of 35 weeks of benefits paid at 55% of weekly insurable earnings, or
- a maximum of 61 weeks of benefits paid at 33% of weekly insurable earnings.

Not all of your earnings may be considered for this calculation: there is a cap applied under the legislation. You must elect at the beginning of a parental benefits claim which maximum you want applied to your claim.

The full parental benefits claim may be taken by one parent or may be shared by two parents. Where the claim is shared, the parent who commences the claim makes the election about what maximum applies.

If you are the birth mother/birthing parent and you served a waiting period for EI pregnancy benefits, then there is no requirement that you serve a waiting period for a claim for parental benefits.

If there has been no pregnancy benefits claim related to the child, a one-week waiting period will have to be served at the start of the parental benefits claim. Once it is served by one parent, it need not be served again by another parent in cases where the parental benefits claim is being shared.

The parental benefits claim may start as early as the birth of the baby or placement of the child for adoption. The maximum number of weeks of benefits available never changes, but they can be paid out consecutively or in intervals. All benefits must be claimed within 52 weeks after the birth or adoption placement.

Additional time to claim benefits is available for weeks when the child is hospitalized or for deferral under the *National Defence Act* for members of the Canadian Forces but, even with extension, the period during which benefits may be claimed is 104 weeks. After that, no benefits may be claimed even if you did not claim the maximum you elected.

What happens in the event of multiple births or adoption of siblings?

Currently, the legislation provides for a single claim of parental benefits for a birth or adoption of one or more children.

What happens in the event of miscarriage or stillbirth?

If you experience a stillbirth, miscarriage or terminate your pregnancy within the first 19 weeks of pregnancy, you are not entitled to pregnancy benefits but you may apply for Employment Insurance (EI) sick leave benefits. You may also be able to access short-term sick leave pay under the collective agreement with appropriate medical information; you cannot access both for the same period of time.

If the stillbirth/miscarriage occurs after the first 19 weeks of pregnancy, you should be entitled to pregnancy benefits but you will not be entitled to parental benefits.

You will have to serve the waiting period, and a maximum of 15 weeks of benefits may be paid. The latest that they may be claimed is 17 weeks after the stillbirth/miscarriage, but this is reduced if weeks of benefits were claimed prior to the stillbirth/miscarriage.

Note, however, that the period for claiming EI benefits may be longer than the statutory pregnancy leave under the *ESA*: the statutory leave entitlement ends on the day that is the later of 17 weeks after the leave began or 12 weeks after the stillbirth or miscarriage, irrespective of what EI benefits may still be payable.

How much will the EI benefit be?

Pregnancy Benefits

Birth mothers/birthing parents (including surrogates) are entitled to a maximum of 15 weeks of pregnancy benefits. The weekly benefit rate is **55% of your weekly insurable earnings up to a maximum amount**. The maximum benefit changes yearly and can be found on the Service Canada website. The benefit payment is taxable.

Parental Benefits

Parents with newborn or newly adopted child/children are entitled to one of two options for parental benefits: standard or extended.

- Standard parental benefits are paid for a maximum of 35 weeks with a weekly benefit rate is 55% of the claimant's average weekly insurable earnings up to a maximum amount.
- Extended parental benefits are payable for a maximum of 61 weeks at a benefit rate is 33% of the claimant's average weekly insurable earnings up to a maximum amount.

If your net family income is \$25,921 or less, you may be eligible for an EI Family Supplement benefit. Information about this may be found on the Service Canada website. Eligibility for this benefit and the amount payable depends on several individual criteria.

How do I apply for EI benefits?

You will need a Record of Employment (ROE) from your school board in order to apply for benefits. After your last worked day (provided your leave has been approved by the school board), or your last day on the board's payroll, your school board will create a ROE.

Your school board will send the ROE directly to Service Canada. You should request a copy for your records. Your application for benefits is complete as soon as Service Canada has received your ROE, but you do not need to wait until your ROE is sent to apply.

Can I defer my claim for parental benefits?

The *EI Act* does not require that a parental benefits claim start immediately after the end of a pregnancy benefits claim. It also does not require that all parental benefits be claimed by a parent continuously.

However, this flexibility in the *EI Act* is **not** mirrored in the *ESA*. The *ESA* requires that a parental leave start immediately after a pregnancy leave and contemplates only parental leave, not a leave that can be spread out or deferred over time. The protections of the *ESA* only extend to the statutory portion of the leave.

Can I collect EI benefits during the summer or other non-working periods?

Nothing in the legislation prevents members from collecting pregnancy and parental leaves during non-working periods.

Can I work part-time and still collect EI benefits?

You may be entitled to pregnancy or parental benefits where your normal weekly earnings are reduced by more than 40% because of pregnancy or your need to care for a child.

Once you are in receipt of pregnancy or parental benefits, you must report any earnings you receive during an EI benefit period.

If you work while receiving EI pregnancy or parental benefits, once you have served the waiting period, you will be able to keep 50 cents of your EI benefits for every dollar you earn, up to 90% of the weekly insurable earnings that Service Canada used to calculate your EI benefit amount. This 90% amount is called the earnings threshold. If you earn any money above this threshold, it will be deducted on a dollar-for-dollar basis.

Note: *You are responsible for reporting all monies paid or payable to you, cash or other, while receiving EI pregnancy or parental benefits.*

Are there other types of EI benefits I can claim during the benefit period?

There are 2 categories of benefits: **regular benefits and special benefits**. Each has different rules which govern entitlement.

Regular benefits are provided to those who lose their jobs through no fault of their own or where there are lay-offs due to a shortage of work. This benefit may apply to ETFO members who are DECEs, ESPs, PSPs; the benefit may also sometimes apply for occasional teacher members. Teachers are exempted, through regulation, from collecting regular benefits for non-teaching periods.

Special benefits are provided for specific reasons. Special benefits include: pregnancy, parental, sickness, compassionate care, family caregiver benefit for children (formerly parents of critical illness), and family caregiver benefit for adults, to name a few. All members have access to special benefits if they qualify.

If no regular benefits have been paid, you may combine special benefits to a maximum of 102 weeks, provided you meet the entitlement conditions. For example, if you become sick or injured while receiving parental benefits, you may interrupt your claim to receive sick benefits and then resume collecting your parental benefits thereafter.

DECE, ESP, PSP and many daily occasional teacher members rely on regular benefits during non-working periods. If regular benefits have been paid and you then attempt to claim special benefits such as pregnancy and parental, your entitlement will be limited to a maximum of 50 weeks.

Can I travel outside Canada and still receive pregnancy or parental benefits?

Yes, you can receive EI pregnancy and parental benefits while you are outside Canada.

Service Canada would like to be informed if you are leaving the country. Call 1-800-206-7218 (TTY: 1-800-529-3742) and press "0" to speak with an agent.

Am I able to share the parental benefit with my partner?

Yes. There is great flexibility when sharing the parental benefit with your partner.

In total, there are 69 weeks of parental benefits available to eligible parents of a newborn or newly adopted child. When parental benefits are shared between both parents, only one waiting period needs to be served.

That said, should your collective agreement allow for a top-up to be served, your partner may consider serving a waiting period to collect their top-up. Check your collective agreement for details.

Additional weeks when sharing the benefit

Standard Parental Benefit - You can receive standard parental benefits for up to 35 weeks. If you share these benefits with the other parent, you can receive 5 extra weeks for a total of up to 40 weeks, which can be divided however you choose. One parent cannot receive more than 35 weeks of standard parental benefits.

Extended Parental Benefit - You can receive extended parental benefits for up to 61 weeks. If you share these benefits with the other parent, you can receive 8 additional weeks for a total of up to 69 weeks, which can be divided however you

choose. One parent cannot receive more than 61 weeks of extended parental benefits.

COLLECTIVE AGREEMENT BENEFITS

What other entitlements are available during my leave?

Not all ETFO local collective agreements are the same. You will need to consult your local agreement to see what your specific entitlements are.

TOP-UP OR SEB BENEFITS

Will the school board top-up my EI benefits?

The ETFO *Memorandum of Understanding* negotiated with the provincial government in 2013 outlined changes to employee top-ups or Supplemental Employment Benefits (SEB or sometimes referred to as SUB). Eligible employees include:

- teachers,
- employees hired in a term position or filling a long-term assignment, with the length of benefit limited by the term of the assignment and commencing with the birth of the child and any other full-time employee (defined as greater than 24 hours per week) (i.e. DECEs, ESP/PSPs).

Teachers and DECEs on daily occasional assignments are not entitled to the benefit.

At minimum, school boards will provide a top-up benefit at 100% of salary for a total of eight weeks for eligible employees. There are some local collective agreements that contain entitlements that are superior to eight weeks at 100% of salary; please consult your local collective agreement to determine whether this is the case.

NOTE: It is always important to review to your local collective agreement for information about your specific entitlements around pregnancy and parental leave, extended leaves, etc.

SICK LEAVE

Can I draw on my sick leave during my pregnancy prior to delivery?

With evidence from a medical practitioner, you are entitled to use your sick credits prior to delivery if you are unable to work for health reasons, whether related or unrelated to the pregnancy. Sickness arising from pregnancy is still sickness for purposes of a sick leave claim.

Can I access sick leave following delivery?

There may be limited circumstances where accessing sick leave is permitted by the school board when a member has become ill following the birth. Please contact your local to discuss options.

Can I collect sick leave pay and EI benefits?

Any pay received once your pregnancy occurs, including sick leave pay, will be deducted from EI benefits. Only the SEB top-up is not deducted.

If I access sick leave, does this extend the statutory pregnancy leave period?

Use of sick leave prior to delivery would not necessarily be part of your 17-week statutory pregnancy leave unless you opted to begin your leave early. You are not required to do this.

Use of sick leave following the delivery does not extend the statutory pregnancy leave period.

Am I still entitled to the SEB Plan (Top-up) under my collective agreement?

The school board has an obligation to pay SEB benefits following sick leave provided that you do not waive the “waiting period” for EI benefits or provided that your collective agreement does not restrict this.

What if I am unable to work and have exhausted my sick leave entitlement?

The EI regulations allow individuals the opportunity to access EI sick benefits prior to pregnancy if required. EI sick benefits are available for a maximum period of 26 weeks following a one week waiting period. This entitlement is in addition to the benefit entitlement for pregnancy and parental benefits. If a member has sick leave through their employer, they would have to exhaust this sick leave first prior to use of EI sick leave.

DEFERRED SALARY LEAVE

How will a deferred salary leave effect my pregnancy/parental leave?

Deferred Salary Leave Plans (DSLPS) are self-funded leave arrangements. These leave arrangements are often referred to as “four over five’s”, “two over three’s”, etc. DSLPs enable members to receive salary in the leave year that they actually earned in earlier years.

The treatment of salary in DSLPs is governed by the *Income Tax Act*; there are rules governing how the plans may operate. The coincidence of such leaves and need for pregnancy or parental leaves can greatly complicate access to EI or ongoing participation in the DSLP.

Service Canada does not allow payment of EI benefits during a year of deferred leave. It also does not credit workers on the leave year with insurable hours for the earnings they collect. This may impair eligibility for EI pregnancy or parental benefits when the leave year is over.

Under certain circumstances, and with prior approval by the employer, you may postpone your leave for a maximum of 12 months. There are limitations to this, especially once the leave year is underway.

It is advised that you check the nature of your deferred leave plan if you are trying to become pregnant or adopt or find out that you are pregnant.

PENSION PLAN CONTRIBUTIONS

How will my pension be affected while I am on leave?

As required by the *ESA*, you may continue to contribute to the pension plan unless you waive this benefit. It is necessary to arrange a payment schedule with the Ontario Teachers' Pension Plan (OTPP) or the Ontario Municipal Employees Retirement System (OMERS) prior to taking your leave. This applies if you have worked 13 or more weeks with your school board.

How long can I contribute?

- The birthing parent can contribute up to a maximum of 78 weeks (17 weeks for pregnancy and 61 weeks for parental). The pregnancy leave portion can begin no earlier than 17 weeks before the expected date of birth. The parental leave portion starts immediately following the end of the pregnancy leave for the birthing parent.
- If you are the second parent, you can contribute up to 63 weeks for a parental leave.
- If you adopt a child, you can contribute up to 63 weeks for a parental leave.

How do I make arrangements to continue my pension contributions?

- **For teachers/occasional teacher members:** You must arrange your pension contribution directly with [OTPP](#) while on a leave.
- **For DECE, ESP, PSP and other education worker members:** You must contact your school board to make arrangements for OMERS pension contributions.

You can contribute to your pension using postdated cheques or by setting up automatic bank withdrawals.

You may be able to purchase credit for your leave by transferring monies from an existing RRSP.

What if I take an extended leave of absence?

You may continue making pension contributions for longer than the statutory periods if you continue on an approved leave of absence. You must make your contributions for the extended period directly to your pension plan.

There is currently a lifetime limit to buying credit for approved leaves of absence.

- **If you are a member of OTPP** (i.e., your pension will be payable by OTPP), contact OTPP for an "Application to Buy Credit" form.
- **If you are a member of OMERS** (i.e., your pension will be payable by OMERS), contact your school board to get an estimate to purchase a leave period to add to your OMERS credited service.

What happens if I waive the right to contribute to my pension?

- The amount of your pension will be less than it would be with the additional credited service. Less credit means a lower pension, unless you work for extra time later on.
- It may postpone the date you can retire with an unreduced pension.
- You may choose to purchase the credit later:
 - a. **As a member of OTPP:** You must do so within five years of the end of your absence. If you waive your right and decide later to purchase credit for your leave, it will be more expensive. Interest will be added.
 - b. **As a member of OMERS:** For more information on purchasing a leave, including the cost and purchase deadline, contact your board or visit omers.com or contact [Member Services](#) at OMERS.

Your pension plan options are particular to you and your personal history with the pension plan. Decisions concerning your pension plan may affect other financial matters for you, such as RRSP contribution room. For accurate information on what options are available to you concerning the pension plan, contact your pension plan provider directly.

For more and up-to-date information regarding the impact of pregnancy and parental leaves on your pension, please visit the following websites:

[Ontario Teachers' Pension Plan](#)

[The Ontario Municipal Employees' Retirement System](#)

APPLYING FOR A LEAVE OF ABSENCE: SAMPLE LETTERS

Prior to taking a pregnancy or parental leave, you must provide written notification to your school board. Take note of the following requirements:

How do I apply?

Your letter requesting a leave should be sent to the Superintendent of Human Resources. As a courtesy, you may wish to provide a copy to your principal. Always retain a copy for your own records. Refer to your collective agreement or contact your local for more specific information on how to apply for a leave of absence. Your district school board may have specific forms for you to fill out.

What should be in the letter?

The letter should include the following:

- a medical certificate stating the expected date of birth;
- the date you wish to begin the leave; and
- the date you wish to return to work.

When should I apply for a leave?

You are required by law to provide a minimum two weeks' written notice of the date to begin the leave.

Sample letters

1. **Pregnancy Leave**

Pursuant to Article (*number*) of the Collective Agreement, I am requesting a pregnancy leave commencing (*date*) and ending (*date*). I have attached a medical certificate certifying the expected date of delivery as (*date*).

I understand that I will be returning to my current position at (*School Name*) if the position still exists or to a comparable position if it does not.

I look forward to returning to (*School Name*) when I return on (*date*).

2. **Parental Leave**

Pursuant to Article (*number*) of the Collective Agreement, I am requesting a parental leave commencing (*date*) and ending (*date*).

I understand that I will be returning to my current position at (*School Name*) if the position still exists or to a comparable position if it does not.

I look forward to returning to (*School Name*) when I return on (*date*).

3. **Extended Parental Leave**

Pursuant to Article (*number*) of the Collective Agreement, I am requesting an extended leave to commence (*date*) and to conclude (*date*).

Please note, it may be advisable to request your pregnancy leave separately from the parental leave. This allows you to keep your options open in the event that circumstances change or your plans are altered in any way.

Checklist for Pregnancy/Parental Leaves

- √ Contact your ETFO local or the ETFO provincial office to discuss your options.
- √ Obtain a medical certificate stating the expected date of birth.
- √ Provide written notice to your school board.
- √ Review information re: health benefits, long-term disability and pension contributions.
- √ Obtain application from Service Canada regarding your application for benefits.
- √ Ensure a copy of your Record of Employment (ROE) has been sent from your school board to Service Canada (this is sent electronically after your last working day).
- √ Complete your application for EI Benefits.
- √ Provide proof of your EI Claim to the school board in order to receive SEB.
- √ Add your child to your benefit plan.
- √ Remember to pay your OCT or CECE fee.
- √ Relax! You've taken care of all the paperwork.