



a workplace for all

Bargaining Equality

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**Maternity
and Parental
Leave**

Maternity leave provisions

under the Federal Employment Insurance (EI) program are paid to a maximum of 52 weeks. This includes the two-week waiting period, 15 weeks maternity leave, and 35 weeks parental leave that can be taken by either parent.

Biological mothers are entitled to the maternity benefits. Biological and adoptive parents are entitled to the parental benefits. An additional maximum of 15 weeks EI sickness benefits can be taken in combination with maternity/parental benefits if a mother is incapable of doing any work and has a medical certificate saying how long she'll be unable to work.

Many CUPE locals have successfully negotiated wage top-ups to supplement EI benefits. The EI legislation allows for a maximum wage top-up of 97 per cent, but this has to be negotiated or agreed to by the employer. Locals should strive to negotiate wage top-ups that cover the entire leave period. The agreement should also ensure the same benefits are extended to workers in same-sex relationships.

Provisions are negotiated to protect service and benefits for workers on maternity and parental leave. Employers are required to reinstate workers in their former job or comparable position upon return to work. It's good practice to include such a provision in the collective agreement.

Additional negotiated safeguards are provided to pregnant workers and new mothers. Such safeguards include not having to work in front of video display terminals or lift heavy objects. Other provisions allow new mothers breaks for breastfeeding.

Resources:

The EI UI Road Map: How to Navigate the Unemployment Insurance System, CUPE, Research Branch.

Work and Family Provisions in Canadian Collective Agreements, Human Resources Development Canada, Labour Program March 2001, website:

<http://labour-travail.hrdc-drhc.gc.ca/worklife/welcome-en.cfm>

Maternity / Parental Leave

Although pregnancy and maternity are biologically specific to women, reproduction is a social function, which should be protected for both women and men. Remember, adoptive and same-sex parents should be covered as well.

To ensure complete protection, include the following provisions in your local's collective agreement:

- No discrimination clause related to pregnancy and maternity.
- Start and end dates for maternity/parental leave by mutual employee/ employer agreement.
- Sub-payments to 97 per cent of pay for full maternity/parental leave.
- Any illness related to maternity leave requires extra leave and sub-benefits.
- The right to lighter and non-hazardous work while pregnant.
- Flexible working hours to avoid travelling during peak hours.
- Additional rest breaks.
- Ability to move from night to day shift.
- Seniority retention and accrual.
- Preservation of benefits.
- Notification of job vacancies, promotions and training opportunities.
- Right to return to same or similar job.
- Extended leave where there are medical complications for mother/child.
- Right to nursing breaks without pay reduction.
- Leave for miscarriage or stillbirth.

Adapted from: *Promoting Gender Equality – A Resource Kit for Trade Unions, International Labour Organization (ILO), Booklet 3, Geneva 2002.*

LANGUAGE

CUPE Local 1 and Toronto Hydro

Article 24 – Health, Welfare and Insurance Benefits

Wage Top-up for Pregnancy Leave

24.03 In the case of a Pregnancy Leave, the Employer will provide payment equal to 95% of base pay during the two (2) week E.I. waiting period and the difference between the payments received from E.I. and 95% of the employee's normal, straight-time pay for fifty-two (52) weeks, subject to continued government legislation and approval.

Maintenance of Wages for Adoption Leave

24.04 In the case of an Adoption Leave for the primary caregiver, who has adopted a child under six (6) years of age, who is not the natural child of either adoptive parent, the Employer will provide payment equal to 95% of base pay for two (2) weeks and 95% of his/her normal, straight-time pay for up to thirty-five (35) weeks.

Quebec health and social services employers and hospitals, with CUPE and other unions

CUPE negotiated improvements to maternity and parental leave provisions. These include:

- Maternity Leave: For a woman who is not entitled to employment insurance, the employer pays an allowance for 12 weeks at the rate of 93 per cent of her wages.
- Adoption Leave: Begins as soon as the parent takes custody of the child or travels outside Quebec for adoption purposes (following a placement order).
- Paternity Leave: Granted to an employee whose child is stillborn if the birth occurred after the beginning of the 20th week of the pregnancy (new addition).
- Extended Leave: Seniority is accumulated for pay purposes for up to 52 weeks of leave without pay or partial leave without pay, taken as an extension of maternity, paternity or adoption leave. (The full text of these provisions can be obtained from CUPE Research.)

CUPE Local 2081 and Camosun College, BC

22.06 Maternity Leave

(d) Employment Status

1. While on maternity leave an employee shall retain and accumulate her full employment status in connection with the seniority provisions.
 2. The services of an employee who is absent from work in accordance with this clause shall be considered continuous for the purpose of any pension, medical or other plan beneficial to the employee and the College shall continue to make payment to the plan in the same manner as if the employee were not absent where:
 - (i) The College pays the total costs of the plan; or
 - (ii) The employee elects to continue to pay her share of the cost of a plan that is paid for jointly by the College and the employee.
- (e) While on maternity leave, an employee may access paid sick leave entitlements upon presentation of a medical certificate from a qualified medical practitioner.

22.09 (b) Return from Leave

On return, an employee shall be reinstated in all respects in the position previously occupied or in a comparable position and with all increments to wages and benefits to which the employee would have been entitled had the leave not been taken.

(d) Additional Leave

Where the newborn child suffers from a physical, psychological or emotional condition and will be at least six (6) months of age before coming into the employee's actual care and custody, the employee shall be entitled to an additional period of parental leave of up to five (5) weeks.