

A Guide To
PREGNANCY AND
PARENTAL LEAVE

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Introduction

As you plan for the arrival of your new child, there are many things to consider and prepare for, including being off work.

This guide is meant to help you understand the *Employment Standards Act* and the *Employment Insurance Act*, which dictate how much time off work you may be able to take and how much financial benefit you may receive while you are off.

It also outlines other benefits that you have access to as an OECTA member, as well as responsibilities you need to be mindful of while you are on leave.

The information in this guide is intended only to assist Catholic teachers and their partners. It does not constitute legal advice and should not be construed as such.

If you have questions about the guidelines or your specific situation, please contact your local unit office.

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KEY TERMS AND REFERENCES

Employment Standards Act (ESA), 2000, S.O. 2000, c. 41 – A provincial act that governs leaves of absence in Ontario, and provides a legislative framework that allows individuals to take unpaid time off without a loss in position. It outlines the requirements of employers regarding the duration of leaves, as well as the responsibilities of employees regarding notification to their employer.

Pregnancy Leave – A term defined in the ESA, which provides unpaid leave time to a pregnant woman prior to, or upon, the birth of her child.

Parental Leave – A term defined in the ESA, which provides unpaid leave time to a biological mother or father, or non-biological parent, following the birth, custody, or control of their new child.

Employment Insurance Act (EIA) S.C. 1996, c. 23 – A federal act that provides for the payment of financial benefits to eligible individuals taking an unpaid pregnancy or parental leave.

Maternity Benefits – A term defined in the EIA, which provides financial benefits to an eligible biological mother who cannot work because she is pregnant or has recently given birth.

Parental Benefits – A term defined in the EIA, which provides financial benefits to eligible parents who are caring for a newborn(s) or newly adopted child or children.

Parent – Includes a biological or adoptive parent, or any legally recognized custodian or caregiver, or person in a relationship of some permanence with a parent of the child and who plans on treating the child as their own child. This includes same-sex couples.

Collective Agreements (CA) – Your Collective Agreement provides additional financial benefits for members on pregnancy or parental leave – even if, under certain circumstances, you are not eligible to receive paid benefits through Employment Insurance. CAs also contain information regarding access to sick leave and the Short-term Leave and Disability Plan before or after giving birth, as well as information regarding extended health and dental benefit coverage while on pregnancy or parental leave, or extended unpaid leave.

Supplemental Employment Benefit (SEB) – A provision in your Collective Agreement that outlines additional benefits provided to eligible members.

The Ontario College of Teachers (OCT; the College) – The College accredits you to teach in Ontario. While on a pregnancy or parental leave you are required to maintain your “good standing” with the College in order to be able to return to work when your leave is completed.

The Ontario Teachers' Pension Plan (OTPP) – OTPP provides important information regarding your options for pension contributions during your pregnancy and parental leave, and once you return to work.



SECTION A

Taking Your Leave

There are two types of **unpaid leave (pregnancy and parental)**, as defined by the Employment Standards Act (ESA) that a parent may be eligible to take. Between the two types of leave, there are typically a total of up to 78 weeks available, which may be taken all by the birth mother or a portion may be shared with a partner.

PREGNANCY LEAVE

The ESA provides up to 17 weeks (or longer, in certain situations) of unpaid time off work that can only be taken by the birth **mother**.

Eligibility

You must be employed part time or full time, on a permanent or contract basis, for at least **13 weeks** by the same employer prior to the expected due date.

- You will still be eligible for leave, even if your baby is born early, provided the due date meets the 13-week threshold.
- You **do not** have to **actively** work the 13 weeks prior to the due date to be eligible for pregnancy leave. It is only necessary that you have commenced employment at least 13 weeks before the baby is expected to be born. For example, if you are off on sick leave for a period of time during the 13 weeks, this does not impact your pregnancy leave eligibility.

Planning Your Leave

Your leave can begin at any point up to 17 weeks prior to the expected due date.

- The latest a pregnancy leave can begin is on the baby's due date.
- If the baby is born earlier than the due date, the latest the leave can begin is the day the baby is born.
- Pregnancy leave cannot be split into different periods. In other words, you cannot use part of the 17 weeks, return to work with your employer, and then go back on pregnancy leave for the unused portion. If you return to work for the employer from whom you took the leave, even if it is only part-time, under the ESA you give up the right to take the rest of your leave.

Note: Your employer cannot decide when you will begin your leave, even if you are off sick due to your pregnancy or if your pregnancy limits the type of work you can do.

If you are sick, you have the right to access your sick leave/Short-term Leave and Disability Plan (STLDP) days as per Part A of the Central Terms of your Collective Agreement. See the section on sick leave for more information.

Giving Notice to Your Employer

Written notice must be given to your employer at least **two weeks prior** to the date your leave is to begin.

The written notice must include:

- The date you plan to start your pregnancy leave.
- The date you plan to return to work. If you do not include this date, your employer will assume that you will take the full 17 weeks pregnancy leave.

Whether you plan to take parental leave. If you are not sure if or how much parental leave you will take, you can wait and give notice for your parental leave up to two weeks before your pregnancy leave ends. You must also provide your employer with

a certificate from a legally qualified practitioner stating the expected due date of the child.

If your baby is born early or you have to stop working earlier than you planned, you must get a letter from your medical practitioner and give it to your employer no later than two weeks after you stop working.

This letter should say:

- You are not able to work because of your pregnancy.
- The date your baby is expected or the date your baby was born.
- When your pregnancy leave began, or will begin, and when it will end.

Changing Your Leave Start Date

- If you want to start your pregnancy leave earlier than originally planned, you must give written notice at least two weeks before the new, earlier date.
- If you want to start your pregnancy leave later, you must give written notice at least two weeks before the original start date.
- The latest your pregnancy leave can start is the due date or the date the baby is born, whichever is earlier.

Changing Your Leave End Date

- If you want to end your pregnancy leave earlier than originally planned, you must give written notice at least four weeks before the new, earlier date.
- If you want to end your pregnancy leave later, you must give written notice at least four weeks before the original date.
- Unless the employer agrees, or your Collective Agreement permits, you cannot schedule an end date that would result in taking a longer leave than you are entitled to under the ESA.

These are the notification timelines required by law. Check with your local unit as your school board may prefer more notice. Your local unit may also have a template letter you can use, as well as the contact information for the human resources person to whom the letter should be sent.

PARENTAL LEAVE

The ESA provides up to **61 weeks** of unpaid time off work for the biological mother, or up to **63 weeks** for all other new parents who are employed part time or full time, on a permanent or contract basis.

- See the definition of “parent” in the Key Terms section.

Eligibility

You must have been employed for at least **13 weeks** by the same employer prior to commencing your parental leave.

- You **do not** have to **actively** work in the 13-week period preceding the start of the parental leave. For example, you could be on vacation, sick leave, or pregnancy leave for all or part of the 13-week qualifying period and still be entitled to parental leave.

Planning Your Leave

If you are the biological mother, your parental leave must begin immediately following your 17-week pregnancy leave.

- For all other parents, parental leave must begin no later than 78 weeks after the child is born or comes into your care, custody, or control.

- A parental leave does not need to be completed within 78 weeks of birth, it just needs to be started within that timeframe.
- You may decide to take a shorter leave time, but once you have started your leave, it must be taken all at once. For example, you cannot take a few weeks, return to work for a few weeks, then take more leave time. If you return to work for the employer from whom you took the leave, even if it is only part-time, under the ESA you give up the right to take the rest of your leave.

Giving Notice to Your Employer

Written notice must be given to your employer at least **two weeks** prior to the date the leave is to begin.

- Because EI benefits can be taken over a shorter or longer period, it is strongly advised that you tell your employer how many weeks of parental leave you plan to take.
- If you do not tell your employer, they will assume that you will be taking the full 61/63 weeks.
- If you are also taking pregnancy leave, you may choose to give your notice of parental leave when you provide notice of your pregnancy leave.

Changing Your Leave Start Date

- If you want your leave to start earlier than originally planned, you must give written notice two weeks before the new, earlier date.
- If you want your leave to start later than originally planned, you must give written notice two weeks before the original start date.

Changing Your Leave End Date

- If you want your leave to end earlier than you first indicated, you must give written notice at least four weeks before the new date that you want to return to work.
- If you want your leave to end later than first indicated, you must give written notice at least four weeks before the date you said that you would return to work. Unless the employer agrees, or your Collective Agreement allows, you cannot schedule a new return date that would result in you taking a longer leave than you are entitled to under the ESA.
- If you intend to use less than 61 or 63 weeks, it is advised that you clearly state the number of weeks you plan to take in the new written notice.

While on leave

While on pregnancy or parental leave, you have the right to continue to access benefits such as your pension plan or extended health and dental plans, and you continue to earn credit toward your years of service and seniority. (See the Collective Agreement Benefits and Other Rights and Responsibilities sections for more information.)

Returning to Work

You cannot be fired, laid-off, penalized, or suspended because you applied for, or took, a pregnancy or parental leave. If the wages for your position have increased, you must get the higher wages.

The surplus/redundancy provisions of your local collective agreements apply as if you had been at work. With that in mind, if you are not returned to the position you vacated, or paid as you think you should be upon returning to work, contact your unit office to be sure your rights are being properly respected.

EMPLOYMENT STANDARDS ACT VS EMPLOYMENT INSURANCE ACT

The rules governing the right to take time off work for pregnancy and parental leave under Ontario's ESA are different from the rules regarding the payment of maternity benefits and parental benefits under the federal Employment Insurance Act.

Under the EIA, employees are able to return to work and earn a certain amount of wages without having their employment insurance benefits reduced. However, under the ESA, a return to work, even on a part-time basis, for the employer from whom you took the leave, would end the pregnancy/parental leave.

For more information on parental leave, visit
www.labour.gov.on.ca/english/es/pubs/guide/pregnancy.php



SECTION B

Accessing Employment Insurance (EI) Benefits

There are two different financial benefits (maternity benefits and parental benefits) that a parent may be eligible to access, as defined by the Employment Insurance Act (EIA). These benefits are not automatically provided – you must apply for them within a prescribed timeframe.

MATERNITY BENEFITS

The *Employment Insurance Act* (EIA) provides benefits to **biological mothers**, including surrogate mothers, who cannot work because they are pregnant or have recently given birth.

Eligibility

- **600 hours** of insurable employment during the “qualifying period,” which is the shorter of:
 - a) The 52-week period immediately before the start date of your EI benefit period.
 - b) The period since the start of a previous EI benefit period, if that benefit period started during the last 52 weeks.
- Contact your local unit if you have questions regarding your accumulated hours of employment.

Waiting Period

There is a **one-week** waiting period before you will start receiving your EI maternity benefits. Also see the section on Supplementary Employment Benefits in the Collective Agreement Benefits section.

Benefit Amount

- **Fifty-five (55) per cent** of your average insurable weekly earnings up to a maximum amount.
- Maximum weekly amount as of January 1, 2019 was \$562 – the maximum amount is reviewed annually.
- Paid for a maximum of 15 weeks.
- Benefits can be paid as early as 12 weeks before the expected date of birth and can end as late as 17 weeks after the actual date of birth.
- This is a taxable benefit so you must report this as income when filing your income tax.

You can apply for maternity benefits through the Service Canada website. www.canada.ca/en/services/benefits/ei/ei-maternity-parental.html

PARENTAL BENEFITS

The EIA provides financial benefits to **parents (biological, adoptive, or legally recognized)** who are caring for a newborn or newly adopted child or children.

Eligibility

- **600 hours** of insurable employment during the “qualifying period,” which is the shorter of:
 - a) The 52-week period immediately before the start date of your EI period.
 - b) The period since the start of a previous EI benefit period, if that benefit period started during the last 52 weeks.
- There are a maximum of 35 or 61 weeks of parental benefits available to eligible parents.
 - They can be taken all by one parent or shared between two.
 - The combined maximum cannot exceed 35 weeks (standard benefits option) or 61 weeks (extended benefits option).
- Contact your local unit if you have questions regarding your accumulated hours of employment.

Waiting Period

- There is a **one-week** waiting period before you start receiving your EI parental benefits.
- If one parent has already served a one-week waiting period for EI maternity benefits, then neither parent is required to serve a waiting period when accessing the parental benefits.

Benefit Amount

When applying for EI parental benefits you will have to **select** under which option you choose to claim EI parental benefits: **standard** or **extended**.

- **Standard parental benefits**
 - Maximum of **35 weeks** at a weekly benefit **rate of 55 per cent** of your average weekly insurable earnings, up to a maximum amount.
 - The maximum weekly amount as of January 1, 2019 was \$562 – the maximum amount is reviewed annually.
 - Must be claimed within a 52-week period (12 months) after the week the child was born, or placed for the purpose of adoption.
- **Extended parental benefits**
 - Maximum of **61 weeks** at a weekly benefit **rate of 33 per cent** of your average weekly insurable earnings, up to a maximum amount.
 - The maximum weekly amount as of January 1, 2019 was \$337 – the maximum amount is reviewed annually.
 - Must be claimed within a 78-week period (18 months) after the week the child was born, or placed for the purpose of adoption.

Both parents are required to choose the same parental benefit option, either standard or extended.

- The option chosen by the first claimant who completes the EI application

- will be considered as the option chosen by the second claimant.
- The choice is **final** once parental benefits have been paid on a claim. You cannot change between standard and extended once parental benefits have been paid.

NEW EI PARENTAL SHARING BENEFIT

If your child is born or placed with you for adoption purposes on or after **March 17, 2019** and you share EI parental benefits with another parent you may be eligible for an additional:

- **5 weeks** of **standard** benefits (total of 40 weeks shared between both parents with no one parent receiving more than 35 weeks of benefits) or
- **8 weeks** of **extended** benefits (total of 69 weeks with no one parent receiving more than 61 weeks of benefits).

This is a taxable benefit so you must report this as income when filing your income tax.

Benefit overview

BENEFIT NAME	WHO TAKES	MAXIMUM WEEKS	BENEFIT RATE	WEEKLY MAX
Maternity	Person who gave birth	15 weeks	55%	Up to \$562 (as of January 1, 2019)
Standard parental	One parent	-35 weeks	55%	Up to \$562 (as of January 1, 2019)
Standard parental	Shared between two parents	-40 weeks shared -no one parent can take more than 35 weeks	55%	Up to \$562 (as of January 1, 2019)
Extended parental	One parent	-61 weeks	33%	Up to \$337 (as of January 1, 2019)
Extended parental	Shared between two parents	-69 weeks shared -no one parent can take more than 61 weeks	33%	Up to \$337 (as of January 1, 2019)

You can apply for parental benefits through the Service Canada website. www.canada.ca/en/services/benefits/ei/ei-maternity-parental.html



SECTION C

Collective Agreement Benefits

SUPPLEMENTAL EMPLOYMENT BENEFITS (SEB) PLAN

Under Part A in the Central Terms of your Collective Agreement, your employer shall provide a SEB plan to “**top-up**” your EI maternity benefits to 100 per cent of your gross annual salary.

- For permanent teachers, the top-up shall be for not less than eight weeks immediately following the birth of your baby.
 - Part B of some local Collective Agreements may provide for more than eight (8) weeks of SEB top-up. Check your local Collective Agreement or contact your local unit to see if this includes you.
- For long-term occasional (LTO) teachers, or teachers in term positions, the SEB top-up shall be for a total of eight weeks or the number of weeks remaining in the assignment, whichever is less.
- If any part of the eight-week top-up period falls during an unpaid period (i.e. summer or March break), the remainder of the eight-weeks of top-up shall be paid after that period of time.

For permanent teachers who are **not eligible** for EI maternity benefit, you will receive **100 per cent of salary** from your employer for **eight (8) weeks** immediately following the birth of your child, as per Part A of the Central Terms of your Collective Agreement.

For LTO or term teachers who are **not eligible** for EI maternity benefits, you will receive **100 per cent of salary** from your employer for a maximum of **eight (8) weeks** immediately following the birth of your child, as per Part A of the Central Terms of your Collective Agreement, with the number of weeks limited to the number of weeks remaining in your LTO assignment. For example, if there are only six weeks remaining in your assignment when your pregnancy leave begins then you will only receive six weeks of 100 per cent of salary from your employer.

SICK LEAVE

Prior to Giving Birth

As outlined in Part A of the Central Terms of your Collective Agreement, you have access to:

- Eleven sick leave days paid at 100 per cent of salary, and up to 120 Short-term Leave and Disability Plan (STLDP) days paid at 90 per cent of salary.
 - The number of sick leave/STLDP days are pro-rated to your FTE status, or for LTO teachers, to the length of your assignment.
- You can take these days regardless of whether your illness is related to your pregnancy or not.
- If you are absent for five days or more, your employer may require medical confirmation from your attending medical practitioner

After Giving Birth

If you require longer than an eight-week recuperation period, your Collective Agreement provides access to available sick leave/STLDP days.

- Note that accessing sick leave/STLDP does **not** extend the length of your 78-week statutory leave.

Contact your local unit for any assistance you may need regarding access to your sick leave.

OECTA BENEFITS PLAN

Full-time Teachers

Your benefit premiums continue to be covered during your pregnancy or parental leaves (up to 18 months) as long as you were enrolled in the plan prior to starting your leave.

You continue to be responsible for premium payments to any optional benefits, such as optional life insurance.

- You can choose to inform your employer in writing that you do not want to keep making your own (employee) payments to such optional benefits, at which time your enrolment in optional benefits will be suspended.
- If you wish to re-enrol in an optional benefit plan when you return to work, you must inform your employer, in writing, prior to returning to work.

You must enrol your new **dependent child** in the plan **within 31 days** of giving birth, or taking custody or control of your child.

- The necessary updates can be made through OTIP's online portal, or by contacting OTIP directly.
- As this is a "life event," at this time you will be able to make other changes to your coverage, such as switching to family coverage or increasing your life insurance coverage.

Part-time Teachers

If you are enrolled in the OECTA Benefits plan, you will continue to pay for your portion of the premiums while you are on pregnancy/parental leave.

- You may inform your employer in writing that you do not want to keep making your own payments, at which time your enrolment in this plan will be suspended.
 - In order to re-enrol you must inform your employer in writing, prior to returning to work.
- It is very important that you take the necessary steps to ensure your benefits are reinstated upon your return to avoid having to re-enrol and potentially being deemed ineligible.

If you are not enrolled in extended health and dental benefits plans at the time your pregnancy/parental leave begins, the birth of your child will be considered a "life event." Within 31 days of giving birth or taking custody, you can choose to enrol in the benefits plan.

Long-term Occasional (LTO) and Term Teachers

If you are in an LTO or term assignment that is a 1.0 FTE:

- Your benefit premiums will continue to be covered while on pregnancy or parental leave for the remainder of your assignment.
- Your benefits coverage will end when your assignment ends.

If you are in an LTO or term assignment that is less than 1.0 FTE, and you are enrolled in the OECTA Benefits Plan:

- You may continue to pay for your portion of the premiums for the remainder of your assignment.
- If you no longer wish to keep paying for your portion of the premiums you may inform your employer in writing, at which time your enrolment in this plan will end.

If you are not enrolled in the OECTA benefits plans at the time your pregnancy or parental leave begins, the birth of your child will be considered a “life event.”

- Within 31 days of giving birth or taking custody, you can choose to enrol in the benefits plan.
- Your enrolment will continue only for the remainder of your assignment.

Extended Leave

If your local Collective Agreement permits and you decide to extend your maternity leave beyond the 78-week statutory leave period, you are strongly advised to continue your extended health and dental benefits.

- If you wish to continue to access extended health and dental benefits during this time, you will be responsible for the **full premiums**.
 - Inform your employer in writing that you wish to pay into and access the benefits plan while on your extended leave.
- Should you choose not to pay for benefits during your extended leave, it is very important that you take the necessary steps to ensure your benefits are reinstated prior to your return to avoid having to re-enrol and potentially being deemed ineligible.

OTIP contact information:
www.otip.com · 1-866-783-6847

LONG-TERM DISABILITY (LTD) BENEFITS

While you are on a pregnancy and/or parental leave you have the option of maintaining or discontinuing your LTD coverage. Although the decision is yours, you must convey that decision to your employer.

Maintaining Your LTD Coverage

If you choose to maintain your coverage, you will be required to continue paying your premiums during your leave.

- You will be eligible to apply for LTD benefits in the unfortunate event that you become disabled while on leave.
- There will be no break in your coverage, and you will not be subject to a “pre-existing condition” clause upon your return to work.

Discontinuing Your LTD Coverage

If you choose to discontinue your LTD coverage, you will cease paying premiums during your leave.

- If you become disabled during your leave, you will **not** be eligible for LTD benefits.
- Your coverage will be reinstated upon your return to work.
- You will be **subject to a “pre-existing condition” clause** if you become disabled within 12 months of your reinstatement.

What is a pre-existing condition?

This is a disability arising from illness or injury for which you obtained medical care during the 90-day period before you become re-insured.

You are strongly advised to continue your LTD coverage while on leave.

For more information about your LTD coverage, contact your local unit office.

EXTENDING YOUR LEAVE

Part B in your local Collective Agreement may provide the option to extend your leave beyond the statutory allowable length of 78 weeks.

Contact your local unit office for assistance in accessing extended leave opportunities.

PATERNITY LEAVE

If your spouse or partner is having a baby, Part B of your local Collective Agreement, may have provisions for you to take a few paid days off work upon the birth or custody of your new child, without accessing sick days or emergency leave days. Speak to your local unit office for assistance.



SECTION D

Other Rights and Responsibilities

THE ONTARIO COLLEGE OF TEACHERS (OCT)

You are responsible for paying your OCT fee while off on leave.

- A mandatory OCT fee is deducted through your school board's payment system by the end of January each year.
- If you are on leave from the board during the year, the school board **will not remit** OCT deductions on your behalf.
- OCT will notify you by the end of April that you are in arrears.
- Your OCT fee payments must be up-to-date before you return from your leave.
- Consult the OCT website for information regarding available fee payment options.

OCT contact information:
www.oct.ca · 1-888-534-2222

ONTARIO TEACHERS' PENSION PLAN (OTPP)

Taking a year off work to care for your new child means missing a year's worth of pension credit. Your years of pension credit are a critical component of calculating your pension value – the more years of pension credit you have, the greater the amount of your pension benefit.

When you are on pregnancy, parental, or extended leave, you have the option of continuing to make your own pension contributions. While it may seem expensive to make pension contributions while on leave, there are important financial implications associated with not continuing to contribute to your pension plan, which need to be carefully considered. If you choose not to continue making pension contributions, there are a number of buy-back options.

Buying Back Pension Credits

If you choose not to make contributions while on leave you have the option of buying back your pension credits.

- You have up to five years from the time your leave ends to buy back your credit, and interest charges will apply.
- Payment plans can be arranged, or an existing Registered Retirement Savings Plan contribution can be transferred to OTPP as a buy-back without tax implications.
- The OTPP has extensive information on their website regarding buying back credits – including an app called BabySteps, specifically for teachers on pregnancy and parental leave.

Choosing not to make pension contributions or buy-back credits will have an impact on your pension entitlements and your potential retirement date.

OTPP contact information:
www.otpp.com · 1-800-668-0105



SECTION E

Leave Checklist

PRIOR TO BIRTH

- Obtain the required medical letter from your doctor indicating your expected due date.
- At least two weeks prior to the birth, provide written notice to your employer on when you expect to start your pregnancy leave (you can also choose to notify your employer of parental leave at this time).
- Create a “My Service Canada” account (a secure online tool that gives you access to all your EI information in one place).
- Make arrangements for the payment of your Ontario College of Teachers membership fee.
- Consider your pension contributions and investigate the cost of buying back credits. Coordinate with your employer or OTPP if you decide to continue to make pension contributions.
- Communicate your decision regarding long-term disability (LTD) payments while on leave to your employer.
- Determine if any changes are needed to your optional health benefits coverage while on leave.
- If you are an OT, communicate your decision to your employer regarding the payment of benefit premiums while on leave.
- If you wish to extend your leave beyond the statutory leave period, communicate with your employer regarding the payment of benefits while on extended leave.

AFTER THE BIRTH

- Notify your employer of your child’s date of birth.
- Apply for EI immediately following the birth.
- Determine if you wish to access 35 weeks (EI standard parental benefits), or 61 weeks (EI extended parental benefits).
- Submit any forms needed to calculate your top-up pay to your employer.
- Within 31 days of birth, submit your child’s information to OTIP for inclusion in your benefits plan.
- Within 31 days of birth, consider enrolling in the OECTA Benefits Plan, if not already enrolled.
- If you have not already, submit your notice to your employer of the start of your parental leave and expected return to work date.

BEFORE RETURNING TO WORK

- Reinstate your enrolment in the OECTA Benefits Plan, if you suspended your enrolment while on leave.

