

Workshop on Parental Rights



OCTOBER 30, 2012
CENTRE SHERATON MONTREAL



Workshop Objectives

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- Review article 5-13.00 (Parental Rights) of the teachers' agreement, the Québec Parental Insurance Plan, other parental benefits as well as pertinent Service Canada information
- Provide case studies
- Answer participants' questions

Agenda

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9:30 Arrival and Welcome

10:00 Presentation

11:15 Health Break

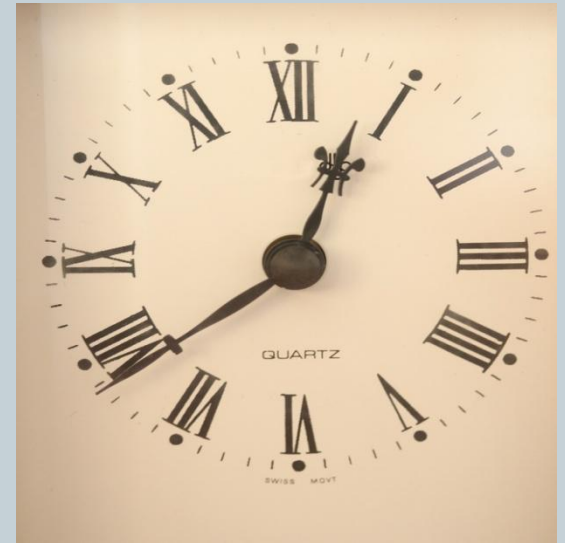
11:30 Presentation

12:30 Lunch

1:15 Application

2:00 Case Studies and Questions

3:00 Closing



Teacher is Pregnant

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Based on doctor's evaluation:

- Teacher remains at work: paid until start of maternity leave
 - ✦ Four days granted for medical visits, may be broken into half days (5-13.26 c))
- Preventative leave (CSST) (5-13.25)
- Other special leaves (5-13.26)/salary insurance

Any of the above may change

Preventative Leave – Other Special Leaves

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Preventative Leave – CSST (5-13.25)	Other Special Leaves - Salary Insurance (5-13.26)
Caused by working conditions	Problems related to pregnancy
Determined by doctor	Determined by doctor – disability (5-10.03)
Possible reassignment	
CSST pays 90% of net salary	Paid 75% of what she would have earned had she been at work (5-10.15)
Payments stop 4 weeks before expected date of birth	May receive salary insurance until date of birth (5-10.03)
Non-insurable earnings	Insurable earnings
Is considered as time at work for purposes of summer pays (agreement)	School board retains a portion of salary to cover summer pays (agreement)

Maternity Leave (5-13.06)

6

Teacher's Responsibility:

- Advise board in writing at least two weeks in advance (5-13.17)
- Maternity leave must include day of delivery (5-13.10)
- Provide a medical certificate attesting due date

School Board's Responsibility:

- Maternity Leaves as per the collective agreement (must have 20 weeks' service)

QPIP (5-13.19): board pays the difference between QPIP and 93% salary for 21 weeks

EI (5-13.20): board pays the difference between EI and 93% salary for 20 weeks

Neither (5-13.21): 20 weeks (12 weeks paid at 93% of gross earnings)
Considered as insurable earnings which could lead to eligibility for QPIP or EI

Maternity Leave (cont'd)

7

A teacher is also entitled to a maternity leave when:

- She becomes pregnant while on leave without salary or part-time leave without salary to extend a maternity leave (5-13.07).
- A miscarriage occurs after beginning of 20th week prior to expected date of delivery (5-13.19).

Québec Parental Insurance Plan



Review of QPIP

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Eligibility:

- Québec resident
- Has earned at least \$2 000 during the last 52 weeks

Teacher's Responsibility:

- Apply for QPIP on the day on which benefits begin
- Earliest, 16 weeks prior and no later than 3 weeks following birth
- Select either Basic Plan or Special Plan (same plan will be applied to both parents)

School Board's Responsibility:

- Board prepares a record of employment (ROE) - *Service Canada* website

Maternity Plan Options under QPIP

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Basic Plan

- Default plan
- 18 weeks at 70%
- School board tops up to 93% of what the teacher would have earned had she been at work for 21 weeks

Special Plan

- Must be requested
- 15 weeks at 75%
- School board tops up to 93% of what the teacher would have earned had she been at work for 21 weeks

Calculation of QPIP Benefits

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- Reference period: 52 weeks preceding start of QPIP benefits
- Calculation is generally based on last 26 weeks of insurable earnings
- Maximum insurable earnings for 2012 is \$66 000
- Weeks without earnings are skipped
- If less than 16 weeks are found, 16 weeks are used as the divider
- Preventative leave (CSST) is skipped automatically
- Other Special Leaves - Salary Insurance will be skipped if requested by teacher

Example of QPIP Calculations

12

26
weeks

- 26 weeks' insurable earnings will be divided by 26

19
weeks

- 19 weeks' insurable earnings will be divided by 19

16
weeks

- 16 weeks' insurable earnings will be divided by 16

12
weeks

- 12 weeks' insurable earnings will be divided by 16

Employment Insurance

Employment Insurance (5-13.20)

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Eligibility

- Non-Québec resident
- Must have accumulated 600 hours of insurable earnings during the last 52 weeks

Teacher's Responsibility

- Apply for benefits to *Service Canada*

School Board's Responsibility

- Board pays an allowance equal to 93% during the two-week waiting period before benefits begin (5-13.20 a))

Benefits

- EI maternity leave is 15 weeks; however, the board pays the difference between EI and 93% of the salary that teacher would have earned for 20 weeks

Cases Ineligible for Both QPIP and EI

Ineligible for Both QPIP and EI

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The collective agreement provides for a 20-week maternity leave, 12 weeks of which are paid at 93% of the amount the teacher would have earned had she been at work (5-13.21)

- Payroll must make QPIP deductions on the insurable earnings
- Teacher may then qualify for QPIP or EI benefits

Benefits During Maternity Leave (5-13.22)

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- Health insurance
- Accumulation of sick-leave days
- Accumulation of seniority
- Accumulation of experience
- Accumulation of continuous service for employment security purposes
- Accumulation of service for probation purposes
- Promotion

QPIP and EI Benefits

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Types of Benefits	Basic Plan QPIP		Special Plan QPIP		Employment Insurance	
	Maximum number of weekly benefits	Percentage of average weekly earnings	Maximum number of weekly benefits	Percentage of average weekly earnings	Maximum number of weekly benefits	Percentage of average weekly earnings
Maternity (exclusive to the mother)	18	70%	15	75%	15	55% maximum \$676 (2011 rate)
Paternity (exclusive to the father)	5	70%	3	75%	—	—
Parental (can be shared)	$\frac{7}{25}$ 32	70% 55%	25	75%	35	55% maximum \$676 (2011 rate)
Adoption (can be shared)	$\frac{12}{25}$ 37	70% 55%	28	75%	35	55% maximum \$676 (2011 rate)

Exercise: Which plan is applicable?

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1. Carol teaches at WQSB. She resides in Ottawa and has been teaching high school for two years.
2. Nancy is a new teacher at SWLSB. She began teaching in August 2012 and applied for maternity benefits on October 14, 2012.
3. Tracy is a substitute teacher for LBPSB.
4. Meghan is pregnant and has just returned to work in August 2012 after being at home on a leave of absence without salary to extend a maternity leave. She lives and works in Montréal.

Suspension, Division and Extension of Maternity Leave (5-13.13 – 5-13.16)

While these clauses are rarely applied, it is important to be aware of them.

Reasons for Suspension

Child is hospitalized prior to leaving or after leaving hospital and teacher has sufficiently recovered and wants to return to work during that period. The duration corresponds to the length of time that the child is hospitalized. The teacher is considered to be on leave of absence without salary during the suspension.

When the maternity leave resumes, the board shall pay the teacher the allowance to which she would have been entitled had she not suspended her maternity leave for the number of weeks remaining (5-13.19 – 5-13.21)

Suspension, Division and Extension of Maternity Leave (5-13.13 – 5-13.16) (cont'd)

There are other reasons covered by the Act respecting labour standards (R.S.Q., c. N-1.1) (sections 79.1 and 79.8 to 79.12).

Teacher is considered to be on a leave without salary from school board. Depending on the situation, teacher may be able to apply for employment insurance for disability.

When the maternity leave resumes, the board shall pay the teacher the allowance to which she would have been entitled had she not suspended her maternity leave for the number of weeks remaining (5-13.19 – 5-13.21)

Suspension, Division and Extension of Maternity Leave (5-13.13 – 5-13.16) (cont'd)

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Extensions

Permitted if birth occurs after due date or the health of the child or mother requires it. Teacher must provide medical certificate.

Teacher is considered to be on a leave of absence without salary.

For all of the above, the teacher receives benefits under 5-13.22 for 6 weeks and subsequently, those under 5-13.69 up to 52 weeks.

Postponed Vacation (5-13.22)

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Teachers may postpone up to to four weeks' annual vacation (summer & March break).

Conditions:

- Only when vacation falls during maternity leave (20 or 21 weeks)
- If the school calendar has been modified by agreement by the union and school board to permit it (beginning before September 1).
- Written notice must be given no later than two weeks before the expiry of the leave

The four weeks will immediately follow the maternity leave (20 or 21 weeks), unless there is an agreement with the board to the contrary.

Replacement teachers may postpone the March break.

Fathers also have the possibility of postponement (five day leave for birth or five weeks paternity leave), if need be.

Postponed Vacation (5-13.22) (cont'd)

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What happens if teacher does not inform QPIP of postponed vacation?

- All other moneys earned while receiving QPIP benefits must be declared, including the payment of vacation time.
- QPIP will then adjust the benefits accordingly so that the teacher does not exceed more than 25% of her benefits.
- If the adjustment is not made and QPIP obtains this information, the teacher will receive a bill from QPIP.
- This is not penalizing the teacher, it is a representation of the amounts which should have been deducted.
- Teacher also has the possibility to suspend her QPIP benefits.

Following Maternity Leave

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**Leave of Absence
Without Salary to Extend
Maternity Leave**

Leave Without Salary and Part-time Leaves Without Salary (5-13.60)

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When the maternity leave ends, the teacher is on a leave of absence without salary to extend a maternity, paternity or adoption leave.

Teacher's Responsibility:

- Teacher may choose one of five options (5-13.60)
- Must advise the school board in writing at least three weeks in advance of her choice (5-13.65)

Link of employment establishes teacher rights.

Options to Extend Maternity Leave

Options	Advantages	Begin	Change Option End Option
A: Accumulated sick days	Can be combined with other options	After mat. leave or after other option (5-10.31 d)	
B: Full-time leave (till end of year + 2 yrs.)	Provides the most time	Immediately after maternity leave	May change option End with board consent
C: Full time to a maximum of 52 weeks	Offers flexibility	Taken within 70 weeks following birth	Can end with 21 days' notice
D: Part of a year not more than 2 yrs. (Aug.-Dec. or Jan.-June)	Can alternate work and home	Immediately after maternity leave	May change option Can end with 30 days' notice
E: Partial leave – part of a day, part of a week for a max. of 2 yrs.	Allows part-time work	Immediately after maternity leave	May change option End with board consent

Request is generally required 3 weeks before beginning

These options also apply to paternity and adoption leaves

Rights During Leave of Absence Without Salary (5-13.69)

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- Accumulate seniority
- Retain experience
- Participate in basic life insurance plans
- May continue to participate in other insurance plans
- Continue to accumulate experience for up to 52 weeks from start of leave of absence without salary to extend maternity leave
- Teacher is reinstated in his or her duties upon return (5-13.70)

Experience, Seniority and Continuous Service

	Preventative Leave	Maternity Leave	Leave of absence w/o salary to extend
Experience	yes	yes	Up to 52 weeks
Seniority	yes	yes	yes
Continuous Service	yes	yes	No provision in the collective agreement
			<ul style="list-style-type: none"> ▪ QPAT position is yes ▪ Application by school boards varies

Activity

30

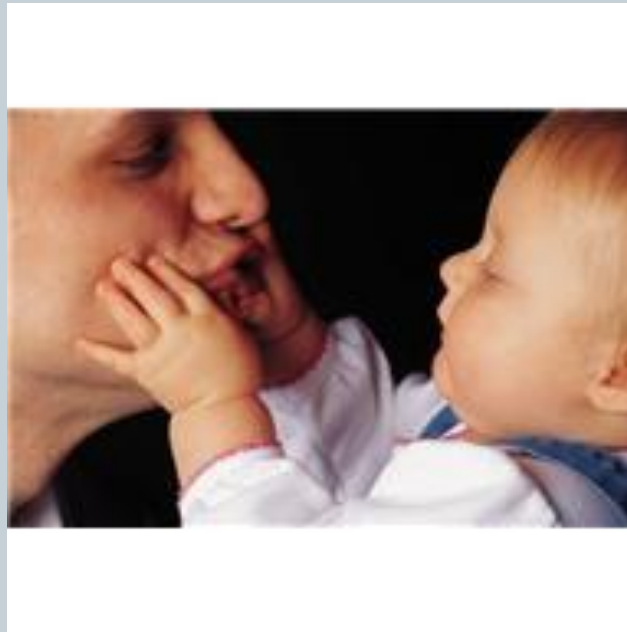
Look at Angelica's timeline. When would she return to work if she chose one of the following options:

Option A: (8 days), B, C, D or E

Questions:

- When would she be expected to return to work?
- Could she return earlier?
- Can she change her option?

Paternity Leave



Leave Related to Birth of Child (5-13.30)

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- Five days paid at 100%
- May begin as early as beginning of delivery and at the latest 15 days following the return home of spouse or child
- Need not be continuous
- Notice given as soon as possible
- Also applies to female teacher whose spouse gives birth
- Also applies when a miscarriage occurs after 20th week prior to the expected date of delivery

Paternity Leave (5-13.31)

33

- No more than 5 weeks taken consecutively
- Request 3 weeks prior when possible (5-13.39)
- Must end no later than 52 weeks after child's birth
- Benefits as per clause 5-13.22 apply
- Also applies to female teacher whose spouse gives birth
- Suspension, division and extension of paternity leave is possible under (5-13.34 – 5-13.37). Benefits as per clause 5-13.69 apply.

Paternity Leave

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QPIP Basic Plan

- 5 weeks at 70%
- School board tops up to 100% of what the teacher would have earned had he been at work.

QPIP Special Plan

- 3 weeks paid at 75%
- School board tops up to 100% of what the teacher would have earned had he been at work.

Paternity Leave (cont'd)

35

EI

- No plan
- School board tops up to 100% for 5 weeks if receiving EI parental benefits

Ineligible for QPIP and EI

- School board pays 5 weeks at 100%

Adoption



Adoption of Spouse's Child (5-13.49)

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- Maximum of 5 days leave, 2 of which are paid
- Need not be continuous
- Cannot be taken after 15 days following filing of adoption application

Adoption Leave for Child Other Than Spouse's Child (5-13.45) and International Adoption (5-13.47)

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Five paid days:

- Notice given as soon as possible
- Need not be continuous
- Must be taken within 15 days of child's arrival home

Benefits (5-13.22):

- Health insurance
- Accumulation of sick-leave days, seniority, experience, continuous service for employment security and probation purposes, promotion

Adoption Leave for Child Other Than Spouse's Child (5-13.46) and International Adoption (5-13.47) (cont'd)

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Five paid weeks (if receiving QPIP or EI adoption benefits):

- Written request at least three weeks in advance when possible
- Must be taken consecutively
- Must end no later than 52 weeks following the child's arrival home
- Suspension, division and extension of adoption leave is possible under 5-13.50 and same benefits apply (5-13.69)

Benefits (5-13.22):

- Health insurance
- Accumulation of sick-leave days, seniority, experience, continuous service for employment security and probation purposes, promotion

Additional Benefits for International Adoptions (5-13.47)

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- No more than 10 weeks' leave of absence without salary
- Request made 2 weeks prior or upon arrival of child (5-13.53)
- Accumulation of seniority, retention of experience, participation in basic health insurance (5-13.56)

This leave without salary can be followed by the adoption leave stipulated in 5-13.46.

QPIP Adoption Plan

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Basic

- 70% for 12 weeks
- 55% for 25 weeks
Total 37 weeks
- School board tops up to 100% for first 5 weeks
- Weeks may be shared between the parents

Special

- 75% for 28 weeks
- School board tops up to 100% for the first 5 weeks
- Weeks may be shared between the parents

Other Adoption Plans

42

EI

- 35 weeks at 55%
- School board tops up to 100% for first 5 weeks

**Ineligible for either
QPIP or EI**

- 5 weeks paid by school board (5-13.46)

Parental Leave



QPIP and EI Benefits

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Parental Leave QPIP

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Basic Plan

- 7 weeks at 70%
- 25 weeks at 55%
Total 32 weeks
- Begins at end of QPIP maternity and paternity benefits
- Can be shared between the parents or taken at the same time

Special Plan

- 25 weeks at 75%
- Begins at end of QPIP maternity and paternity benefits
- Can be shared between the parents or taken at the same time

Parental Leave – EI

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EI

- Parental leave is a maximum of 35 weeks
- Can be shared by the parents

Ineligible for both QPIP and EI

- No benefits
- Teacher may become eligible following 20 week (12 paid) maternity leave

Special Leaves and Leaves for Family Responsibilities



Leaves for Family Responsibilities (5-14.06)

- Reasons: Obligations related to care, health or education of child or child of spouse or for reasons related to health of spouse, father, mother, brother, sister or grandparent
- According to section 79.1 of the Act respecting labour standards – teacher may be absent from work without salary for 10 days per calendar year
- Days are deducted from bank of sick-leave days to a maximum of 6 days
- Days may be used in days or fractioned into parts of days with board consent
- Must advise board of absence as soon as possible

QPIP Special Cases

Regulations Under the Act respecting parental insurance (c. A-29.011, r. 2)

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- 1- Section 32 – Extending QPIP Reference Period
- 2- Section 31.1 – Two Pregnancies in a Row
- 3- Section 31.2 – Skipping Over a Period of Insurable Earnings
- 4- Anticipated Start of QPIP Benefits

Section 32: Extending Reference Period

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The reference period of 52 weeks can be extended for a maximum of 104 weeks or until 26 weeks of insurable earnings have been reached.

When a teacher is not receiving insurable earnings as in the cases below:

- CSST for preventative leave
- SAAQ
- QPIP Benefits
- Employment Insurance

This is done automatically under QPIP when a teacher applies for benefits.

Section 32 of Regulation (QPIP) – Case Study

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Penelope had a first pregnancy during which she chose the QPIP special plan (combined maternity and parental leave of 40 weeks). She returned to work for 12 weeks, became pregnant and applied for QPIP benefits.

Which weeks will now be included in Penelope's new reference period?

Penelope's History

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History	Dates	Weeks
Initial reference period of 52 weeks		
Request for maternity benefits	April 29, 2012	
At work	Feb. 6 – April 27, 2012	12 weeks
QPIP benefits for first baby (Special Plan)	May 1, 2011 – Feb. 4, 2012	40 weeks
Extension of 40 weeks		
At work full-time contract at 100%	August 24, 2009 – April 29, 2011	

Section 32 (cont'd)

Instead of having 12 weeks of insurable earnings, extension of reference period allows QPIP to go back and calculate additional weeks of insurable earnings.

There are rare cases where this extension is not beneficial to teachers, but it will be done automatically, **unless otherwise requested.**

For example – A teacher now works at 100%. If the reference period is automatically extended and this leads to weeks from a contract in the past at 30%, this may affect the calculation of benefits.

Section 31.1: Two Pregnancies in a Row

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A teacher who did not accumulate at least 16 weeks of insurable earnings during the last 104 weeks preceding the request for benefits:

- The ROE submitted for the previous maternity leave may be used, providing the teacher with the same benefits as her first maternity leave
- **Teacher must request that this be applied – not done automatically**
- **Weeks of insurable earnings include:** summer weeks or any week where the teacher could have worked (leave of absence and not receiving QPIP), first week of preventative leave which is paid by the school board, two weeks paid by EI, pedagogical days for teacher on preventative leave at start and end of school year, weeks of postponed vacation

Section 31.1 of Regulation (QPIP) – Case Study

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Kate became pregnant and benefitted from a preventative leave for 27 weeks. She then received 50 weeks under the basic QPIP.

She could not return to work due to her doctor's recommendation. She again went on preventative leave for 34 weeks.

She requested QPIP benefits. Was she entitled and how were the benefits calculated?

Kate's History

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Event	Dates	Insurable earnings Non-insurable earnings
1 st preventative leave	August 24, 2009 – Feb. 19, 2010	1 week 26 weeks
Request for QPIP benefits (maternity & parental)	Feb. 21, 2010 – Feb. 4, 2011	50 weeks
Summer weeks		8 weeks
Postponement of March break at end of maternity leave	August 23 – August 27, 2010	1 week
2 nd preventative leave	Feb. 7 – Sept. 30, 2011	1 week 33 weeks
2 nd request for QPIP benefits	October 2, 2011	
		11 weeks

Section 31.2: Skipping over a Period of Insurable Earnings

- This section has existed for several years, has been modified to include salary insurance as of July 2012
- Does not extend the reference period, it places it elsewhere, usually immediately prior to the start of salary insurance
- This must be requested by the teacher
- QPIP may request an additional ROE from a previous period
- The teacher will be required to give QPIP a copy of her medical certificate indicating the start and end of salary insurance period
- Other situations where section 31.2 may be applied are: preventative leave from one job while holding another job, progressive return to work following an illness with CSST or SAAQ benefits, teacher receiving EI and has a small teaching contract

Section 31.2 Case Study

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Vanessa is pregnant. The doctor considers her pregnancy to be at-risk and recommends that Vanessa not work. She is entitled to receive salary insurance for the remainder of her pregnancy.

How are her benefits calculated under QPIP?

Vanessa's History

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2011- 2012
School year

- Becomes pregnant February 2012
- Teaches full-time until June 30

Health issues

- Salary insurance Aug. 27 – Oct. 19, 2012
- Paid at 75%

Application for
QPIP benefits

- October 21, 2012
- Date of birth - October 21

Anticipated Start of QPIP Benefits

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- In the majority of cases, teachers apply for benefits when they are ready to receive them.
- QPIP benefits may be requested 16 weeks prior to the expected date of birth.
- There may be exceptional cases whereby it is beneficial to apply early in order to establish an advantageous reference period and benefits are received at a later time.

Anticipated Start of QPIP Benefits: Case Study

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Joy is a replacement teacher. She became pregnant during the 2011-2012 school year. At that time, her replacement contract was at 100%. For the 2012-2013 school year, her replacement contract is at 30%.

How will this affect her QPIP benefits?

Joy: Case Study

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June 29, 2012	<ul style="list-style-type: none">• End of contract not eligible for EI• Salary of \$700 per week during 2011-2012
December 23, 2012	<ul style="list-style-type: none">• Expected date of birth
August 26, 2012	<ul style="list-style-type: none">• Anticipated request for QPIP benefits• 16 weeks prior to expected date of birth
August to December 2012	<ul style="list-style-type: none">• Replacement contract at 30%• Salary of \$210 per week
December 17, 2012	<ul style="list-style-type: none">• Start of maternity leave and QPIP benefits
August 31, 2011 - August 29, 2012	<ul style="list-style-type: none">• Reference period due to anticipated request



Special Situations

Preventative Leave – Counts as Time at Work for Summer Pay Purposes

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Reminder:

The time a teacher is on preventative leave is considered as time worked for the purposes of calculating what the teacher will receive during the summer months.

See letter of agreement.

Teacher is due to return to work from a leave in new school year and becomes pregnant

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Outcomes:

- 1- Teacher may return to work and accumulate weeks of insurable earnings.
- 2- Doctor recommends a preventative leave at beginning of new school year.
 - For purposes of QPIP calculations, the summer weeks as of July 1 must be reflected at 100% on ROE. This applies to regular teachers only.
 - Weeks where teacher is receiving earnings or QPIP during the summer months must not be included on ROE (**this practice is currently under review**)

Teachers on Priority of Employment List

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- Pregnancy does not negate the school board's obligation to respect the priority list when offering contracts.
- The duration of the contract must be respected.
- The teacher also has the right to a preventative leave if recommended by her doctor.
- She has a right to all parental rights as long as her contract has not terminated.

Part-time and Replacement Contract Teachers

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- When one contract ends and another one begins, the rights are reinstated.
- These teachers must be offered the contract they would have been offered had they been at work, accumulate the rights associated with that contract, whether they are working or being replaced while on maternity leave or on leave of absence without salary to extend the maternity leave.
- Teacher must be considered in the way she would have been had she not been pregnant.

Replacement vs. Full-time Contract

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Replacement (formerly known as part-time) teachers may receive more QPIP benefits than full-time teachers

Replacement 100%	Full time 100%
August 24 – June 30 = 311 days	July 1 – June 30 = 365 days
Step 7: $\$48\,720/311 = \156.65	Step 7: $\$48\,720/365 = \133.47
7 days x $\$156.65 = \$1\,096.55$	7 days x $\$133.47 = \934.29
Calculated on 1/200	Calculated on 1/260

Teacher has two employers

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- QPIP benefits must be based on total income received
- School board must top up its portion only
- Example: Teacher will receive $\$560 + \$115 + \$69 = \744 .

Employer A	Employer B	QPIP benefits
$\$500 \times 26 \text{ weeks}$ $\$13\ 000$	$\$300 \times 26 \text{ weeks}$ $\$7\ 800$	$\frac{20\ 800}{26} = \$800$
		$\$800 \times 70\% = \560
$\$500 \times 93\% = \465	$\$300 \times 93\% = \279	
$\$500 \times 70\% = \350 Top up = $\$115$	$\$300 \times 70\% = \210 Top up = $\$69$	

What have you learned?

Thank you

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