



Massachusetts Commission Against Discrimination



PARENTAL LEAVE

An Act Relative to Parental Leave expands the current maternity leave law, G.L. c. 149, § 105D, which is enforced by the Massachusetts Commission Against Discrimination (MCAD). Currently, Massachusetts law requires employers with six or more employees to provide eight weeks of unpaid maternity leave for the purpose of giving birth or for the placement of a child under the age of 18, or under the age of 23 if the child is mentally or physically disabled, for adoption. The new law goes into effect on April 7, 2015 and expands the current leave law in the following ways:

The parental leave law is now gender neutral. Both men and women are entitled to parental leave.

If the employer agrees to provide parental leave for longer than 8 weeks, the employer must reinstate the employee at the end of the extended leave unless it clearly informs the employee in writing before the leave and before any extension of that leave, that taking longer than 8 weeks of leave shall result in the denial of reinstatement or the loss of other rights and benefits.

The law clarifies that the right to leave applies to employees who have completed an initial probationary period set by the terms of employment, but which is not greater than 3 months.

The law provides that if two employees of the same employer give birth to or adopt the same child, the two employees are entitled to an aggregate of 8 weeks of leave.

The law clarifies that an employee seeking leave must provide at least 2 weeks' notice of the anticipated date of departure and the employee's intention to return, but also permits the employee to provide notice as soon as practicable if the delay is for reasons beyond the employee's control.

The law clarifies that an employee on parental leave for the adoption of a child shall be entitled to the same benefits offered to an employee on leave for the birth of a child.

The law expands the notice requirements, mandating that employers keep a posting in a conspicuous place describing the law's requirements and the employer's policies as to parental leave.

Boston: One Ashburton Place, Room 601, Boston, MA 02108; 617-994-6000

Springfield: 436 Dwight Street, Room 220, Springfield, MA 01103; 413-739-2145

Worcester: 484 Main Street, Room 320, Worcester, MA 01608; 508-453-9630

New Bedford: 800 Purchase, Room 501, New Bedford, MA 02740; 508-990-2390

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Article 15

MATERNITY/PARENTAL LEAVE

- 15.1 An Act Relative to Parental Leave (MGL c. 149, s. 105D) became effective on April 7, 2015. Among other things, the Act extends rights to both men and women. The act created certain parental leave rights for covered employees. Covered employees are defined as employees who have completed their initial probationary period, not to exceed three months, or if there is no such probationary period, employees who have been employed for at least three consecutive months as full time employees.

The Act provides eight (8) weeks of unpaid leave (or paid leave at the discretion of the employer) for the purpose of giving birth; adoption of a child under the age of 18; adoption of a child under the age of 23, if the child is mentally or physically disabled; or for the placement of a child pursuant to a court order. In the event of multiple births or the adoption of multiple children, the covered employee will be eligible for eight (8) weeks leave per child.

The Act provides that two employees of the same employer, who are members of the same household, are entitled to a combined total of eight weeks for the same child.

Absences under this Article will run concurrently under the Family and Medical Leave Act (FMLA) as per conditions of Article 13.

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- 15.2 The parties agree that to qualify for benefits under this Article, a faculty member who becomes pregnant must notify the Superintendent in writing as soon as possible but in no event less than two (2) weeks prior to the commencement of such leave, stating the anticipated dates of departure and return. Notification of a pending maternity leave should be accompanied by a letter from the employee's attending physician indicating anticipated delivery date. Such notification shall provide the Administration with as much opportunity as possible to secure a replacement teacher and ensure continuity of assignments.
- 15.3 The pregnant faculty member may continue in her assigned position as long as her physical condition and ability to perform her assigned duties allow. The Superintendent may require such medical evidence of the teacher's ability to continue to work as it requires when questioning the health of a teacher in a non-maternity-related situation.
- 15.4 During the eight consecutive weeks of maternity leave that fall in total or in part of a school year, under Article 6 a teacher is eligible to use accumulated, unused sick leave and personal leave benefits under Articles 13.1 and 13.4. Actual disability shall be treated as paid sick leave and an employee will be permitted to use her accumulated sick leave for the period of actual disability.

Maternity leave shall be unpaid except to the extent of actual disability, as certified by the employee's physician, which normally shall not exceed forty (40) school days. A claim of actual disability beyond forty (40) school days shall be supported by medical evidence as required by the Superintendent. If the certified disability period (as specified by the employee's physician) occurs in part or whole during a school vacation or summer vacation, this disability cannot be carried over to the next work year.

- 15.5 Upon returning to employment following leaves of up to twelve weeks, the teacher shall be restored by the Superintendent to her previous position or to a similar position with the same status, pay, length of service credit and seniority as the position the teacher held prior to the leave.

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- 15.6 A faculty member, regardless of gender, who is not granted maternity leave under this Article, shall be granted, upon request in writing made as soon as possible, but in no event less than two (2) weeks before the commencement of the leave, up to eight consecutive weeks of leave for the birth, adoption, or placement of a child pursuant to a court order. A total of twenty-five (25) days of this leave shall be without loss of pay utilizing any family illness days, personal days, and accumulated unused sick leave, in any combination determined by the employee, available for this benefit. If no family illness, personal, or sick leave is available, the leave will be unpaid.

Parental or adoptive leave ordinarily will commence upon the birth of the child or formal placement of the child with the family for adoption; however, it may be taken prior to the formal placement of the child for adoption when necessary to fulfill legal requirements for an adoption (e.g., foreign travel).

- 15.7 An eligible member will not be entitled to paid sick days from the sick leave bank for parental or adoptive leave.