

## **Pregnancy/Parental Helpful Definitions and Links**

- Employee Standards Act
- Ontario Teachers' Pension Board
- Long Term Disability
- Sick Leave following pregnancy (Court case + Article)

### ***Employment Standards Act***

Pregnant employees have the right to take *Pregnancy Leave* of up to 17 weeks of unpaid time off work. In some cases the leave may be longer. Employers do not have to pay wages to someone who is on pregnancy leave.

New parents have the right to take *Parental Leave*--unpaid time off work when a baby or child is born or first comes into their care. Birth mothers who took pregnancy leave are entitled to up to 35 weeks' leave. Birth mothers who do not take pregnancy leave and all other new parents are entitled to up to 37 weeks' parental leave.

Parental leave is not part of pregnancy leave and so a birth mother may take both pregnancy and parental leave. In addition, the right to a parental leave is independent of the right to pregnancy leave. For example, a birth father could be on parental leave at the same time the birth mother is on either her pregnancy leave or parental leave.

A "parent" includes:

- a birth parent;
- an adoptive parent (whether or not the adoption has been legally finalized); or
- a person who is in a relationship of some permanence with a parent of the child and who plans on treating the child as his or her own. This includes same-sex couples.

Employees on leave have the right to continue participation in certain benefit plans and continue to earn credit for length of employment, length of service, and seniority. In most cases, employees must be given their old job back at the end of their pregnancy or parental leave.

An employer cannot penalize an employee *in any way* because the employee is or will be eligible to take a pregnancy or parental leave, or for taking or planning to take a pregnancy or parental leave.

For further information please click this link.

[http://www.labour.gov.on.ca/english/es/guide/guide\\_11.html](http://www.labour.gov.on.ca/english/es/guide/guide_11.html)

### ***Ontario Teachers' Pension Board***

All teachers should contact the Teachers' Pension Plan directly, **particularly if you're waiving your right to contribute during the leave under the Employment Standards Act.**

They will require the dates of your leave and the annual rate(s) of salary. Hours of operation 8:00 a.m. to 5:30 p.m. Monday – Friday.

1-800-668-0105

For further information please visit. [www.otpp.com](http://www.otpp.com)

### ***Long Term Disability (LTD)***

Please contact Bob Ferguson at [rferguson@ocetf.org](mailto:rferguson@ocetf.org) to discuss continuation of LTD payments. OCETF Office 613-596-3932 Ext. #203.

### ***Sick Leave***

#### ***ACCESSING SICK LEAVE FOLLOWING PREGNANCY***

*In the late 1980's, the Supreme Court of Canada (Brooks v. Canada Safeway 1989) held that women who are off work following childbirth are to be treated in the same manner as other employees off work for valid health-related reasons. The Court held that while pregnancy is not a sickness or an accident, "it provides a perfectly legitimate health-related reason for not working".*

*The Ontario Court of Appeal affirmed this decision in 1998 in a case concerning OSSTF v. Essex County. The provisions of the Essex Collective Agreement that prohibited sick benefits for a period of time following childbirth were held to be discriminatory. This decision formed the law in Ontario and has paved the way for women to access sick leave postpartum.*

*Generally speaking, women can access up to "six weeks" sick leave (at full salary) for the recovery period. This does not extend your claim for Employment Insurance or your time for leave; it coincides with it. Your claim for E.I. benefits should be submitted as soon as you receive your Record of Employment (R.O.E.) from the school board. You must notify Human Resources Development Canada (HRDC) when you are in receipt of income from sick leave and your E.I. benefits will be adjusted accordingly.*

*Many school boards are beginning to develop a process for dealing with requests for sick leave following pregnancy. Please contact your school board office before going on leave to find out*

*how to access your sick leave following delivery. If your request for sick leave is denied, please call your Local ETFO office for assistance.*

This leave is provided for in your collective agreement (Article 17). A teacher would receive their regular pay by the Board but would use accumulated sick days. Teachers may choose to use up to 6 weeks of sick leave following giving birth. Teachers are not able to use sick leave during non-teaching periods (i.e. summer, March Break, etc.) Teachers would not collect any SEB Plan or EI benefits during this time until September 1, 2010.

ARTICLE 23     PREGNANCY/PARENTAL/ADOPTION/PATERNITY LEAVE

23.01   Pregnancy Leave

Pregnancy leave of up to seventeen (17) weeks shall be granted in accordance with the Ontario Employment Standards Act upon written request provided that:

- (a) the teacher has been employed by the Board for at least thirteen (13) weeks preceding the expected date of birth;
- (b) the teacher provides a doctor's certificate certifying that she is pregnant and stating the expected date of delivery and the recommended date for commencement of pregnancy leave;
- (c) the teacher notifies the Board as soon as practical, but at least two (2) weeks preceding the estimated date of commencement of leave.

23.02   Parental/Adoption Leave

- (a) In accordance with the provisions of the Ontario Employment Standards Act, a teacher who has been employed by the Board for at least thirteen (13) weeks will be entitled to parental/adoption leave of:
  - i) 35 weeks if the employee has also taken pregnancy leave; or
  - ii) 37 weeks if the employee has not taken pregnancy leave.
- (b) A teacher who has been granted a pregnancy leave shall be granted parental leave upon written request received at least two (2) weeks prior to the date the leave commences. The leave must begin immediately upon termination of the pregnancy leave unless the child has not yet come into care, in which case the leave must commence within fifty-two (52) weeks of the child's coming into care.
- (c) Where pregnancy leave has not been taken, a teacher may, following the birth of the teacher's child or an adopted child coming into the custody, care, or control of the parent for the first time, take parental/adoption leave upon written request at least two (2) weeks prior to the date the leave commences. The teacher is required to provide documentation verifying the birth or adoption of the child prior to the leave being granted. Parental/Adoption leave taken in these circumstances must be taken within fifty-two (52) weeks of the child's birth or of the child coming into custody, care or control.
- (d) A teacher may return to work prior to the conclusion of the leave period of thirty-five (35) weeks provided the teacher gives to the Board at least four (4) weeks written notice of the day on which the leave is to end.

### 23.03 General Provisions for Pregnancy/Parental Leave/Adoption Leave

- (a) Crediting of experience for salary placement purposes shall continue according to the provisions of Article 10 of this collective agreement during any term of pregnancy and/or parental/adoption leave.
- (b) Seniority shall continue to accumulate in accordance with the seniority provisions of this collective agreement.
- (c) The Board agrees to continue to pay the Board's portion of benefit plan premiums during the pregnancy, parental/adoption leave provided the teacher agrees to pay the teacher's portion of premiums by pre-authorized debit.
- (d) At the discretion of the Board, pregnancy, parental/adoption leave may be granted to a teacher who has not been employed by the Board for thirteen (13) weeks or the stipulated period required by the Act.
- (e) Sick leave under Article 17 will only apply prior to and subsequent to pregnancy and/or parental/adoption leave.
- (f) Sick leave credits shall accumulate for the teacher during the time of pregnancy or parental/adoption leave.
- (g) Where a teacher has been granted pregnancy, parental/adoption leave of fifty-two (52) weeks or less and whether that leave falls within the same school year or extends into the next school year, the teacher shall return to the same or a comparable position within the same school, unless otherwise mutually agreed or required by surplus, lay-off and recall procedures.

### 23.04 Leave of Absence following Pregnancy/Parental Leave/Adoption Leave

A leave of absence without pay beyond the pregnancy, parental/adoption leaves may be granted by the Board for up to five years. The total period of leave for Pregnancy, Parental/Adoption and/or leave without pay shall not exceed sixty (60) months for the birth or adoption of each child.

An extension of the leave may be granted to accommodate the return of the teacher to the system at a natural break in the school year. However, where a subsequent birth or adoption of a child occurs prior to the teacher returning from an existing leave, the leave granted for the subsequent birth or adoption shall be limited to the pregnancy/parental leave required by the Ontario Employment Standards Act.

All other provisions related to leaves of absence without pay shall apply to leaves granted under this paragraph.

### 23.05 Paternity Leave

Up to two (2) days leave with pay shall be granted in any one school year by the Principal. Such leave may be granted on any day in the period beginning with the day of admission and ending with the day of discharge of the mother from the hospital. Where the birth does not occur in a hospital, the leave of up to two (2) days may be taken to embrace the time of birth. Where complications associated with the birth arise, the father may apply for leave in addition to the two (2) days of Paternity Leave.

## ARTICLE 24 PREGNANCY/ADOPTION SUPPLEMENTARY EMPLOYMENT BENEFIT (SEB) PLAN

24.01 (a) Effective until August 31, 2010, the Board will provide a pregnancy/adoption leave EI SEB Plan for the two week waiting period under the Employment Insurance (EI) Act of 95% of the teacher's normal weekly earnings.

(b) Effective September 1, 2010, the Board will provide a pregnancy/adoption leave EI SEB Plan for the two week waiting period under the Employment Insurance (EI) Act of 100% of the teacher's normal weekly earnings.

24.02 (a) Effective until August 31, 2010, a teacher on pregnancy leave or adoption leave who applies for and is in receipt of EI benefits will be entitled to receive a top-up to 90% of the teacher's normal weekly earnings for four (4) weeks following the waiting period referenced in Article 24.01 above, and \$150.00 per week for the next eleven (11) weeks.

(b) Effective September 1, 2010, a teacher on pregnancy leave or adoption leave who applies for and is in receipt of EI benefits will be entitled to receive a top-up to 100% of the teacher's normal weekly earnings for four (4) weeks following the waiting period referenced in Article 24.01 above and \$150.00 per week for the next four (4) weeks.

### 24.03 Residents of Quebec

(a) Effective until August 31, 2010, for residents of Quebec, the Employer will provide a pregnancy/adoption leave EI SEB Plan for the first two weeks of leave in the amount of a top-up to 95% of the Teacher's salary.

Commencing the third week of leave, Teachers granted pregnancy/adoption leave and entitled to EI shall be entitled to receive a top up of employment insurance provisions to 90% of salary for a period of four (4) weeks and \$150.00 per week for the next eleven (11) weeks.

The Teacher shall provide the Employer with the relevant information from Quebec EI to determine the amount of top-up to the appropriate percentage of the Teacher's salary.

- (b) Effective September 1, 2010, for residents of Quebec, the Employer will provide a pregnancy/adoption leave EI SEB Plan for the first two weeks of leave in the amount of a top-up to 100% of the teacher's salary.

Commencing the third week of leave, teachers granted pregnancy/adoption leave and entitled to EI shall be entitled to receive a top up of employment insurance provisions to 100% of salary for a period of four (4) weeks and \$150.00 per week for the next four (4) weeks.

The teacher shall provide the Employer with the relevant information from Quebec EI to determine the amount of top-up to 100% of the teacher's salary.

- 24.04 In the event that more than one parent is employed by the Board, only one parent taking adoption leave will be entitled to SEB plan payments as provided for in this article.
- 24.05 No payment shall be made for any periods during which the teacher is not otherwise entitled to earn pay. (Effective September 1, 2010, this article does not apply)

# **OTTAWA-CARLETON DISTRICT SCHOOL BOARD**

## **Fifth Disease**

### **Protocol for Schools Dealing With Pregnant Employees**

#### **BACKGROUND**

For most people, Fifth Disease can be viewed as an unimportant rash illness which spreads from person to person similarly to the common cold. While the disease has no significant health concerns for affected children, it may present serious health problems for pregnant women and for people with chronic blood disorders such as sickle cell disease or leukemia. A child who has contracted Fifth Disease will display a rash on his or her face which gives the appearance of a hand slap (a more wide spread rash will appear a few days later). However, like chicken pox, the contagious period for this disease occurs before the rash appears.

Several outbreaks of Fifth Disease have been reported in our schools over the past few years. In these cases, the most pressing concern is how to deal with pregnant staff in the school. For this reason, the following protocol has been developed to ensure that the Board is responding in a responsible fashion and to ensure that the employees are treated in a fair and consistent manner.

#### **PROTOCOL**

1. The school principal, manager or supervisor is responsible for:
  - a) educating staff, students and parents about the symptoms of Fifth Disease and measures to be taken to reduce exposure to it;
  - b) requesting that such symptoms be reported to the responsible principal, manager or supervisor;
  - c) if there is some evidence of presence of the disease but no known outbreak at the time, requesting that students obtain a medical diagnosis to confirm whether or not the disease is present; and
  - d) where there are two or more physician-diagnosed cases of Fifth Disease at a school/location within three weeks, contacting the Board's Health and Safety Officer, who will immediately notify the City Health Department.

*Note:* The City Health Department will track this information, and will notify school boards and day care facilities of the onset of Fifth Disease season.

2. Employees who are at risk of health problems from Fifth Disease for one or more of the reasons identified above are advised to determine through testing whether they are susceptible to this disease. In particular:
  - a) any employee who is pregnant is strongly advised to be tested at an early stage of pregnancy; and
  - b) any employee who is considering starting a family is encouraged to be tested.
3. Should an outbreak of the disease be confirmed at an employee's school or location, it is the responsibility of an employee who may be at risk, and does not know whether she or he has immunity, to be tested at his/her cost at the earliest possible time. The employee may use sick leave entitlement or personal leave in order to visit the doctor and obtain the required tests and results.
4. In the case of a confirmed outbreak, an employee who has been tested and found susceptible to Fifth Disease, and who is at risk, as a result of this outbreak, of health problems for one or more of the reasons identified above, will, until the outbreak is over (20 days with no confirmed cases):
  - a) be accommodated by way of reassignment to another work location; or
  - b) if the employer determines that reassignment is not possible, be granted leave of absence with pay; or
  - c) if the employee does not wish to be reassigned, the employee may use sick leave with pay pursuant to the employee's collective agreement.
5. If an employee who is potentially susceptible to the disease chooses not to be tested, the Board will allow the employee to use sick leave entitlement to cover the time lost from work for the duration of a confirmed outbreak of Fifth Disease.
6. If an employee found susceptible to Fifth Disease does not wish to remain in a school/location for fear of potential exposure, although no presence of the disease has been confirmed, the Board will grant an unpaid leave of absence for the period requested.
7. An employee who is found as a result of testing to have immunity from Fifth Disease is required to report to work.