

## TYPES OF LEAVES AND TECHNICAL DETAILS

### For women who are having a baby

#### Pregnancy Leave

Up to 17 weeks after the birth, or, up to eight weeks before birth and nine weeks after

Benefits are available to those who have worked at SMU for at least one year

- First two weeks: SMU to pay 95 percent of salary
- Remaining time: SMU to top up EI payments to match what would be 95 percent of salary<sup>1</sup>

#### Parental Leave

Up to 35 weeks of leave, starting after 17 weeks of Pregnancy Leave

Benefits are available to those who have worked at SMU for at least one year

- Nine weeks of EI top up to match 95 percent of salary

### For men or women whose partners are having a baby

#### Post Natal Leave

Benefits are ten days leave with full pay within four weeks of the birth

#### Parental leave

Up to 35 weeks of leave, starting any time after the birth, ending within 52 weeks of the birth

Benefits are available to those who have worked at SMU for at least one year

- Nine weeks of EI top up to match 95 percent of salary

### For men or women who are adopting a child under five years old

#### Parental leave

Up to 35 weeks of leave, starting any time after the adoption, ending within 52 weeks of the adoption

Benefits are available to those who have worked at SMU for at least one year

- Fourteen weeks of EI top up to match 95 percent of salary

Review the **Fact Sheet prepared by Human Resources** for information about:

- Giving notice for commencement and end of leave
- Applying for EI - including requesting a Record of Employment (ROE)
- Arranging for the payment of supplemental benefits
- Income Tax implications

Follow the url below or the link from the SMUFU website:

<http://www.smu.ca/administration/hr/policies.html>

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<sup>1</sup> For anyone ineligible or disqualified from getting EI, SMU will pay the full 95 percent of salary,

## YOUR RIGHTS AND LOGISTICAL DETAILS

**Main Point:** pregnancy and parental leaves are a **right** enshrined in the provincial Labour Standards Code and expanded upon in our Collective Agreement (the relevant sections of these are attached below). Therefore:

- There should be no questioning of your right to begin and end your leave at whatever date you choose as long as it meets the parameters in the Collective Agreement.
  - You do not need to time your leave/return to coincide with the start or end of an academic term
- You should not feel obligated in any way to accommodate teaching schedules or other duties that are impacted because of your choice of leave dates. These are administrative issues to be resolved by your Chair, Dean and the AVP.
  - You do not need to condense your classes to fit them in before your leave, change your syllabus to accommodate your leave, undertake marking or other work while you are on leave, etc.
- Pregnancy and parental leave are founded on the same principals and accorded the same rights. The two should be treated absolutely the same in making leave arrangements. Specifically, faculty on parental leaves should not be considered to be more flexible or accommodating than those on pregnancy leaves.

### **Things you SHOULD NEVER be asked to do (These contravene provincial legislation and our CA):**

- 1) Use course releases to 'buy yourself out' of teaching in the term in which your leave commences
- 2) Teaching more than your typical load in advance of or upon return from a leave to 'make-up' for the teaching relief given in the term in which your leave commences
- 3) Taking vacation time preceding your leave to 'cover' the teaching time up until the start of your leave
- 4) Beginning your leave earlier than you require (i.e., in advance of the birth) to 'cover' the teaching time
- 5) Any sort of academic work during your leave
  - This sets a norm or expectation for working while on leave that could be detrimental and pressuring to other faculty who do not choose to or do not have the ability to work while on leave.
  - Chairs and Deans should refrain from acknowledging or commending this work in annual reports, etc.

**If you feel that you are being asked to do something contrary to the Collective Agreement, experience any sense of doubt or unease, or have any questions at any time contact the Union President immediately.**

## YOUR RIGHTS AND LOGISTICAL DETAILS CONTINUED

### **'Food for Thought' Regarding Discussions of Leave Arrangements**

We recognize that when individuals exercise their rights to pregnancy and parental leave it impacts others. Helping others to make transitions to and from leave as seamless as possible is a reasonable expectation. Therefore, there are a wide variety of potentially acceptable leave arrangements that do not contravene the law and the collective agreement. The details of these often depend on the particular case at hand.

Various individuals (your Chair, your Dean, HR, the AVP) may suggest options to accommodate your leave, however these individuals are not always experts in the area – the following is a non-exhaustive list of ideas that might come up in these discussions.

### **Possible 'Options' That Might be Suggested**

- Use of substitutes
  - o Teach until your stipulated leave date after which someone else teaches the remainder of the course
    - You are not obligated to carry on any work from that term once your leave commences
  - o Upon return from leave you take over courses which have been taught by someone else up to that point
    - You are not obligated to prepare materials for that course before you return to it
- Removal from the teaching schedule entirely for the term in which your leave begins and/or ends. Your assigned courses would be assigned to someone else.
  - o If you are removed from the teaching schedule, there may be discussion of performing 'other duties' (likely administrative or service) in the place of that teaching

**These options might be suitable arrangements; however, we strongly encourage you to contact the Union President for guidance before any specific arrangements are formally agreed upon as the appropriateness and reasonableness of each option is case specific.**

## IMPLICATIONS FOR RENEWAL, TENURE, AND PROMOTION

### Renewal and Tenure Implications

As per section 11.1.10(f) of the Collective Agreement, faculty who take pregnancy/parental leave are given the option of deferring their renewal and tenure considerations for one year and having their probationary contract extended for one year.

Implications of Taking Deferral:

- Your renewal and/or tenure will be delayed by one year
- You still accrue seniority and all of its benefits (movement up the steps of the salary scale) regardless of whether you defer your renewal and tenure
- Therefore, this has no financial impact on you and no impact on your eligibility for promotion

Implications of Not Deferring:

- You will be held to the same standards for renewal and tenure as everyone else under the Collective Agreement but have less time to do so (i.e., if you take one year of leave, your 'active work' time is 4 years to meet the tenure requirements as opposed to 5)

### Promotion Implications

You are entitled to apply for promotion when you reach Step 5/Step 8 on the Assistant and Associate Professor scales, respectively. You can also apply for accelerated promotion. However, you are not obligated to apply until you feel you are ready.

Implications of Leave:

- As you continue to accrue seniority while on leave you will become eligible for promotion at the same time as if you did not take leave and you will be held to the same standards as those who did not take leave
- As with the above, you have had up to one year less active time to meet those criteria, therefore you may wish to delay your promotion application if you feel you have not yet met the criteria
- There is no penalty or stigma associated with delaying promotion other than standard salary implications.

*None of the above is intended to discourage faculty from taking full leave or from keeping their 'clock' running and applying for promotion/tenure when they become eligible. But it is important for all SMUFU members to recognize that colleagues who take pregnancy and/or parental leave may face a greater challenge in meeting the criteria for timely renewal, tenure and/or promotion.*

**Please contact the Union President at any time if you have questions or concerns about this or other matters.**

**APPENDIX A:**  
**Relevant Clauses from Collective Agreement**

**19.6 Pregnancy And Parental Leave**

**19.6.1 Pregnancy Leave**

- (a) Subject to the notice provisions of Article 19.6.3, the Employer shall, upon the request of a pregnant Employee and upon receipt of a medical certificate indicating the expected birth date, grant the Employee 17 weeks of unpaid Pregnancy Leave.
- (b) An Employee may begin Pregnancy Leave no earlier than seventeen (17) weeks before the expected birth date.

**19.6.2 Pregnancy Leave with Supplemental Benefits**

- (a) During the period of Pregnancy Leave as specified in Article 19.6.1(a), an Employee who has been employed by the Employer for at least one Academic Year immediately preceding the expected birth date is entitled to supplementary benefits as follows:
  - i) For the first two (2) weeks the Employee shall receive 95% of her nominal salary;
  - ii) For up to a maximum of fifteen (15) additional weeks, the Employee shall receive an amount equal to the difference between the Employment Insurance (EI) benefits received and 95% of the Employee's nominal salary.
  - iii) In the case of 19.6.2 (a), payments shall begin no earlier than eight (8) weeks before the expected birth date and end no later than seventeen (17) weeks after the birth unless the child is confined to hospital. In the event of a miscarriage or a still birth she shall be entitled to sick leave under Article 19.1.
- (b) To receive the supplementary employment benefit defined in 19.6.2 (a) (ii), the Employee shall supply the Employer with proof of application to the Employment Insurance Commission for EI pregnancy leave benefits.
- (c) If the Employee is disentitled or disqualified from receiving EI benefits or should EI cease to provide coverage for pregnancy benefits, the Employer will maintain the Employee at 95 percent of her nominal earnings for the period of her leave.

**19.6.3 Notice Required for Pregnancy Leave**

- (a) The Employee shall give the Employer at least four (4) weeks' written notice of the date the Pregnancy Leave, as per Article 19.6.1, is to begin. The payment of supplementary benefits under 19.6.2 also requires four (4) weeks' notice.
- (b) The notice period in Article 19.6.3(a) shall not apply if the Employee stops working because of complications caused by her pregnancy or because of a birth, still birth or miscarriage that happens earlier than the Employee was expected to give birth. In such circumstance, the Employee shall, within two weeks of stopping work, give the Employer:
  - i) Written notice of the date the pregnancy leave began or is to begin; and
  - ii) A certificate from a legally qualified practitioner that,
    - 1) In the case of an Employee who stops working because of complications caused by her pregnancy, states that the Employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date; or
    - 2) In any case, states the date of birth, still birth or miscarriage and the date the Employee was expected to give birth.
- (c) Where notice required under Article 19.6.3(a) or 19.6.4(c) is not possible due to circumstances beyond the control of the Employee, the Employee shall provide the Employer as much notice as reasonably practicable of the commencement of her leave or her return to work.

**19.6.4 End of Pregnancy Leave**

- (a) The Pregnancy Leave of an Employee who is entitled to take Parental Leave under Article 19.6.6 shall end seventeen (17) weeks after the Pregnancy Leave began.
- (b) The Pregnancy Leave of an Employee who is not entitled to take Parental Leave shall end on the later of the day that is seventeen (17) weeks after the Pregnancy Leave began or the day that is six (6) weeks after the birth, still birth or miscarriage. In the case of still birth or miscarriage, the Employee will also be entitled to sick leave coverage, under Article 19.1, and other salary insurance coverage after the date the pregnancy ends if the Employee cannot return to full-time work for medical reasons.
- (c) If an Employee on Pregnancy Leave wishes to take less than seventeen (17) weeks' Pregnancy Leave, the Employee shall give written notice to the Employer of her intention to return to work at least four (4) weeks prior to her expected date of return.

**19.6.5 Post-Natal Leave**

- (a) On the occasion of the birth of a child, the child's parent who is not taking a Pregnancy Leave shall be entitled to a leave with full salary and benefits, and without loss of seniority, of up to ten (10) days, to be taken at the discretion of the Employee within four (4) weeks of the birth. An Employee taking such leave shall give the Employer as much advance written notice as possible.

**19.6.6 Parental Leave**

- (a) An Employee who has been employed with the Employer for at least 13 weeks, who becomes a parent for one or more children through the birth of the child or children, is entitled to an unpaid leave of absence of up to thirty-five (35) weeks.
- (b) An Employee who becomes a parent for one or more children through the placement of the child or children in the care of the Employee for the purpose of adoption of the child or children pursuant to the law of the Province, is entitled to an unpaid leave of absence of up to thirty-five (35) weeks.
- (c) Where an Employee takes pregnancy leave pursuant to Article 19.6.1 and the Employee's newborn child or children arrive in the Employee's home during pregnancy leave, parental leave begins immediately upon completion of the pregnancy leave and without the Employee returning to work and ends not later than thirty-five (35) weeks after the parental leave began.
- (d) Where an Employee did not take pregnancy leave pursuant to Article 19.6.1, parental leave begins on such date as determined by the Employee coinciding with or after the birth of the child or children first arriving in the Employee's home and ends not later than thirty-five (35) weeks after the parental leave begins or fifty-two (52) weeks after the child or children first arrive in the Employee's home, whichever is earlier.
- (e) When a parental leave has begun, and the child is hospitalized for at least one week, the Employee is entitled to resume work and to defer the unused portion of the Parental Leave until the child is discharged from hospital.
  - i) An Employee is entitled to only one interruption or deferral of a Parental Leave.
  - ii) An Employee who intends to use a deferral shall give the Employer as much notice as possible of the dates of resumption of employment and the Parental Leave.

**19.6.7 Parental Leave with Supplemental Benefits**

- (a) In accordance with the requirements set out in Article 19.6.7(c), an Employee who is eligible for Parental Leave under Article 19.6.6(a) and who has been employed by the Employer for at least one Academic Year, shall be entitled to supplemental benefits as follows:
  - i) For the first nine (9) weeks of Parental Leave, the Employee shall receive an amount equal to the difference between EI benefits received and 95% of the Employee's nominal salary.

- (b) In accordance with the requirements set out in Article 19.6.7(c), an Employee who is eligible for Parental Leave under Article 19.6.6(b) and who has been employed by the Employer for at least one Academic Year and who has adopted a child(ren) five years of age or younger, shall be entitled to supplemental benefits as follows:
  - i) For fourteen (14) weeks of Parental Leave, the Employee shall receive an amount equal to the difference between EI benefits received and 95% of the Employee's nominal salary.
- (c) To receive the supplementary employment benefit defined in 19.6.7 (a) or (b), the Employee shall supply the Employer with proof of application to the Employment Insurance Commission for EI Parental Leave benefits.
- (d) If an Employee who is eligible for supplemental Parental Leave benefits under Article 19.6.7(a) or (b) is disentitled or disqualified from receiving EI benefits or should EI cease to provide coverage for Parental Leave, the Employer will maintain the Employee at 95 percent of his/her nominal earnings for the period of her leave.

**19.6.8 Notice Required to Take Parental Leave**

- (a) An Employee shall give written notice to the Employer of her or his intention to take a Parental Leave at least four (4) weeks prior to the commencement of such leave. Where an Employee qualifies for such leave as a result of adoption and where the child comes into his/her custody, care and control earlier than expected, the Employee shall give reasonable written notice.
- (b) If an Employee on Parental Leave wishes to take less than 35 weeks of Parental Leave, the Employee shall give written notice to the Employer of her or his intention to return to work at least four (4) weeks prior to the expected date of return.

**19.6.9 General Considerations**

- (a) Provisions of the Pregnancy Leave and/or Parental Leave for an Employee shall be in accordance with the Nova Scotia Labour Standards Code, R.S.N.S. 1989, c. 246, ss 59-60, and as further amended, unless increased leave or benefits are provided by this Collective Agreement.
- (b) All insurance coverage and benefits shall be maintained during the Pregnancy and Parental Leave periods. The Employer and Employee shall pay their respective portions to all insurance and benefit plans on the basis of the Employee's nominal salary throughout the leave period.
- (c) Upon return to work from a Pregnancy or Parental Leave, the Employee shall resume her or his former position, with no loss of salary level, benefits or rank, or in seniority, vacation, or sabbatical entitlements. The period of an Employee's leave shall be included in the calculation of her or his length of service for seniority purposes.

**APPENDIX B:**  
**Relevant Clauses from Nova Scotia Labour Standards Code**

**Pregnancy leave**

- 59 (1) A pregnant employee, who has been employed by her employer for at least one year, is entitled to an unpaid leave of absence of up to seventeen weeks upon
- (a) giving the employer notice of the date that she will begin the leave and the date she will return to work, as required by Section 59D; and
  - (b) providing to the employer, where the employer so requests, a certificate of a legally qualified medical practitioner stating that the employee is pregnant and specifying the expected date of delivery.
- (2) Pregnancy leave pursuant to this Section begins on such date, not sooner than sixteen weeks preceding the expected date of delivery, as the employee determines, and not later than the date of delivery.
- (3) Pregnancy leave pursuant to this Section ends on such date
- (a) not sooner than one week after the date of delivery; and
  - (b) not later than seventeen weeks after the pregnancy leave began pursuant to this Section, as determined by the employee.

**Requirement by employer to take leave**

- 59A (1) Notwithstanding Section 59, an employer may require a pregnant employee, who has been employed by the employer for at least one year, to take an unpaid leave of absence while the duties of her position cannot reasonably be performed by a pregnant woman or the performance of the employee's work is materially affected.
- (2) For greater certainty, nothing in subsection (1) affects any protection provided to a pregnant employee, regardless of the length of employment, by the Human Rights Act.

**Parental leave**

- 59B (1) An employee, who has been employed by an employer for at least one year, and who becomes, before or after this Section comes into force, a parent of one or more children through
- (a) the birth of the child or children; or
  - (b) the placement of the child or children in the care of the employee for the purpose of adoption of the child or children pursuant to the law of the Province,
- is entitled to an unpaid leave of absence of, subject to subsection (4), up to fifty-two weeks upon giving the employer notice of the date that the employee will begin the leave and the date that the employee will return to work, as required by Section 59D.
- (2) Where an employee takes pregnancy leave pursuant to Section 59 and the employee's new-born child or children arrive in the employee's home during the pregnancy leave, parental leave pursuant to this Section
- (a) begins immediately upon completion of the pregnancy leave and without the employee returning to work; and
  - (b) ends not later than thirty-five weeks after the parental leave began pursuant to this Section, as determined by the employee.
- (3) Where subsection (2) does not apply, parental leave pursuant to this Section
- (a) begins on such date, coinciding with or after the birth of the child or children or the child or children first arriving in the employee's home; and
  - (b) ends not later than fifty-two weeks after the child or children first arrive in the employee's home, as determined by the employee.
- (4) The maximum combined pregnancy leave and parental leave to which an employee is entitled is fifty-two weeks.

**Interruption of leave by hospitalization of child**

- 59C (1) Notwithstanding Section 59B, where an employee has begun parental leave pursuant to that Section and the child to whom the parental leave relates is hospitalized for a period exceeding or likely to exceed one week, the employee is entitled to return to and resume work in accordance with Section 59G and defer the unused portion of the parental leave until the child is discharged from the hospital, upon giving the employer notice in accordance with Section 59D.
- (2) An employee is entitled pursuant to subsection (1) to only one interruption and deferral of each parental leave.

**Notice**

- 59D (1) An employee shall give the employer four weeks' notice of
- (a) the date the employee will begin pregnancy leave pursuant to Section 59 or parental leave pursuant to subsection (3) of Section 59B; and
  - (b) the date the employee will return to work upon completion of the leave unless the employee will take the maximum leave to which the employee is entitled.
- (2) Notice given pursuant to subsection (1) may be amended from time to time by the employee
- (a) by changing any date in the notice to an earlier date if the notice is amended at least four weeks before that earlier date;
  - (b) by changing any date in the notice to a later date if the notice is amended at least four weeks before the original date; and
  - (c) by adding the date that the employee will return to work if the notice is amended at least four weeks before the employee would have been required to return to work.
- (3) An employee shall give the employer as much notice as reasonably practicable of
- (a) the date the employee will begin pregnancy leave pursuant to Section 59 where she is advised by a legally qualified medical practitioner to begin pregnancy leave sooner than planned because of medical circumstances resulting from her pregnancy;
  - (b) the delivery where the actual delivery occurs sooner than expected;
  - (c) the first arrival of the child or children in the employee's home where that arrival is not anticipated or occurs sooner than reasonably expected;
  - (d) the return to work of the employee pursuant to Section 59C; and
  - (e) the resumption of parental leave by the employee in accordance with Section 59C, and subsection (1) does not apply.
- (4) Notice given pursuant to this Section shall be put in writing where the employer so requests..

**Proof of entitlement**

- 59E (1) Upon the request of the employer, where an employee takes parental leave pursuant to Section 59B, interrupts and defers leave pursuant to Section 59C or gives notice pursuant to subsection (3) of Section 59D, the employee shall provide such proof as is reasonably necessary to establish the entitlement of the employee pursuant to those provisions.
- (2) The certificate of a legally qualified medical practitioner or, in the case of adoption, of an official in the Department of Community Services with knowledge of the proposed adoption is sufficient proof for the purpose of subsection (1) of the matters attested to in the certificate.

**Maintenance of benefit plan**

- 59F (1) For the periods of time specified in Sections 59, 59A, 59B and 59C, the employer shall grant to the employee the option of maintaining a benefit plan in which the employee participated prior to the commencement of that period and shall notify the employee in writing of the option and the date beyond which the option may no longer be exercised at least ten days prior to the last day on which the option could be exercised to avoid an interruption in benefits.
- (2) Where the employee opts in writing to maintain the benefit plan referred to in subsection (1), the employee shall enter into an arrangement with the employer to pay the cost required to maintain the benefit plan, including the employer's share thereof, and the employer shall process the documentation and payments as arranged.

- (3) Nothing in subsection (2) prevents an employer from contributing to the cost of a benefit plan referred to in subsection (1).

**Resumption of work**

- 59G (1) When an employee returns to work upon the expiry of a leave of absence taken pursuant to Section 59, 59A or 59B or returns to work pursuant to Section 59C, the employer shall permit the employee to resume work
- (a) in the position held by the employee immediately before the leave began or, where that position is not available, in a comparable position with not less than the same wages and benefits; and
  - (b) with no loss of seniority or benefits accrued to the commencement of the leave.
- (2) Where the employer's operations are or will be suspended or discontinued when the employee returns to work upon the expiry of a leave of absence taken pursuant to Sections 59, 59A or 59B or returns to work pursuant to Section 59C, subsection (1) of this Section does not apply and the employer shall comply with Section 72 and, when the operation resumes, subsection (1) applies subject to the employer's seniority system, if any.
- (3) For greater certainty, nothing in this Section limits any protection provided to an employee by a collective agreement or other contract of employment or by the Human Rights Act. *1991, c. 14, s. 19.*