



Leaves—Rights and benefits

Note: This fact sheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act and Regulation* for purposes of interpretation and application of the law.

Pregnancy

Rights

1. *BC Employment Standards Act (ESA)*

a) Availability

- The ESA grants a pregnancy leave to all pregnant employees regardless of the length of their employment.
- This leave can occur even if the pregnancy ends in miscarriage or termination of the pregnancy.

b) Amount of leave:

- An employee is entitled to up to 17 weeks leave of absence without pay, which may begin at any time up to 11 weeks prior to the expected date of delivery.
- The employee is entitled to at least 6 consecutive weeks after the actual date of birth, or a shorter period if requested by the employee.
- If pregnancy ends in miscarriage or termination of pregnancy, the employee is entitled to up to 6 weeks of unpaid leave beginning on the date of the miscarriage or termination.
- If the employee gives birth to a child who is stillborn or who dies within days of birth, the length of her maternity leave depends on whether she has already requested her pregnancy leave. If she has not, then she is entitled only to a maximum of 6 weeks of unpaid leave.
- In addition, the employee is entitled to up to 6 additional consecutive weeks of unpaid leave if, for reasons related to the birth or the termination of the pregnancy, she is unable to return to work when her leave ends.

c) Request for leave:

- The ESA says that the request must be in writing and be sent to the employer at least 4 weeks prior to the start of the leave. However, the courts and the Employment Standards Tribunal have clearly stated that failure to do so will not take away the right to pregnancy leave.
- medical practitioner's or nurse practitioner's certificate confirming the expected birth date, the date the pregnancy terminated or the reasons for requesting additional leave.

d) Security of employment:

- during the term of the leave the employer must not;
 - terminate employment, or;
 - change a condition of employment without the employees written consent.
- as soon as the leave ends the employer must place the employee:
 - in the position the employee held before taking the leave, or;

- in a comparable position.
2. Collective agreement
 - The rights from the ESA may not be diminished by the collective agreement.
 - Rights beyond those in the ESA may be contained in the collective agreement.
 - Contact the local for specific details.

Benefits

1. *BC Employment Standards Act* (Section 56(2) a, b)
 - Medical, Extended Health, Dental, Pension and Group Life Insurance plans for the length of the leave in the ESA:
 - if the employer normally pays the full premium, the employer must continue to provide the benefit plan(s), including pension, at no cost to the employee;
 - if the employer normally pays a portion of the premium, and the employee **elects** to continue the benefit plan(s), including pension, then the employer must continue to pay its share and the employee her/his share.
2. Collective agreement
 - Sick leave **may** be available if you are unable to work prior to the date of birth and for the 2-week period following the birth or termination of the pregnancy because of the pregnancy.
 - A Supplemental Unemployment Benefit (SUB) plan **may** be available which will top up your employment insurance, sickness, or maternity benefit.
 - Local president for details
3. BCTF Salary Indemnity Plan (SIP)
 - If you run out of sick leave, you may apply for SIP benefits.
 - Benefits are paid if you are unable to work prior the date of birth.
4. Employment Insurance (EI)
 - Qualification for EI benefits:
 - at least 600 hours of insurable earnings in the 52 weeks prior to the start of the leave of absence (or in the period since the last EI claim);
 - the qualification period may be extended to 104 weeks by application if unable to qualify because of illness or maternity;
 - teachers and teachers-on-call earn 9.1 hours per day or 45.5 hours per week pro-rated to the percent of time worked;
 - a 2-week waiting period from beginning of the leave may be covered by the SUB plan, or if ill, by sick leave or SIP.
 - As of January 1, 2017, the waiting period will be reduced to 1 week.
 - Duration of benefits:
 - up to 15 weeks, starting no earlier than 8 weeks prior to the expected date of birth and ending no later than 17 weeks after the date of birth or termination of the pregnancy;
 - benefits are payable during July and August.

5. Pension (TPP)
 - Pension service credit continues to accrue when on paid sick leave and SIP.
 - For other periods of leave when not on paid sick leave or SIP, you may purchase the pension service.
 - contact the Teachers' Pension Plan (604-660-4088 if Lower Mainland, or 1-800-665-6770), the BCTF (604-871-2283 or 1-800-663-9163), your local union office, your employer, or go online to pensionsbc.ca for application forms;
 - if you pay your contribution for the unpaid leave period (EI benefits are not pay for pension purposes), the employer will pay its contribution;
 - you may buy this time during the leave (monthly) or following the leave for up to five years from the termination of the leave.
 - The maximum period that may be purchased for one maternity leave is 17 weeks (18 weeks for leave prior to 2001) for leaves taken after 1981.
 - Cost is the employee contribution rate only, **x FTE monthly salary x number of months to purchase and is *always cost effective*.**

Parental

Rights

1. *BC Employment Standards Act*

a. Amount of leave:

- up to 35 consecutive weeks of unpaid leave starting;
 - for the birth mother, immediately following the Maternity Leave (unless the employee and the employer agree otherwise);
- up to 37 consecutive weeks of unpaid leave beginning after the child's birth or placement and within 52 weeks after that.
 - for the birth mother who has not taken maternity leave
 - for the birth father, any time after the date of birth and within 52 weeks of the birth;
 - for an adopting parent, within 52 weeks after the child has been placed with the parents.
- plus five (5) more immediate weeks are available if the child has physical, psychological or emotional conditions requiring the additional leave.

b. Request for leave:

- the request must be in writing, sent to the employer at least four (4) weeks prior to the start of the leave;
- the employer may request medical certification supporting the employee's entitlement to the leave.

2. Collective agreement

- The rights from the ESA may not be diminished by the collective agreement.
- Rights beyond those in the ESA may be contained in the collective agreement.
- Contact the local for specific details

Benefits

1. BC Employment Standards Act

- Medical, extended health, dental, pension and group life insurance plans for the length of the leave in the ESA:
 - if the employer normally pays the full premium, the employer must continue to provide the benefit plan(s), including pension, at no cost to the employee;
 - if the employer normally pays a portion of the premium, and the employee elects to continue the benefit plan(s), including pension, then the employer must continue to pay its share and the employee her/his share.

2. Collective agreement

- A Supplemental Unemployment Benefit (SUB) or Supplemental Employment Benefit (SUB) plan may be available which will top up your employment insurance parental leave benefit.
- Participation in the group health benefits beyond the ESA period of leave may be available.

3. BCTF Salary Indemnity Plan (SIP)

- If you run out of sick leave, you may apply for SIP benefits.
- Benefits may be paid if you are unable to work following the birth or termination of the pregnancy.

4. Employment Insurance (EI)

- Qualification for EI benefits:
 - at least 600 hours of insurable earnings in the 52 weeks prior to the start of the leave of absence (or in the period since the last EI claim);
 - two (2) week waiting period from the beginning of the leave may be covered by the SUB plan.
- As of January 1, 2017, the waiting period will be reduced to 1 week.
- Duration of benefits:
 - up to 35 weeks starting with the arrival of the child (birth or adoption) in the home, and ending 52 weeks after the birth or placement of the child;
 - the benefit period may be extended up to an additional 15 weeks if the child is hospitalized;
 - benefits are payable during July and August.
 - parents may share the leave, and then, there will only be one 2-week waiting period; both must meet eligibility requirements;
 - parents on parental leave are able to earn up to 25% of the weekly benefit of \$50, whichever is higher, without affecting the benefit, to allow a gradual return to work.

5. Pension (TPP)

- For periods of leave when not on paid sick leave or SIP, you may purchase the pension service.
 - contact the Teacher Pension Plan (604-660-4088, lower mainland, or 1-800-665-6770), the BCTF (604-871-2283 or 1-800-663-9163), your local union office, your employer, or go online to tpp.pensionsbc.ca for an application form;

- if you pay your contribution for the unpaid leave period (EI benefits are not pay for pension purposes), the employer will pay its contribution;
- you may buy this time during the leave (monthly) or within five years of the termination date of the leave. Hint: the sooner you buy the leave, the cheaper the cost;
- the maximum period that may be purchased for one parental leave is 35 weeks (12 weeks for parental leaves taken between March 22, 1991 and January 1, 2001)
- cost is the employee contribution rate only, **x FTE monthly salary x the number of months to be purchased and is *always cost effective*.**

Family responsibility leave

Rights

1. *BC Employment Standards Act*

- Amount of unpaid leave: 5 days per year related to:
 - the care, health or education of a child in the employee's care;
 - the care or health of any member of the employee's immediate family (spouse, child, parent, guardian, sibling, grandchild or grandparent) and any person who lives with an employee as a member of the employee's family.

Benefits

1. *BC Employment Standards Act*

- Medical, extended health, dental, pension and group life insurance plans for the length of the leave in the ESA:
 - if employer normally pays the full premium, the employer must continue to provide the benefit plan(s), including pension, at no cost to the employee;
 - if employer normally pays a portion of the premium, and the employee **elects** to continue the benefit plan(s), including pension, then the employer will continue to pay its share and the employee her/his share.

Compassionate care

Rights

1. *BC Employment Standards Act*

- Amount of unpaid leave: up to eight (8) weeks to provide care or support to a family member (spouse, child, parent, guardian, sibling, grandchild or grandparent, and any person who lives with the employee as a member of the employee's family), if a medical practitioner issues a medical certificate stating significant risk of death within 26 weeks.
- The leave must be taken in units of one or more weeks.

2. Collective agreement

- Rights to compassionate leave; paid or unpaid will vary pursuant to local collective agreement language
- Employer may grant a compassionate leave beyond amount specified in collective agreement
- Contact the local for specific details.

3. *Employment Insurance Act*

- Amount of leave: up to six (6) weeks to provide care for a family member who has a serious medical condition with a significant risk of death within 26 weeks (6 months).

Benefits

1. *BC Employment Standards Act*

- Medical, extended health, dental, pension and group life insurance plans for the length of the leave in the ESA:
 - if employer normally pays the full premium, the employer must continue to provide the benefit plan(s), including pension, at no cost to the employee;
 - if employer normally pays a portion of the premium, and the employee **elects** to continue the benefit plan(s), including pension, then the employer will continue to pay its share and the employee her/his share.

2. Employment Insurance (EI)

- Qualification for EI benefits
 - a decrease in more than 40% of regular weekly earnings
 - 600 hours of insurable employment in the last 52 weeks or since the start of your last EI claim (the qualifying period).
 - must apply for benefits
 - a medical certificate must be provided as proof that the ill family member has a serious medical condition with a significant risk of death within 26 weeks (six months), and requires the care or support of one or more family members
 - can be shared with other family members who meet the eligibility criteria.
- As of January 1, 2017, the waiting period will be reduced to 1 week.
- Care or support means:
 - providing psychological or emotional support; or
 - arranging for care by a third party care provider; or
 - directly providing or participating in the care.
- Benefits paid to care or support one of the following family members:
 - your child or the child of your spouse or common-law partner
 - your wife/husband or common-law partner
 - your mother/father
 - your father's wife/mother's husband; or
 - the common-law partner of your father/mother.
- Duration of benefits
 - up to a maximum of six (6) weeks of benefits within the period of the 26 weeks that start from the Sunday of the week stated on the doctor certificate indicating a serious medical condition with a significant risk of death.

General notes

Rights

1. *BC Employment Standards Act*

- maximum combined maternity and parental leave entitlement is 52 weeks, and may include an additional six (6) weeks for extended maternity leave and/or five (5) weeks for extended parental leave;
- none of these leaves is cause for employment termination;
- none of these leaves is cause for change in employment conditions without the consent of the employee;
- on return to work, the employee is entitled to return to the same or a comparable position;
- the period of leave is considered continuous employment for the purposes of:
 - a. seniority;
 - b. termination pay;
 - c. wage increases.

2. Collective agreement

In all of the above leaves of absence, the collective agreement may be superior in **rights** or **benefits**. However, the *ESA* is the minimum and cannot be diminished by the collective agreement. Be sure to contact the local to determine the rights and benefits from the collective agreement.