

*Distribution of this Bulletin: Please ensure this bulletin is circulated to the **payroll manager** and all administrative staff in both the district office and schools as appropriate.*

Teacher Maternity and Parental Payments

Background

❖ Reduction in EI Waiting Period to 1 Week

In 2017, the two week waiting period for Employment Insurance (EI) benefits was reduced to one week. BCPSEA and BCTF reached an interim agreement ([@issue No. 2017-15](#)) which, as permitted by transitional provisions in the *Employment Insurance Act*, resulted in districts paying both the second week of the waiting period and the first week of top-up (if applicable) to teachers in the second week of the leave.

❖ Expiry of Interim Agreement

As this interim agreement between BCPSEA and the BCTF expires December 31, 2020, the parties have sought resolution of the matter through mediation. The practice under the interim agreement of paying twice in week two cannot continue, as the transitional provisions of the *Employment Insurance Act*, which permit such a payment, are set to expire.

New Advice to Districts

A Settlement Agreement was reached between BCPSEA and BCTF (attached) **effective December 1, 2020**, and is applicable in all districts that provide any of the following:

- Payment during the waiting period for teachers on maternity or parental leave
- Top-up payments to teachers receiving maternity or parental EI benefits.

❖ **Action Required: Settlement Agreement Summary — Effective December 1, 2020**

1. Districts will return to providing payments during the waiting period, and top-up payments for maternity and parental leave as set out in the collective agreement (i.e., no more double payment in week two); and
2. Where an employee serves a waiting period for maternity or parental EI benefits and is entitled under the collective agreement to payments during the first two weeks of the leave (or equivalent language referencing the waiting period) the district will:
 - a. pay the first week of that payment in the first week of the leave

- b. issue an ROE, subject to direction from Service Canada, after the first week of the leave which reflects the payment in the first week of the leave, and
- c. pay the second week of that payment during the second week of the leave.

We note, that **in order to achieve issuing the ROE at the end of the first week of the leave, districts may need to create a new code in their payroll system** for the first week of the leave.

3. Where, based on the collective agreement requirements, this may result in a payment to which a teacher is not entitled, the district may require a teacher to execute an agreement acknowledging that the overpayment constitutes a debt owing to the district and assigning wages to the district to repay the overpayment. The district will work with the teacher and the local union to determine an appropriate schedule of repayment.

❖ **Intention for the Settlement Agreement**

The Settlement Agreement, which is effective December 1, 2020, is intended to facilitate teachers receiving the same amount of payments from the district as they would have prior to the reduction in waiting period, while also avoiding a reduction in EI benefits. In order to achieve this:

- **districts need to issue the ROE at the end of the first week of the leave**, and
- **teachers will need to commence the EI benefits process one week later than they have historically so that they are servicing the EI waiting period in the second week of the leave.**

There is no intention to change any of the other operational requirements for maternity and parental benefits provided under the collective agreement. Any requirements of the collective agreement such as teachers being required to be in receipt of EI benefits or payments only occurring through the school year will continue to apply.

❖ **Action Required: Advice to teachers applying for maternity or parental EI benefits**

In advance of the December 1, 2020 implementation date, it is recommended that districts provide information about this Settlement Agreement to teachers who are commencing a maternity or parental leave. The advice should include when districts will be providing an ROE for the leave (i.e., week two of the leave), and that a teacher serving a maternity or parental leave waiting period should be commencing the EI benefits process such that they serve the EI benefits waiting period in the second week of their leave.

It is anticipated that unions will also be providing messaging to teachers commencing maternity and parental leave. District may want to work with their local union to coordinate the messaging.

❖ **How is this permitted?**

First, it is important to separate the granting of the leave from the receipt of benefits. These are processes that operate independently.

1. Teachers are granted maternity and parental leave under the collective agreement / the *Employment Standards Act*, a BC statute.

2. Maternity and parental leave payments during the waiting period and top-up of EI benefits is provided under the collective agreement.
3. EI maternity and parental benefits are provided under the *Employment Insurance Act*, a federal statute.

The granting of maternity and parental leave is not impacted by this Settlement Agreement in any way.

The *Employment Insurance Act* requires that the 15 weeks of EI maternity benefits provided under the Act must end no later than 17 weeks after the later of the expected or actual birth date. This allows teachers to serve the EI waiting period in the second week of maternity leave and then receive their EI maternity benefits in weeks 3 to 17 of their leave.

❖ Are There Examples to Follow?

Yes, the Settlement Agreement sets out three examples to help illustrate the process. These examples are included in the following pages as Appendix A.

Questions

If you require assistance or wish to discuss this issue further, please contact your BCPSEA [labour relations liaison](#).

Attachment:

BCPSEA - BCTF Settlement Agreement dated September 29, 2020 *RE: Impact of reduced Employment Insurance waiting period on Maternity/Parental supplemental employment benefit provisions.*

Appendix A: Examples

Example 1: Maternity Leave with Two Week Payment and 15 Week Top-up

The collective agreement provides that teachers are entitled to be paid 95% of their current salary for the first two weeks of the leave and, if eligible for EI benefits, the difference between EI benefits and 75% of their salary for a further 15 weeks.

If a teacher commences maternity leave on December 1 and is eligible for EI benefits, they will receive 95% of their current salary for the first two weeks of the leave. They will receive an ROE after the first week, will apply for EI and serve their one week waiting period in the second week of the leave, and will receive 15 weeks of EI benefits with top up to 75% in weeks 3 to 17 of the leave.

	Week 1	Week 2	Week 3	Week 4	Onward
Employee	Commence maternity leave	Leave week 2	Leave week 3	Leave week 4	→
		Complete EI application to Service Canada			
Employment Insurance - Maternity	-	Serve EI one week waiting period	Commence EI week 1	EI week 2	→
Collective Agreement Language	95% current salary	95% current salary	75% current salary less EI benefit	75% current salary less EI benefit	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 95% provided in the waiting period</i>	<i>Pay 95% provided in the waiting period</i>	<i>Pay top up to 75%</i>	<i>Pay top up to 75%</i>	→

Example 2: Maternity Leave with Two Week Payment and no Further Top-up

The collective agreement provides that teachers are entitled to be paid 85% of their current salary for the first two weeks of the maternity leave. There is no top up of EI maternity benefits.

If a teacher commences maternity leave on December 1, they will receive 85% of their current salary for the first two weeks of the leave. They will receive an ROE after the first week which they can use to apply for EI benefits.

	Week 1	Week 2	Week 3	Week 4	Onward
Employee	Commence maternity leave	Leave week 2	Leave week 3	Leave week 4	→
		Complete EI application to Service Canada			
Employment Insurance - Maternity	-	Serve EI one week waiting period	Commence EI week 1	EI week 2	→
Collective Agreement Language	85% current salary	85% current salary	-	-	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 85% provided in the waiting period</i>	<i>Pay 85% provided in the waiting period</i>	-	-	→

Example 3: Parental Leave Where Waiting Period is Served

The collective agreement provides that teachers are entitled to be paid 95% of their current salary for the first two weeks of the parental leave when serving a waiting period for parental EI benefits, and the difference between EI parental benefits and 95% of their current salary for a maximum of 10 weeks thereafter.

	Week 1	Week 2	Week 3	Week 4	Onward
Employee	Commence parental leave where waiting period required	Leave week 2	Leave week 3	Leave week 4	→
		Complete EI application to Service Canada			
Employment Insurance - Parental	-	Serve EI one week waiting period	Commence EI week 1	EI week 2	→
Collective Agreement Language	95% current salary	95% current salary	95% current salary less EI benefit	95% current salary less EI benefit	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 95% provided in the waiting period</i>	<i>Pay 95% provided in the waiting period</i>	<i>Pay top up to 95%</i>	<i>Pay to up to 95%</i>	→