

5734

# Teachers And Maternity Leave



Federation of Women Teachers'  
Associations of Ontario

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This booklet has been prepared by the Federation of Women Teachers' Associations of Ontario as a guide for teachers planning pregnancy or adoption leave.

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It contains information about:

- Statutory Pregnancy Leave
  - eligibility
  - flexibility
  - notice to school board
- Extended Pregnancy Leave
- Applying for Leave
- Return from Leave
- Money Matters
  - salary
  - fringe benefits
  - superannuation
  - unemployment insurance benefit
- Pregnancy Related Illness
- FWTAO Parental Leave Policy, August 1976
- The Employment Standards Act, 1974
  - Part X, Benefit Plans
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- Directory of Canada Employment Centres in Ontario
- Directory of Unemployment Insurance Commission Offices in Ontario
- Check List for Planning Pregnancy Leave
- Membership in FWTAO During Pregnancy or Adoption Leave

## STATUTORY PREGNANCY LEAVE

Statutory pregnancy leave means the right to pregnancy leave established by provincial law in The Employment Standards Act of Ontario. The Act governs employers and employees in all occupations and sets out, among other things, the minimum pregnancy leave available to working women.

### ELIGIBILITY

The Employment Standards Act of Ontario provides pregnancy leave of 17 weeks or less without loss of seniority or benefits **accrued to the commencement of the leave** for teachers who have been continuously **employed** by the same school board for at least twelve months and eleven weeks immediately preceding the estimated date of confinement.

The continuity of the teaching contract with the employing school board determines eligibility for statutory pregnancy leave. Any authorized leave of absence, including a previous pregnancy leave, is **not** an interruption of employment for the purpose of eligibility for statutory pregnancy leave.

Part-time teachers are covered by the Employment Standards Act and are entitled to the same period of pregnancy leave as full-time teachers. Continuous employment for a period of twelve months and eleven weeks entitles a teacher to pregnancy leave whether her assignment has been full or part-time.

Occasional teachers who teach from time to time without a predetermined arrangement are not covered for pregnancy leave by The Employment Standards Act although they may be entitled to pregnancy benefit under The Unemployment Insurance Act.

### FLEXIBILITY

Within certain limitations, the 17 weeks or less statutory pregnancy leave is a flexible period for use at the discretion of the pregnant teacher. The leave **may begin at any time during** the eleven week period prior to estimated delivery but **shall not end before six weeks following** the actual confinement date unless her doctor permits an earlier return to work.

To be within statutory limits, the requested pre-natal leave cannot exceed eleven weeks before the estimated date of confinement but may be **eleven weeks or any lesser number of weeks prior** to confinement that the teacher chooses.

The post-natal leave cannot be less than six weeks without medical permission.

However, the school board may initiate the pregnancy leave pursuant to Section 36 of the Act if the duties of the teacher cannot reasonably be performed by a pregnant woman or the performance of her teaching duties is materially affected by the pregnancy.

## Examples of Flexibility of Pregnancy Leaves Under the Employment Standards Act

Pre-Natal	Post-Natal	Total
11	6	17
10	7	17
9	8	17
8	9	17
7	10	17
6	11	17
5	12	17
4	13	17
3	14	17
2	15	17
1	16	17
	OR	
10	6	16
9	6	15
8	6	14
7	6	13
6	6	12
5	6	11
4	6	10
3	6	9
2	6	8
1	6	7

Less than 6,  
only with medical permission

In total, a statutory pregnancy leave may not exceed 17 weeks **except** that where a teacher requests leave in accordance with the Employment Standards Act and the birth occurs later than anticipated, the school board cannot require the teacher to return to work until at least six weeks after the actual delivery. If necessary in such cases, the leave may exceed 17 weeks by the time required to provide six post-natal weeks.

The duration of the originally agreed upon leave may not be shortened by the teacher without the consent of the school board **except** where a teacher requests six weeks or less post-natal leave, **she may shorten the post-natal period only**, by giving the school board at least one week's notice of her intention to return to work at an earlier date and providing a medical certificate allowing the earlier return. An early delivery does not confer an automatic right to shorten the total leave by the number of weeks that the birth is earlier than anticipated. Unless the teacher and the school board mutually agree to a change, the original length of leave prevails.

#### **NOTICE TO SCHOOL BOARD**

The Employment Standards Act requires the employee to give at least two weeks' notice in writing of the day she intends to begin pregnancy leave. A teacher should give **reasonable** notice, but in any event not less than two weeks.

FWTAO recognizes that circumstances alter cases, but a teacher should be guided by the point in the school year that her leave will begin, the availability of a replacement, and any special problems related to her teaching assignment. Under no circumstances, however, should a teacher succumb to pressure to make a formal request for pregnancy leave before she has carefully considered her options and made a firm decision about when she wants to begin the leave and its duration. Once leave has been granted, the teacher cannot change her mind without permission of the school board. In the event of a change of plans such as would be caused by a miscarriage, the school board may legally enforce the terms of the originally agreed upon pregnancy leave. **TEACHERS WITH MEDICAL RISKS CONNECTED WITH PREGNANCY ARE PARTICULARLY URGED TO WAIT UNTIL THE PREGNANCY IS SECURE BEFORE REQUESTING LEAVE.**

## **EXTENDED PREGNANCY LEAVE**

Through the collective agreement or school board policy, many teachers have the opportunity to take a pregnancy leave that exceeds the 17-week statutory limit. FWTAO and OTF Parental Leave Policy suggest a maximum of two years for pregnancy leave. The Education Act permits a school board to "provide for maternity leave for a teacher, not exceeding two years for each pregnancy." (The Education Act, 147.(1)39.) Check your current collective agreement or school board policy to determine the options available if you would prefer an extended pregnancy leave.

**If your collective agreement or school board policy permits extended pregnancy leave, you must comply with the terms and conditions therein for the granting of a prolonged leave.** For instance, some collective agreements require greater advance notice of intent to begin the pregnancy leave and permit a return to duty only at the beginning of a school term for a pregnancy leave in excess of 17 weeks.

Neither a collective agreement nor a school board policy can deny a teacher her right to pregnancy leave under The Employment Standards Act, BUT, if you choose to take a longer leave you must adhere to the conditions for granting the leave as contained in the collective agreement or policy.

## APPLYING FOR LEAVE

Some school boards have developed internal administrative procedures for applying for pregnancy leave. Ask your principal about request forms if that is the procedure within your board.

If your school board does not have forms to be completed, a letter requesting pregnancy leave should be sent to:

- 1) Director of Education or Superintendent of Personnel if applicable with a copy for:
- 2) Supervising Superintendent
- 3) Principal
- 4) your personal file.

The letter or form requesting leave should be submitted,

- a) a reasonable time before commencement of the leave and in any event not less than two weeks before the date the leave begins for leave according to The Employment Standards Act; or
- b) by the date required for extended pregnancy leave according to the collective agreement or school board policy.

The letter should include the following information:

1. a doctor's certificate verifying pregnancy and stating the expected date of delivery;
2. a specific date for commencement of pre-natal leave which may be,
  - a) eleven weeks prior to expected delivery date or any time within this eleven week period; or
  - b) any date prior to expected delivery date that is consistent with the terms and conditions for granting extended pregnancy leave according to the collective agreement or school board policy;
3. a request for return to duty after the birth,
  - a) i) six weeks after date of delivery; or
  - ii) 17 weeks or less after commencement of leave provided at least six of the weeks will occur after the delivery according to the estimated date of delivery; or
  - iii) some time within the six weeks after delivery provided this request is or will be certified by a doctor;

- b) any date after the expected delivery date that is consistent with the terms and conditions for granting extended pregnancy leave according to the collective agreement or school board policy.

**N.B.** REGARDLESS OF THE LENGTH OF PREGNANCY LEAVE YOU ARE REQUESTING, EVERY EFFORT SHOULD BE MADE TO REACH AGREEMENT **IN WRITING** ON THE CONDITIONS OF THE LEAVE PRIOR TO COMMENCEMENT OF THE LEAVE.

Continued participation in fringe benefit plans such as medical or dental insurance, effect of leave on experience counted for increment purposes, and **particularly the conditions of return to duty** should be clarified **before** commencing leave. Even where such matters are covered by a collective agreement, it is preferable to have a clear, written understanding of your position from the school board.

Pregnancy leave in accordance with The Employment Standards Act protects seniority and benefits accrued to the commencement of leave and requires the school board to reinstate the teacher to the same or a similar position.

Unless the collective agreement or school board policy provides the same protection of seniority and status, job security and accrued benefits for extended pregnancy leave are best protected by a written understanding between the teacher and school board on the conditions of return to work.

Moreover, if you prefer a change of assignment or a change of schools on return from leave, or if you would object to any change of school or grade, make every effort to reach an understanding with the school board before leave begins. The board is not required to comply with your preference and may only indicate a willingness to attempt to assign you as requested on return from your leave. However, your chance of a favourable response to a request naturally increases with the amount of notice given to the school board and you may avoid uncertainty about your placement on return from leave by acting before the leave begins.

## RETURN FROM LEAVE

The Employment Standards Act requires the teacher to advise the school board that she intends to resume her duties. It is courteous and wise to write the school board after the delivery to offer written confirmation from the doctor of the date of birth and to specify again the date you expect to return to work.

Under The Employment Standards Act, the school board must reinstate the teacher

1) to her former position

OR

2) to an alternative position of a comparable nature.

Remember, a teacher is an employee of a **school board** not an employee of a particular school and may be assigned a change of duties, including a change of duties within the school or system at any time. However, a school board may not transfer a permanent teacher from a school in one municipality to a school in another municipality without her consent unless the school board notifies the teacher before May 1 prior to the school year the transfer is effective. A teacher who feels that any transfer causes her undue hardship may appeal to the Transfer Review Board by writing or telephoning the FWTAO office.

## MONEY MATTERS

### Salary

Pregnancy leave is an **unpaid** leave from school boards in Ontario.

The Education Act, section 225(1) states,

"Unless otherwise expressly agreed . . . . . a teacher is entitled to be paid his salary in the proportion that the total number of school days for which he performs his duties in the school year bears to the total number of school days in the school year."

Therefore, a teacher who interrupts her employment at some point during the school year to begin a pregnancy leave, receives salary for the school days taught only. Most school boards in Ontario have devised a schedule of percentage payments designed to convenience the continuing teacher. At commencement of a pregnancy leave, the teacher receives a salary payment which represents the difference between the percentage of annual salary received to date and the actual days worked.

For example, a teacher beginning pregnancy leave at the end of January of a school year usually has worked about 97 of the 198 days in a typical school year. Assuming her school board pays 8% twice in September, 8% at the end of every month till May, and 20% in June, her January salary payment before commencing leave would be calculated as follows:

$(97/198 \times \text{annual salary})$  minus  $(5 \times 8\% \times \text{annual salary})$  = salary owing to commencement of leave

If the teacher returns to work before the end of June, she is entitled to salary in the proportion that the days worked bear to the total number of school days in the school year. If she returns for the month of June, for example, her June salary would be  $20/198 \times \text{annual salary}$ .

### Fringe Benefits

Continued participation in group fringe benefit plans such as medical or dental insurance during a pregnancy leave depends on the provisions of your collective agreement or school board policy.

If the collective agreement or school board policy permits teachers on other types of leave such as sabbatical, travel, or study leave to continue to participate in group benefit plans, then the same terms and conditions apply to a pregnancy leave. The Employment Standards Act, Part X and Regulation 654 under the Act prohibit the school board from differentiating between other leaves and pregnancy leave in deciding continued participation in benefit plans. Continued participation may require full payment of the premiums by the teacher during the leave. Check with the school board when arranging your leave so that you do not unexpectedly find your insurance has lapsed.

## Superannuation

The Regulation under the Teachers' Superannuation Act permits a teacher to make direct payment to the Fund for an absence because of pregnancy or adoption for up to six months within any period of three consecutive school years.

The payment required is 7% of the salary lost or of the salary that would have been received under the salary schedule. The payment may not be made until the teacher has resumed teaching for at least 20 days in a school year. If the payment is completed within one year from the date of resuming teaching, no interest is charged. If the payment is not made within the year interest is charged, and in any case the payment must be completed within two years from the date of resuming teaching.

The opportunity to make direct payment for absence because of pregnancy or adoption occurs whether you take a leave of absence or terminate your employment for a period.

Apart from the great advantage to a teacher to have maximum service credit at retirement age, direct payment to a registered pension plan is a deduction from taxable income to the allowable maximum in the year the payment is made. Do not overlook this factor when considering a direct payment for pregnancy or adoption.

For details, write:

Teachers' Superannuation Commission,  
190 Finch Avenue West,  
Willowdale, Ontario.  
M2R 1M4  
Telephone: (416) 226-2700

## UNEMPLOYMENT INSURANCE BENEFIT

Teaching is insurable employment within the meaning of The Unemployment Insurance Act.

A week of insurable employment means a week for which insurable earnings from employment arise. Insurable earnings means earnings from employment between the minimum and maximum weekly insurable earnings as established each calendar year by the Unemployment Insurance Commission.

A teacher employed on a permanent or probationary contract, who is employed at least 50% of the week is deemed to have a week of insurable employment for each and every week the contract is in force, i.e. September 1 to August 31, and from which insurable earnings arise.

An occasional teacher who teaches from time to time without a predetermined arrangement has a week of insurable employment for each week that she works a minimum of 20 hours.

A pregnant teacher with 20 or more weeks of insurable employment during the last 52 weeks preceding the date of claim is eligible for pregnancy benefit from the Unemployment Insurance Commission.

Ten of the insurable weeks must have occurred between the thirtieth and fiftieth weeks before the estimated week of confinement. In effect, the teacher must have been employed around the time the child was conceived.

The right to pregnancy benefit from UIC accrues from employment during the year preceding the expected confinement and does not require a commitment to return to employment after the arrival of the child. Whether you take a pregnancy leave or terminate your employment, you are entitled to the benefit if you have the required insurable weeks to qualify.

The benefit is payable upon interruption of earnings during a 17-week period linked to the estimated or actual date of confinement. A pregnancy claim may begin at any time within ten weeks before the estimated week of confinement. In order to collect the full 15 weeks of benefit, the latest date at which the claim may begin is the week of confinement. Following the mandatory two-week waiting period, pregnancy benefit is paid to a maximum of 15 consecutive weeks.

The benefit rate is 60% of average weekly insurable earnings in the qualifying period to a maximum weekly benefit established each calendar year. Claimants earnings over 1-1/2 times the maximum insurable earnings will be required to repay 30% of benefits received from the U.I.C.

#### Procedure

- 1) Obtain a claimant's kit from an Unemployment Insurance Commission Office. (Check your telephone directory under Government of Canada for the nearest office.)
- 2) Complete the application.
- 3) Have your doctor complete the medical certificate contained in the claimant's kit.
- 4) Enclose the record of employment provided by your employer. If you have not received your record of employment by your last teaching day, submit your unemployment insurance claim without it. Make note on your application that your employer has not yet given you your record of employment and that you will forward it as soon as possible.
- 5) If you are within ten weeks of your expected week of confinement, submit the completed application to your closest Unemployment Insurance Commission office on the first business day following your last teaching day.

**Do not submit your claim earlier than ten weeks before** your estimated week of confinement; it will be returned to you, and may cause you infinite problems. On the other hand, **do not delay submitting your claim as soon as you are eligible for benefit**, as a claim cannot be antedated except for very unusual circumstances.

- 6) A teacher who works from September to June is deemed not to have an interruption of earnings until the following September 1. Therefore, she may not begin a claim for UIC pregnancy benefit until September 1 even though the birth may occur during July or August. Nevertheless, the 17-week claim period during which the 15 weeks of benefit may be received begins **no later than** the week of confinement so that the teacher receives the balance of weeks in her claim period following September 1 but unfortunately less than the maximum number of weeks for a pregnancy claim.
- 7) Teachers who begin a pregnancy claim during the spring are disentitled from that portion of the claim period that falls in July or August.

Contact the FWTAO office for advice if you encounter any problem in obtaining pregnancy benefit from the Unemployment Insurance Commission.

## ADOPTION

Some school boards offer the opportunity for adoption leave under terms and conditions similar to pregnancy leave for teachers planning to adopt a child. Unfortunately, it is not a statutory right under The Employment Standards Act, nor is a benefit under The Unemployment Insurance Act available to an adopting parent at present. It is possible, however, to make direct payment to the Teachers' Superannuation Fund for an absence because of adoption.

A teacher who hopes to adopt a child should check the collective agreement and school board policy to ascertain whether adoption leave is available.

## PREGNANCY RELATED ILLNESS

The Employment Standards Act, Section 34(2) and Regulation 654 under the Act state among other things that an employer cannot offer a sick benefit plan that differentiates on the basis of sex. Sex is defined by the Regulation to include,

"a distinction between employees in such a plan, fund or arrangement because of the pregnancy of a female employee."

Therefore, a school board may not exclude a pregnancy related illness or disability, whether a complication of the pregnancy or not, from the uses of cumulative sick leave.

The foregoing does not eliminate the right of a school board to initiate a pregnancy leave pursuant to Section 36 of The Employment Standards Act if the teacher cannot perform her duties because of the pregnancy.

Moreover, Section 37 of The Employment Standards Act protects a teacher's right to pregnancy leave in accordance with the Act in cases where an unexpected medical condition develops or premature delivery occurs before leave has been requested or granted. The teacher must supply a doctor's certificate within two weeks of the day she ceased to teach stating that she was unable to continue her teaching duties because of a medical condition arising from her pregnancy and giving the day upon which delivery likely will occur or the actual date of birth.

The school board must then grant pregnancy leave according to Part XI of the Act. All other sections of Part XI, including those pertaining to seniority and benefits accrued to commencement of the leave and the right to reinstatement on return from leave, apply where the teacher was not able to prearrange the leave because of illness or premature delivery.

**CONTACT THE FWTAO OFFICE FOR ADVICE IF YOU ENCOUNTER A PROBLEM WITH YOUR SCHOOL BOARD CONCERNING ANY ASPECT OF PREGNANCY OR ADOPTION LEAVE.**



The following is the policy of the Federation of Women Teachers' Associations of Ontario and of the Ontario Teachers' Federation.

## PARENTAL LEAVE POLICY

### A. MATERNITY LEAVE

1. Every Board shall, upon the request of a teacher and receipt of a certificate by a legally qualified medical practitioner stating that the teacher named therein is pregnant and specifying the date upon which delivery will occur in his or her opinion, grant or cause to be granted to the teacher a leave of absence of at least seventeen weeks, or such shorter leave as the employee may request, commencing during the period of eleven weeks immediately preceding the estimated day of delivery. Any extension of the period stated herein shall be by mutual agreement between the Board and teacher concerned.
2. A Board shall not terminate the employment of a teacher because of her pregnancy, but the Board, before or after the commencement of the period referred to in Section 1, may require the teacher to commence a leave of absence at such time as the duties of her position cannot reasonably be performed by a pregnant woman, or the performance of the teacher's work is materially affected by the pregnancy.
3.
  - a) At the termination of the leave period the onus is on the teacher to report her readiness to resume her duties.
  - b) The Board shall not cause the teacher to work for a period of six weeks after the actual date of delivery as confirmed by the written opinion of a legally qualified medical practitioner. Any extension of leave shall be by mutual agreement in writing between the Board and the teacher concerned, on the understanding that both parties agree to continue to observe their respective obligations as defined in the Employment Standards Act, Sections 35 to 39 inclusive.
  - c) An employee may shorten the duration of the six-week period mentioned in subsection b) by giving her employer one week's notice of her intention to do so and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work.
  - d) The teacher is required to give at least two weeks' notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate as outlined in subsection 1.
4. No teacher shall expect the leave to extend for longer than a two year period. A resignation shall be tendered, and re-employment occur through regular legal channels if absence should be in excess of two years.
5. Where the teacher reports for work upon expiration of the period referred to in Section 3, the Board shall permit her to resume work with no loss of seniority, status, or benefits accrued prior to the commencement of the maternity leave. Salary shall be paid in accordance to the proportion of the year taught, and where 50% or more of the school year is taught, the increment for that year should be given.

6. The teacher returning from a maternity leave of 17 weeks or less shall not be required, because of that leave, to accept a transfer from the assignment held immediately prior to the commencement of the leave.
7. For the purposes of Section 2, a teacher shall produce, when so requested by the Board, the certificate referred to in Section 1. The teacher may be required to submit a written statement of her intention to return to work at the end of her term of maternity leave.
8. Except by mutual agreement of the parties concerned, the provisions governing maternity leave shall not apply to a teacher unless she has been employed by her Board for at least twelve months prior to the commencement of the period of eleven weeks, referred to in Section 1.

### B. PATERNITY LEAVE

1. Every Board shall, upon the request of a teacher and receipt of a certificate by a legally qualified medical practitioner stating that the teacher's wife is pregnant and specifying the date upon which delivery will occur in his or her opinion, grant a leave of absence, which may begin at any time during the period of four weeks immediately preceding the specified date or, anytime during the period of six weeks after delivery.
2. The duration of the leave is to be by mutual consent of the parties concerned. Where no satisfactory agreement can be reached, the minimum length of the leave shall be any number of days requested, up to twenty teaching days.
3. Where the leave period exceeds twenty days, prior to the termination of the leave period, the onus is on the teacher to report his readiness to resume his duties.
4. No teacher shall expect to extend for longer than a two-year period. A resignation shall be tendered and re-employment occur through regular legal channels if absence is to be in excess of two years.
5. A Board shall not terminate the employment of a teacher by reason of his paternity leave, but upon the expiration of the leave period, shall permit him to resume work with no loss of seniority, status or benefits accrued prior to the commencement of the leave. Salary shall be paid in accordance to the proportion of the year taught, and where 50% or more of the year is taught, the increment for that year should be given.
6. Except by mutual agreement of the parties concerned, the provisions governing paternity leave shall not apply to a teacher unless he has been employed by his board for at least twelve months prior to the commencement of the period referred to in Section 1.

### C. ADOPTION LEAVE

1. Leave shall be available to any teacher who adopts a child.
2. Advance notification shall be given to the Board of intent to adopt, on the understanding that it may be necessary for the teacher to commence leave immediately when the child becomes available.

3. If the presence of the adopting parent is required in the home for pre-adoption purposes, such leave arrangements shall be available, provided that the teacher supply verification from the adoption agency.
4. A statement from the adoption agency, signed by its Director will constitute verification for the purposes of Section 3.
5. The duration of the leave shall be by mutual consent between the Board and the teacher, consistent with the needs of the adopted child as recommended by the Director of the adoption agency. The maximum duration of the leave shall be two years.
6. A Board shall not terminate the employment of a teacher by reason of his/her adoption leave, but upon the expiration of the leave period, shall permit him/her to resume work with no loss of seniority, status or benefits accrued prior to the commencement of the leave. Salary shall be paid in accordance to the proportion of the year taught, and where 50% or more of the year is taught, the increment for that year should be given.
7. Except by mutual agreement of the parties concerned, the provisions governing adoption leave shall not apply to a teacher unless he/she has been employed by his/her Board for at least twelve months prior to the commencement of the leave.

## THE EMPLOYMENT STANDARDS ACT, 1974

### PART X

#### Benefit Plans

34.—(1) This Part applies to a fund, plan or arrangement provided, furnished or offered or to be provided, furnished or offered by an employer to his employees,

Application

- (a) under a term or condition of employment; or
- (b) in which an employee may elect to participate or not and to which the employer contributes or does not contribute,

that directly or indirectly provides benefits to his employees, their beneficiaries, survivors or dependants, whether payable periodically or not, for superannuation, retirement, unemployment, income replacement, death, disability, **sickness**, accident, or medical, hospital, nursing or dental expenses, or other similar benefits or benefits under a deferred profit sharing plan in which employees participate in profits of the employer where the profits accumulated under the plan are permitted to be withdrawn or distributed upon death or retirement or upon contingencies other than death or retirement.

(2) Except as provided in the regulations, no employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that differentiates or makes any distinction, exclusion or preference between his employees or a class or classes of his employees or their beneficiaries, survivors or dependants because of the age, **sex** or marital status of his employees.

No differentiation because of age, etc.

(3) No organization of employers or employees, or person acting directly on behalf of an organization of employers or employees, shall cause or attempt to cause an employer, directly or indirectly, to act contrary to subsection 2.

Employer not to be requested to contravene subs. 2

(4) Where, in the opinion of the Director, an employer, an organization of employers or employees or a person acting directly on behalf of an employer or such organization may have acted contrary to subsection 2, the Director may exercise the power conferred by subsection 1 of section 51, and section 51 applies *mutatis mutandis*.

Powers of Director

(5) In addition to the powers conferred by section 65, the Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and without restricting the generality of the foregoing, may make regulations,

Regulations

- (a) exempting any fund, plan or arrangement or part thereof, heretofore or hereafter in existence, or any benefits thereunder from the application of this Part or any provision thereof;
- (b) permitting a fund, plan or arrangement to provide, furnish or offer a benefit or benefits that differentiate or make a distinction, exclusion or preference between employees or a class thereof or their beneficiaries, survivors or dependants;

- (c) suspending the application of this Part or any provision thereof to any fund, plan or arrangement or any benefits thereunder, whether provided, furnished or offered under a collective agreement or not, for such period or periods of time as may be prescribed;
- (d) providing that an employer may not reduce any benefits to an employee or class of employees under any fund, plan or arrangement provided, furnished or offered in order that the employer may comply with subsection 2;
- (e) providing the terms or conditions under which an employee may be entitled or disentitled to a benefit under a fund, plan or arrangement;
- (f) defining any expression used in this Part, or in the regulations under this Part.

## ONTARIO REGULATION 654/75

### under The Employment Standards Act, 1974

#### BENEFIT PLANS

1. For the purposes of Part X of the Act and this Regulation,

- (f) "sex includes a distinction between employees in a plan, fund or arrangement provided, furnished or offered by an employer to his employees that excludes an employee from a benefit thereunder or gives an employee a preference to a benefit thereunder because the employee is or is not a head of household, principal or primary wage earner or other similar condition, and further **includes a distinction between employees in such a plan, fund or arrangement because of the pregnancy of a female employee;**

10. A plan, fund or arrangement to which Part X of the Act applies shall not disentitle an employee who is on leave-of-absence under Part XI of the Act, or any greater period of leave-of-absence that she has applied for under any term of a contract of employment, oral or written, express or implied, that prevails under section 4 of the Act from continuing to participate therein during such leave-of-absence where the plan, fund or arrangement entitles an employee who is on leave-of-absence other than a leave-of-absence under Part XI of the Act, or such greater period of leave-of-absence to continue to participate therein.

#### PART XI

#### PREGNANCY LEAVE

35. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under section 36, but the

Pregnancy  
leave

employer may require the employee to commence a leave of absence pursuant to section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy.

36.—(1) An employee who is pregnant and who has been employed by her employer for a period of at least twelve months and eleven weeks immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this Act, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period of eleven weeks immediately preceding the estimated day of her delivery.

When leave  
to be  
taken

(2) Notwithstanding subsection 1 and subject to subsection 5, where the actual date of her delivery is later than the estimated day of her delivery, the leave of absence shall not end before the expiration of six weeks following the actual date of her delivery.

Leave after  
delivery

(3) The employee shall give her employer two weeks' notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate of a legally qualified medical practitioner stating that she is pregnant and giving the estimated day upon which delivery will occur in his opinion.

Notice

(4) Subject to subsection 5, an employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection 1.

Leave  
may be  
shortened

(5) An employee may shorten the duration of the six week period mentioned in subsection 2 upon giving her employer one week's notice of her intention so to do and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work.

Furnishing  
of  
certificate

37. An employee who does not apply for leave of absence under section 36, and who is otherwise entitled to pregnancy leave thereunder, shall be entitled to and shall be granted leave of absence in accordance with section 36 upon providing her employer before the expiry of two weeks after she ceased to work with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment because of a medical condition arising from her pregnancy, and giving the estimated day upon which, in his opinion, delivery will occur or the actual date of her delivery.

Leave  
where  
employee  
ceases work

38.—(1) An employee who intends to resume her employment on the expiration of a leave of absence granted to her under this Part shall so advise her employer and on her return to work her employer shall reinstate the employee to her position or provide her with alternative work of a comparable nature at not less than her wages at the time her leave of absence began and without loss of seniority or benefits accrued to the commencement of her leave of absence.

Reinstatement  
and  
preservation  
of seniority

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1.

Employment standards officer may make order

39. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director in trust for the employee.

## DIRECTORY OF CANADA EMPLOYMENT CENTRES ONTARIO REGION

This information is correct at the time of printing.

OFFICE	ADDRESS	TELEPHONE
<b>Barrie District Office</b>	70 Collier Street, Suite 600, Barrie L4M 4Z2	(705) 728-4213
Barrie	48 Owen Street, Barrie L4M 3H1	(705) 728-2468
Bracebridge	98 Manitoba Street, Bracebridge P0B 1C0	(705) 656-2204
Collingwood	5 Hurontario Street, Collingwood L9Y 3Z3	(705) 445-1010
Midland	525 Dominion Avenue, Midland L4R 1P7	(705) 526-2224
Orillia	17 Peter Street North, Orillia L3V 4Y8	(705) 326-7336
Owen Sound	330 Ninth Street East, Owen Sound N4K 1P1	(519) 376-4280
Parry Sound	74 James Street, Parry Sound P2A 1T8	(705) 746-9374
Walkerton	100 Scott Street, Walkerton N0G 2V0	(519) 881-2010
<b>Belleville District Office</b>	3 Applewood Drive, Third Floor, P.O. Box 5700, Belleville K8P 4E3	(613) 962-8681
Belleville	133 Dundas Street East, Belleville K8N 1C3	(613) 962-8681
Brockville	Bethune Bldg., 52 King Street East, Brockville K6V 1B1	(613) 342-4487
Cobourg	281 McGill Street, Cobourg K9A 3P8	(416) 372-3326
Gananoque	5 Charles Street South Gananoque K7G 1V9	(613) 382-2124
Kingston	51 Queen Street, Kingston K7L 4W8	(613) 546-3641
Lindsay	34 Cambridge Street South, Lindsay K9V 3B8	(705) 324-3562
Napanee	New Federal Bldg., Rm. 207, Center Street, Napanee K0K 2R0	(613) 354-3367
Oshawa	44 Bond Street West, P.O. Box 399, Oshawa L1H 4H8	(416) 579-9402
Peterborough	130 Hunter Street West, Peterborough K9J 7H5	(705) 745-0551

OFFICE	ADDRESS	TELEPHONE
Picton	205 Main Street, Picton K0K 2T0	(613) 476-3227
Smiths Falls	17 Church Street East, Smiths Falls K7A 1H1	(613) 283-4790
Trenton	72 Front Street, Trenton K8V 4N4	(613) 392-6531
<b>Hamilton District Office</b>	135 James Street South, Suite 525, Hamilton L8P 2Z8	(416) 523-2901
Brantford	58 Dalhousie Street, P.O. Box 1570, Brantford N3T 5V6	(519) 756-6101
Cambridge	35 Dickson Street, Cambridge N1R 5T8	(519) 621-7150
Fort Erie	55 Jarvis Street, Federal Bldg., Fort Erie L2A 5M5	(416) 871-3922
Guelph	75 Farquhar Street, Guelph N1H 3N4	(519) 822-3150
Hamilton	11 Rebecca Street, Fourth Floor, Hamilton L9H 2A2	(416) 523-2211
Kitchener	22 Frederick Street, Suite 1116, Kitchener N2H 6M6	(519) 579-1550
Listowel	210 Main Street East, Listowel N4W 2B7	(519) 291-2920
Niagara Falls	5853 Peer Street, Niagara Falls L2G 1X4	(416) 356-1551
Port Colborne	184 Elm Street, Port Colborne L3K 4N8	(416) 834-3629
St. Catharines	43 Church Street, St. Catharines L2R 5C7	(416) 688-3663
Simcoe	122 Norfolk Street North, Simcoe N3Y 3N8	(519) 426-5270
Stratford	100 Albert Street, Stratford N5A 6S7	(519) 271-4120
Welland	51 Niagara Street, Welland L3C 1J1	(416) 735-3951
<b>London District Office</b>	217 York Street, Third Floor, P.O. Box 2364 London N6A 1B7	(519) 679-4177
Goderich	35 East Street, Goderich N7A 1N2	(519) 524-8342
London	120 Queens Avenue, P.O. Box 5711, London N6A 4S7	(519) 679-4087 (519) 679-4088
St. Thomas	403 Talbot Street, Rm. 215, St. Thomas N5P 1B7	(519) 631-5470
Tillsonburg	4 Ridout Street, Tillsonburg N4G 2O7	(519) 842-5907

OFFICE	ADDRESS	TELEPHONE
Woodstock	35 Metcalfe Street, Woodstock N4S 7W4	(519) 537-2385
<b>Ottawa District Office</b>	25 McArthur Road, Place Vanier, Tower "C", 9th Floor, Vanier K1L 6R3	(613) 993-3207
Arnprior	68 Daniel Street North, Arnprior K7S 2K5	(Insurance): (613) 623-6029 (Employment): (613) 623-3173
Carleton Place	42 Bridge Street, Carleton Place K0A 1J0	(613) 257-3344
Cornwall	132 Second Street East, Cornwall K6H 5R3	(613) 933-7641
Hawkesbury	212 Main Street East, Hawkesbury K6A 1A5	(613) 632-2759
Ottawa	L'Esplande Laurier, Tower B, 300 Laurier Ave. West, Rm. 580 Ottawa K1P 6B6	(613) 235-1851
Pembroke	178 Pembroke Street East, Pembroke K8A 3J7	(General): (613) 735-0681 (Inquiries): (613) 735-3168
Perth	13 Herriot Street, Perth K7H 3E4	(613) 267-1921
Prescott	292 Centre Street, Prescott K0E 1T0	(613) 925-2808
Renfrew	251 Raglan Street South, Renfrew K7V 1R3	(613) 432-4878
<b>Sudbury District Office</b>	100 Elm Street East, City Centre, Sudbury P3C 1S8	(705) 675-7555
Elliot Lake	10 Elizabeth Walk, Elliot Lake P5A 1Z3	(705) 848-2231
Kapuskasing	8 Queen Street, Kapuskasing P5N 1G7	(705) 335-9205
Kirkland Lake	15 Government Road East, Kirkland Lake P2N 3J8	(705) 567-9205
New Liskeard	83 Whitewood Avenue, New Liskeard P0J 1P0	(705) 647-6741
North Bay	101 Worthington Street East, North Bay P1B 1G5	(705) 472-3700
Sault Ste. Marie	390 Bay Street, Sault Ste. Marie P6A 5N9	(705) 254-5101
Sturgeon Falls	48 William Street, Federal Bldg., Sturgeon Falls P0H 2G0	(705) 753-0800
Sudbury	880 LaSalle Blvd., Sudbury P3A 7X5	(705) 675-2211
Timmins	The 101 Mall, General Delivery, 38 Pine Street North, Timmins P4N 6K6	(705) 264-4366

OFFICE	ADDRESS	TELEPHONE
<b>Thunder Bay District Office</b>	130 South Syndicate Avenue, Third Floor, Thunder Bay "F" P7E 1C7	(807) 623-4222
Fort Frances	210 First Street East, Fort Frances P9A 1K5	(807) 274-5307
Kenora	326 Second Street South, P.O. Box 5170, Kenora P9N 3X9	(807) 468-5551 (807) 468-3101
Thunder Bay "F"	130 South Syndicate Avenue Thunder Bay "F" P7E 1C7	(807) 623-2731
Thunder Bay "P"	33 South Court Street, Thunder Bay "P" P7B 5E6	(807) 344-6601
<b>Windsor District Office</b>	880 Ouelette Avenue, Suite 301, Windsor N9A 1C7	(519) 256-3195
Chatham	10 Center Street, Federal Bldg., Second Floor, Chatham N7M 4V9	(519) 352-2800
Leamington	74 Talbot Street West, Leamington N8H 1M4	(519) 326-6141
Sarnia	112 North Christina Street, Sarnia N7T 5T6	(519) 344-5293
Wallaceburg	602 Wellington Street, Wallaceburg N8A 2Y5	(519) 627-3348
Windsor	467 University Avenue West, Windsor N9A 5R2	(519) 254-1611
<b>Toronto District Office</b>	25 St. Clair Avenue East, 6th Fl., Toronto M4T 2M9	(416) 966-6067
Brampton — Employment	41 George Street South, Brampton L6Y 2E3	(416) 451-1240
Brampton — Insurance	20 Nelson Avenue, Brampton L6X 2M5	(416) 457-1577
Etobicoke	1243 Islington Avenue, Toronto M8X 1Y9	(416) 236-1931
Mississauga — Employment	3025 Hurontario Street, Mississauga L5A 9Z9	(416) 279-4060
Mississauga — Insurance	165 Dundas Street West, Mississauga L5B 2N6	(416) 275-1900
Newmarket	460 Park Avenue, Newmarket L3Y 1W1	(416) 895-5134
North York	4900 Yonge Street, Willowdale M2N 6A8	(416) 224-3777
Oakville	130 George Street, Oakville L6J 3C1	(416) 845-3891
Scarborough — Employment	2500 Lawrence Avenue East, Scarborough M1P 2R8	(416) 751-9520
Scarborough — Insurance	2472 Eglinton Ave. East, Scarborough M1K 2R2	(416) 264-2111

OFFICE	ADDRESS	TELEPHONE
Toronto Central	20 Eglinton Ave. West, Toronto M4R 2E5	(416) 487-1711
Toronto East	200 Dundas St. East, Toronto M5B 1A4	(416) 363-5931
	75 The Donway West, Don Mills M3C 2E9	(416) 449-1440
Toronto West (High Park)	2968 Dundas Street West, Toronto M6P 1Y8	(Insurance): (416) 766-1800 (Employment): (416) 763-3611
York-Weston	1747 Jane Street, Weston M9N 2S5	(416) 247-8261

## CHECK LIST FOR PLANNING PREGNANCY LEAVE

1. During the early months of pregnancy, review 
  - a) pregnancy leave according to current collective agreement of employing school board,
  - b) pregnancy leave according to policy of employing school board,
  - c) Part XI, Pregnancy Leave, The Employment Standards Act, to determine the options for pregnancy leave available to you.
2. Based on the foregoing review, decide whether you prefer 
  - a) statutory pregnancy leave
  - or
  - b) extended pregnancy leave and start to plan your leave around this decision.
3. Check that your doctor anticipates a normal pregnancy and delivery before taking formal action on leave.
4. Obtain a letter or certificate from your doctor verifying that you are pregnant and stating the date on which your doctor considers the birth will occur for submission to your school board.
5. Review carefully the sections in this booklet on applying for leave, return from leave, and money matters; and, with that information in mind, make a formal, written request for pregnancy leave to your school board at the appropriate time.
6. Acknowledge your school board's letter granting pregnancy leave. If you have any doubt about the conditions of your leave or return to duty, check with your school board before the leave begins.
7. Review carefully the section in this booklet on unemployment insurance benefit for pregnancy.
8. Before leave begins, obtain a claimant's kit from your closest Unemployment Insurance Commission office.
9.
  - a) Complete application for UIC pregnancy benefit.
  - b) Have your doctor complete the medical certificate contained in claimant's kit.

- c) Enclose the record of employment which your school board will provide either by your last teaching day or a short time thereafter.
  - d) Submit the claim for UIC pregnancy benefit on the first business day after your last teaching day provided you are within ten weeks of the estimated week of confinement. The claim cannot be established earlier than ten weeks before estimated confinement or before you have stopped teaching, and **must** be established as soon as you are eligible or loss of benefit may occur.
  - e) Complete and return the report forms which will be sent by the UIC on a regular basis throughout the claim period.
10. During your leave, remit premiums to maintain insurance coverage, if necessary.
  11. After the birth, write your school board to offer confirmation from your doctor of the date of birth and to confirm the date you will resume your duties.
  12. After you resume teaching, contact 

Teachers' Superannuation Commission,  
190 Finch Avenue West,  
Willowdale M2R 1M4  
Telephone (416) 226-2700

for information on the advantage to you and the cost involved of making a direct payment to the Fund for the absence because of pregnancy.

## MEMBERSHIP IN FWTAO

A teacher on leave of absence for pregnancy or adoption remains a statutory member of FWTAO without payment of fee.

A teacher who resigns her position as a teacher because of pregnancy or adoption may retain contact with FWTAO by becoming a voluntary member for a fee of \$40.00 per year. Voluntary members receive copies of FWTAO publications, may attend FWTAO meetings at which they may speak, but are not entitled to vote or hold office.

Contact the FWTAO office for an application for voluntary membership.





