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## YOUR LEGAL AND CONTRACTUAL RIGHTS: A FREQUENTLY ASKED QUESTIONS CHART

If you are working and expecting a child or planning a family, you need to know your rights under the Massachusetts Parental Leave Law (MPLL), the federal Family and Medical Leave Act (FMLA), the federal Pregnancy Discrimination Act (PDA) and the state Small Necessities Leave Act (SNLA). You also may have rights under the federal Americans with Disabilities Act (ADA), the state’s antidiscrimination laws and your collective bargaining agreement. To the extent that any of these statutory and contractual provisions address the same subject or are in conflict, you are entitled to the most generous of the benefits provided.

<b>Question</b>	<b>Massachusetts Parental Leave Law (MPLL)</b>	<b>Family and Medical Leave Act (FMLA)</b>	<b>Pregnancy Discrimination Act (PDA)</b>	<b>Small Necessities Leave Act (SNLA)</b>
<b>What is it?</b>	Allows employees 8 weeks of consecutive leave for childbirth or adoption (if you completed any probationary period) immediately following your child’s birth or adoption, whether or not you have exercised other leave prior to your child’s arrival.	Provides a total of 12 weeks of leave during a 12-month period for any combination of the following reasons: (1) the birth, adoption or foster care of a child; (2) the employee’s own serious health condition, and (3) care for a parent, spouse or dependent who has a serious health condition. For parental leave purposes, leave must be taken in consecutive weeks unless the employer and employee agree	Makes it illegal to discharge or otherwise take an adverse action against an employee because she is pregnant, has an abortion or gives birth to a child. Requires employers to treat pregnancy-related disabilities and illnesses the same as any other illness or temporary disability, for purposes of medical verification, availability of paid leave, accrual of seniority and other benefits, insurance	Allows eligible employees up to 24 hours of leave every year in addition to the 12 weeks allowed under the Family and Medical Leave Act, for the following purposes: (1) To accompany a child to routine medical or dental appointments, such as checkups or vaccinations; (2) To participate in school activities directly related to a child’s educational advancement, such as parent-teacher conferences;

		otherwise. Further, you may exercise parental leave under FMLA only during the 12 months following the birth or adoption of your child.	coverage, entitlement to promotions and other prerequisites of employment. The state's antidiscrimination statute provides similar protection.	(3) To accompany an elderly relative to routine medical or dental appointments, or for other professional services related to the elder's care.
<b>Who is eligible?</b>	Anyone who completed the probationary period.	<p>This leave is available to employees who have worked for the school district for at least 12 months (not necessarily consecutively) and who have worked at least 1,250 hours during the immediately prior 12 months. "Hours worked" includes actual work time that your employer has required of you, including time correcting homework, preparing lessons, correcting tests and attending trainings – even if those hours are spent at home or elsewhere. "Hours worked" does not include time off the job, such as sick or personal leave.</p> <p>Full-time K-12 professional instructional employees (teachers) who have worked a full school year are presumed to meet the hours requirement unless the school district can prove that they did not actually work 1,250 hours.</p> <p>Education Support Professionals are not entitled to this presumption. Part-time ESPs may not meet the 1,250-hour</p>	A woman who is pregnant, has an abortion or gives birth to a child.	<p>This leave is available to employees who have worked for the school district for at least 12 months (not necessarily consecutively) and who have worked at least 1,250 hours during the immediately prior 12 months.</p> <p>"Hours worked" includes actual work time that your employer has required of you, including time correcting homework, preparing lessons, correcting tests and attending trainings – even if those hours are spent at home or elsewhere.</p> <p>"Hours worked" does not include time off the job, such as sick or personal leave.</p> <p>Full-time K-12 professional instructional employees (teachers) who have worked a full school year are presumed to meet the hours requirement unless the school district can prove that they did not actually work 1,250 hours.</p> <p>Education Support Professionals are not entitled to this</p>

		threshold.		presumption. Part-time ESPs may not meet the 1,250-hour threshold.
<b>Do the leaves act concurrently?</b>	<p>Yes.</p> <p>The Massachusetts Parental Leave Law gives employees 8 consecutive weeks of leave (not necessarily with pay) after their child arrives, regardless of how much FMLA or contractual leave they may have left. Thus, you are always entitled to at 8 eight weeks.</p>	<p>Usually these leave entitlements run “concurrently,” which means they overlap. If you have not used any of your 12 weeks of leave under the Family and Medical Leave Act, then you would have 12 weeks of leave after your child arrives, not 20. If your contract allows you one year of parental leave, you generally would be entitled to a maximum of one year, not a year plus 12 weeks.</p> <p>The amount of time to which you are entitled beyond 8 weeks depends on how much of your 12 weeks of annual FMLA leave you have used up before your child arrives and upon how much parental leave your contract gives you (See your Unit Contract).</p>		This leave is in addition to FMLA leave.
<b>Will I be paid during my leave?</b>	MPLL leave may be with or without pay depending on the terms of your collective bargaining agreement (See your Unit Contract).	You would be entitled to use your accrued paid sick leave during any period of time in which you are sick/disabled during your pregnancy and after childbirth. Often, doctors will certify that you are disabled	The law requires the employer to pay you if it would pay other similarly situated employees. Therefore, you would be entitled to use your accrued paid sick leave during any period of time in which you are sick or disabled	The law requires the employer to pay you if it would pay other similarly situated employees. Therefore, you would be entitled to use your accrued paid sick leave during any period of time in which you are sick or disabled

		<p>from childbirth for six to eight weeks afterward. Similarly, if you generally would be permitted to use accrued vacation days for absences due to other reasons, then you must be permitted to do so for absences related to pregnancy or child rearing.</p> <p>If you remain on parental leave after you are no longer sick or disabled, or after you have used up your sick or vacation leave, the law allows but does not require your employer to pay you. At that point, your entitlement to be paid would depend upon your collective bargaining agreement or other employer policies (See your Unit Contract).</p>	during your pregnancy and after childbirth.	during your pregnancy and after childbirth.
<p><b>Can I be forced to use my sick/vacation days?</b></p>	<p>During the eight weeks of leave your employer cannot force you to use up your sick leave or your vacation leave if you do not wish to do so.</p>	<p>Permits your employer to force you to use up available paid leave under some circumstances. However, the employer cannot impose this on you without first bargaining with your local association. Even then, you cannot be forced to use up your paid leave unless the time would qualify for paid leave under the employer's usual rules. For example, if your contract allows you to use sick leave only for your own personal illness, your employer cannot force you to</p>		<p>Permits your employer to force you to use up available paid leave under some circumstances. However, the employer cannot impose this on you without first bargaining with your local association. Even then, you cannot be forced to use up your paid leave unless the time would qualify for paid leave under the employer's usual rules. For example, if your contract allows you to use sick leave only for your own personal illness, your employer cannot force you to</p>

		use up your sick leave on days on which you are caring for your newborn child. As another example, if your employer or your contract would not permit you to use paid sick or vacation leave to care for a sick child, then the employer cannot force you to use those days if you take FMLA leave to care for a sick child.		use up your sick leave on days on which you are caring for your newborn child. As another example, if your employer or your contract would not permit you to use paid sick or vacation leave to care for a sick child, then the employer cannot force you to use those days if you take FMLA leave to care for a sick child.
<b>Am I entitled to extended sick leave after 6-8 postpartum period?</b>		If you have an extended period of illness or disability related to your pregnancy or childbirth, you would be entitled to use FMLA leave for that purpose, assuming you have not exceeded 12 weeks per year.	Your employer must treat your extended illness the same way it would treat any other extended illness or disability. If extended leave is available for other illnesses, it must be available to you. If employees with other illnesses are entitled to paid sick leave for extended periods of time, then so are you.	
<b>What notice must I give?</b>	You must provide 2 weeks' notice of your anticipated date of departure and your intention to return to employment, though such notice may be less than two weeks if due to circumstances beyond your control (e.g. early delivery).	You must give at least 30 days' notice if the leave is foreseeable; otherwise, give notice "as soon as practicable."		You must give at least 7 days' notice if the leave is foreseeable; otherwise, give whatever notice is "practicable."

<p><b>May I take parental leave in small portions or part time?</b></p>	<p>Leave under the Massachusetts Parental Leave Law must be exercised consecutively from the time of the birth or adoption of a child.</p>	<p>Parental leave is only available on a full-time basis and in consecutive weeks.</p> <p>However, FMLA leave for your own or a family member's serious illness is available intermittently or through a reduced schedule. Intermittent leave involves taking separate blocks of time ranging from an hour to several weeks, such as for regular doctor visits or periodic ultrasound tests. A "reduced schedule" means shortening your workday or workweek to accommodate a serious medical condition.</p> <p>A female employee may take FMLA leave in increments or part time for pregnancy complications and/or for recovery from childbirth. Any eligible employee may take FMLA leave in increments or part time in order to care for a child or other close family member with a serious medical condition. Parental leave under FMLA to care for a healthy child, however, must be taken on a full-time basis in consecutive weeks and must be exercised within 12 months of the birth or adoption of the child. Your contract may permit intermittent or part-time parental leave even though it is not required under the law (See</p>		<p>You may take up to 24 hours of leave per year in small increments as needed. The employer may choose to limit the increments to one hour or more, subject to collective bargaining.</p>
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		your Unit Contract).		
<b>Can I be forced to begin or end my parental leave at a certain time?</b>	Leave exercised pursuant to the Massachusetts Parental Leave Law may commence only upon the birth or adoption of a child and must be taken consecutively, so neither the employer nor the employee has discretion with respect to that matter.	<p>Family and Medical Leave Act leaves the timing of your leave up to you. Under no circumstance can the employer force you to begin your leave sooner than you wish – such as at the beginning of an academic term.</p> <p>Regarding your return date, the FMLA does contain one exception to these general rules. If the leave you request would end during the final weeks of a semester, then under some circumstances the employer may require you to remain on leave until the end of that academic term. Since this is optional under the law, the employer would have to negotiate with the local association before imposing such a requirement (See your Unit Contract).</p>	The Pregnancy Discrimination Act prohibits your employer from requiring you to leave your job before you want to.	Your employer may not require that you take more SNLA leave time than you require.
<b>If vacation days occur during my leave, do they count</b>	Under the Massachusetts Parental Leave Law, the issue is not settled. An argument also can be made that vacation weeks	Vacation weeks do not count against your 12-week entitlement.		

<p><b>against me?</b></p>	<p>should not count against the eight weeks of MPLL leave.</p>			
<p><b>Do I need to provide medical certification for leave?</b></p>	<p>No medical documentation or certification is required in order to obtain parental leave.</p>	<p>No medical documentation or certification is required in order to obtain parental leave.</p> <p>For other periods of illness or disability relating to your pregnancy (that is for an employee's serious medical condition): (See Form WH-380-E).</p>	<p>Your employer may request that you submit medical verification of your need for leave only if the employer normally requires a doctor's statement for other kinds of medical leave.</p>	<p>No medical documentation or certification is required in order to obtain leave.</p>
<p><b>Am I eligible for short or long term disability insurance benefits for pregnancy or childbirth?</b></p>			<p>If your employer provides such benefits, the Pregnancy Discrimination Act requires that they be made available for pregnancy and childbirth on the same basis as any other disability.</p>	
<p><b>Am I entitled to health insurance coverage while on</b></p>	<p>During your leave under the 8 week MPLL, your employer must continue your group insurance</p>	<p>While you are on FMLA leave (whether parental leave or medical leave), your employer</p>		



<p><b>parental leave? Must the employer continue to pay its portion of the premium?</b></p>	<p>coverage. If you remain on leave beyond your MPLL entitlement, the municipal health insurance law (M.G.L. c. 32B) allows you to remain within the group insurance plan.</p>	<p>must continue your group insurance coverage. Under the FMLA, your employer must also continue to pay its portion of your health insurance premiums, even if the leave is without pay.</p> <p>If you remain on leave beyond your FMLA entitlement, the municipal health insurance law (M.G.L. c. 32B) allows you to remain within the group insurance plan. However, whether the employer must continue to contribute toward your premium would depend on whether your leave was parental or medical.</p> <p>If you are on paid parental leave, your employer must continue to contribute toward your health insurance premiums. If you are on unpaid parental leave, your employer is generally prohibited from contributing toward your health insurance premiums.</p> <p>If you are on paid or unpaid medical leave (for example, because you have experienced prolonged complications from your pregnancy or childbirth), the municipal health insurance law requires your employer to continue its normal contributions toward your health insurance.</p> <p>Pregnancy Discrimination Act</p>		
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		(PDA)		
<b>Will my job be kept open for me while I'm on leave?</b>	When you return from leave under the MPLL, your employer must restore you to your previous position or a position that is equivalent in benefits, pay, seniority and other terms and conditions of employment. A school district may follow "established practices" and the collective bargaining agreement in determining an "equivalent" position. A district cannot impose requirements (such as an additional license) that effectively preclude your return to work.	When you return from leave under the FMLA, your employer must restore you to your previous position or a position that is equivalent in benefits, pay, seniority and other terms and conditions of employment. A school district may follow "established practices" and the collective bargaining agreement in determining an "equivalent" position. A district cannot impose requirements (such as an additional license) that effectively preclude your return to work.		
<b>Will my job be kept open for me while I'm on leave?</b>	See your contract.	See your contract.	See your contract.	See your contract.
<b>What effect will parental leave have on my seniority?</b>	Your seniority cannot be broken during a period of statutorily or contractually allowed leave. This means that if you have seven	Your seniority cannot be broken during a period of statutorily or contractually allowed leave. This means that if you have seven		

	<p>years of seniority at the time you begin your leave, you will return to work with a minimum of seven years of seniority. MPLL does not entitle you to accrue additional seniority during your leave. That is, if you take a one-year parental leave, the law does not require your employer to give you seniority credit for that year. However, your contract may allow such accrual, especially for those portions of your leave that are taken with pay (See your Unit Contract).</p>	<p>years of seniority at the time you begin your leave, you will return to work with a minimum of seven years of seniority. FMLA does not entitle you to accrue additional seniority during your leave. That is, if you take a one-year parental leave, the law does not require your employer to give you seniority credit for that year. However, your contract may allow such accrual, especially for those portions of your leave that are taken with pay (See your Unit Contract).</p>		
<p><b>Will leave affect my PTS status?</b></p>	<p>If you have Professional Teacher Status at the time you take leave under MPLL, the leave will not affect your status.</p> <p>If you do not have PTS, it is uncertain whether MPLL leave will affect you. The law provides that you acquire PTS after you have worked 3 consecutive school years for the same school district. The courts have interpreted this requirement to mean 3 “complete” school years. It is unlikely that exercise of paid leave time would make the school year “incomplete.” However, it is possible that a significant period of unpaid leave would make a school year</p>	<p>If you have Professional Teacher Status at the time you take leave under FMLA, the leave will not affect your status.</p> <p>If you do not have PTS, it is uncertain whether FMLA leave will affect you. The law provides that you acquire PTS after you have worked 3 consecutive school years for the same school district. The courts have interpreted this requirement to mean 3 “complete” school years. It is unlikely that exercise of paid leave time would make the school year “incomplete.” However, it is possible that a significant period of unpaid leave would make a school year</p>		

	incomplete and therefore not count toward PTS.	incomplete and therefore not count toward PTS.		
<b>Can I be dismissed during my leave?</b>	<p>You cannot be laid off or dismissed because you took your lawfully entitled leave.</p> <p>However, if your employer can prove that you would have been laid off or dismissed even if you had not taken leave, you can be laid off or dismissed during your leave. You retain the same bumping, transfer and recall rights that you would have had if you had not taken leave.</p>	<p>You cannot be laid off or dismissed because you took your lawfully entitled leave.</p> <p>However, if your employer can prove that you would have been laid off or dismissed even if you had not taken leave, you can be laid off or dismissed during your leave. You retain the same bumping, transfer and recall rights that you would have had if you had not taken leave.</p>		
<b>If I'm laid off during parental leave, may I collect unemployment compensation?</b>	<p>Yes, provided you meet the general requirements for unemployment compensation. Among those requirements are that you are able to work and available for work and that you have unsuccessfully sought work.</p>	<p>Yes, provided you meet the general requirements for unemployment compensation. Among those requirements are that you are able to work and available for work and that you have unsuccessfully sought work.</p>		

<p><b>Will my leave count as "creditable service" for retirement?</b></p>	<p>Under the Massachusetts retirement statute, you receive creditable service for paid leave. But any period of time in excess of one month you are on an unpaid leave for any reason does not count as creditable service. A retirement system has discretion to allow creditable service for an unpaid leave of less than one month and the Massachusetts Teachers' Retirement System allows such credit. Thus, if you are a teacher and normally work a 10-month school year, you will lose one-tenth of a year of creditable service for the period of time you are on an unpaid leave in excess of one month.</p> <p>However, your membership in the Massachusetts Teachers' Retirement System (or other public employee retirement system) will not be affected by your authorized leave of absence. You will also retain the service credit or other rights that you have earned at the time the leave commenced.</p>	<p>Under the Massachusetts retirement statute, you receive creditable service for paid leave. But any period of time in excess of one month you are on an unpaid leave for any reason does not count as creditable service. A retirement system has discretion to allow creditable service for an unpaid leave of less than one month and the Massachusetts Teachers' Retirement System allows such credit. Thus, if you are a teacher and normally work a 10-month school year, you will lose one-tenth of a year of creditable service for the period of time you are on an unpaid leave in excess of one month.</p> <p>However, your membership in the Massachusetts Teachers' Retirement System (or other public employee retirement system) will not be affected by your authorized leave of absence. You will also retain the service credit or other rights that you have earned at the time the leave commenced.</p>		
<p><b>What type of medical documentation can my employer require</b></p>		<p>When you return from leave, your employer may require you to submit to a medical verification of "fitness for duty"</p>		

<p><b>when I return from leave due to pregnancy?</b></p>		<p>(i.e., a doctor's note) only if the following factors are present: (1) You are returning from a medical leave related to your own personal illness or injury that made you incapable of performing your job; (2) The employer has a uniform policy of requiring similarly situated employees to submit fitness-for-duty certifications when returning from medical leave; (3) The medical verification is limited to the illness for which you took your leave; or (4) The certification relates to an essential function of your job.</p> <p>The certification itself need be only a simple statement of your ability to return to work. If the employer correctly follows certain procedural requirements, it could require certification with respect to your ability to perform essential job functions and could contact your doctor to get clarification of the certification.</p> <p>If your contract does not allow fitness-for-duty certifications or otherwise gives you more rights than the Family and Medical Leave Act does, then your employer must follow the contract (See your Unit Contract).</p>		
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