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BC EMPLOYMENT STANDARDS ACT: CHANGES AND UPDATES

By Tamina Mawji

In recognition of the federal EI benefit program's new options surrounding parental leave, the BC government made important changes to its *BC Employment Standards Act* ("ESA"), which now bring BC in line with federal employment insurance benefits. In addition, new job protected leaves of absences were introduced. Included in the changes to the ESA are enhanced mandatory leave of absence entitlements for BC employees who take unpaid leave in special circumstances.

The amendments to the ESA are now in effect. They introduce and impact the following job protected leaves:

Extensions to Existing Leaves of Absences	New Leaves
<ul style="list-style-type: none"> • Pregnancy Leave • Parental Leave • Compassionate Care Leave 	<ul style="list-style-type: none"> • Crime-Related Child Disappearance Leave • Child Death Leave

Employers need to ensure compliance with the new leaves of absence protection provided under the ESA, particularly as the changes apply to both unionized employees covered under a collective agreement as well as non-unionized employees in BC. These are mandatory leave of absence entitlements that employers are required to permit to eligible employees.

Changes to Existing Statutory Leaves of Absence

1) Amendment to Pregnancy Leave – Section 50

Employees are entitled to commence unpaid Pregnancy Leave as early as 13 weeks (up from 11 weeks) prior to the expected birth date. The amendment increases the entitlement for an employee who requests leave after giving birth to a child to 17 weeks (up from 6 consecutive weeks) beginning no later than the date of the birth.

The length of the unpaid Pregnancy Leave remains the same at 17 weeks in total.

2) Extension of Parental Leave – Section 51

The amendments to parental leave harmonize the changes announced by the federal government to Employment Insurance ("EI"), which gives parents the choice of receiving EI benefits over 35 weeks at 55% of their insurable earnings or EI benefits over a 61 week period at 33% of their insurable earnings.

Birth mothers who take pregnancy leave may take up to 61 consecutive weeks (up from 35 weeks) of unpaid leave immediately following pregnancy leave, for a total of 78 weeks (18 months) of unpaid pregnancy and parental leave.

Continued on next page

STAY IN TOUCH

We welcome all suggestions and comments. Feel free to send your feedback to Doris Sun, Director of Communications, at: dsun@cssea.bc.ca.

All other parents may take up to 62 consecutive weeks (up from 37 weeks) of unpaid leave within 78 weeks (18 months) of the child's birth or placement.

This extended Parental Leave applies retroactively where the child in respect of whom the employee takes Parental Leave was born or was placed with the parent (as applicable) on or after December 3, 2017. As a result, employees who have requested and have already begun parental leave on or after December 3, 2017, will be able to extend their parental leave request and take advantage of the maximum entitlement if they wish.

3) Extension of Compassionate Care Leave – Section 52.1

Employees are entitled to an increased Compassionate Care Leave of up to 27 consecutive weeks (up from 8 weeks) of unpaid leave to provide care or support to a family member where that family member has a serious medical condition with a significant risk of death within a 52 week period. The employer has the discretion to allow the leave to be taken intermittently.

Employees who have requested compassionate care leave or are already on compassionate care leave are able to take the extended compassionate care leave, minus any time already taken, if, as of May 17, 2018: (1) the employee is already on compassionate care leave; or (2) the employee has requested but not yet begun compassionate care leave; or (3) the employee already took compassionate care leave for this relative under the former section, but it was taken within the last 52 weeks.

New Statutory Leaves of Absences

1) Leave Respecting Disappearance of Child – Section 52.3

As of May 17, 2018, employees are entitled to up to 52 weeks unpaid leave for an employee whose child (under 19) disappears and it is probable, in the circumstances, to be a result of a crime. The leave must be taken in one consecutive period within the period from the date of the disappearance and 53 weeks later, though it may be taken intermittently with the employer's consent.

The leave is not available, or if already taken, will end if the employee is charged (but not necessarily convicted) with a crime that resulted in the child's disappearance. Despite the general 52 week timeline, the unpaid leave may end earlier if the child is found alive; in such circumstances, the leave of absence ends 14 days after the child is found. If the child is deceased, then the leave of absence ends on the date the child is found. The employee would then be entitled to the Child Death leave described below.

This addition brings BC in line with several other provinces that have comparable statutorily protected leave for employees whose child disappears as a result of crime.

2) Leave Respecting Death of Child

Previously, the general bereavement leave provision of the ESA allowed an employee up to three days unpaid leave on the death of an immediate family member, including a child.

As of May 17, 2018, employees are entitled to up to 104 weeks of unpaid leave upon the death of his or her child (under 19 years). The leave must be taken in one consecutive period within the period of the child's death or date the child is found dead and 105 weeks later, though it may be taken intermittently with the employer's consent.

The leave is not available, or if already taken will end, if the employee is charged with a crime that resulted in the child's death.

Rights and Benefits During Job Protected Leaves of Absence

In particular, while an employee is on any of the leaves referred to above, the employee's employment is considered continuous for the purposes of calculating annual vacation and termination entitlements, as well as for pension, medical or other benefit plans.

Employers should be aware that while an employee is on leave, the employer must continue to make payments to benefit plans unless the employee chooses not to continue with his or her share of the cost of the plan.

The employee on leave would also be entitled to all wage or salary increases that he or she would have received had the leave not been taken.

As these are job protected leaves, when the leave ends, the employee must be returned to his or her former position or to a comparable position.

Overlapping Entitlements

Note that the same circumstances may entitle an employee to more than one of the leaves of absences described above. For example, an employee may take a Leave Respecting Death of Child and could also be eligible to take bereavement leave in the event of the death of a member of the employee's immediate family, including a child.

Employers should consider how these amendments will impact their organization. In addition to updating their policies on leaves of absence, employers who offer supplementary employment insurance top-ups to employees on pregnancy and/or parental leave may need to review those arrangements in light of the changes to leave periods.

THANKS AGAIN TO OUR 2019 BARGAINING COMMITTEE!

We appreciate the dedication and commitment of our 2019 Bargaining Committee and thank them for their tremendous efforts in securing three-year tentative agreements for the sector.

Indigenous Services:

Lyndale George, Executive Director, Haida Child and Family Services Society

Bernadette Spence, Chief Executive Officer, Vancouver Aboriginal Children & Family Services Society

General Services:

Diane Entwistle, Chief Executive Officer, Okanagan Boys & Girls Clubs

Deborah Joyce, Chief Executive Officer, District 69 Family Resource Association

Judy Valsonis, Executive Director, Touchstone Family Association

Sanjay Gulati, Executive Director (Alternate), Mission Community Services Society

Community Living Services:

Fernando Coelho, Chief Executive Officer, posAbilities Association of British Columbia

Tammy Khanna, Executive Director, Independent Living Housing Society of Greater Victoria

Tanya Sather, Executive Director, Burnaby Association for Community Inclusion

Janice Barr, Executive Director (Alternate), Richmond Society for Community Living

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Sara Grujin, Advocate, HRLR Services

Courtney McLachlan, Advocate, HRLR Services

Vangie Johnson, Executive Administrative Assistant to HRLR Services



Even though 2019 bargaining has concluded, we still require your completion of the 2018 Compensation and Employee Turnover Survey so we can determine the accurate costing of the general wage increase and low wage redress fund allocation.

Obtain an online copy of the survey at: <https://www.cssea.bc.ca/>

REGISTER FOR AGM AND CONFERENCE

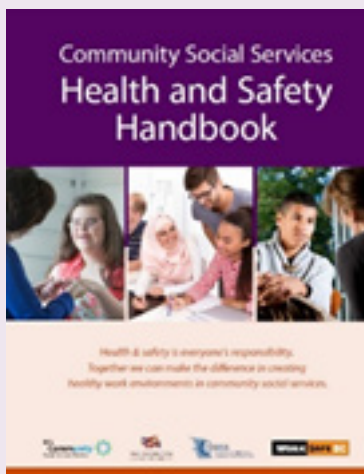


Registration for the 2018 AGM and Conference, *Leading in Complexity*, is now in full swing! The conference will be taking place October 9-11 at the Marriott Vancouver Pinnacle Downtown hotel in beautiful Coal Harbour. We are excited about our lineup of leadership-focused sessions this year and encourage you to take a look at our conference website to browse full descriptions.

We negotiated a limited block of hotel rooms at the discounted price of \$229 for a standard guest room. Reserve your room before they sell out! As an added incentive, CSSEA will be giving away two free one-night stays at the Marriott to two registrants who register and reserve their room before August 15th. Good luck to all registrants!

Register now at: <https://conference.cssea.bc.ca/>

CSS HEALTH AND SAFETY HANDBOOK AND UPCOMING PRESENTATIONS



The recently launched Community Social Services Health and Safety Handbook is a valuable resource that provides best practices strategies on how employers can reduce or prevent injuries for CSS workers. In the event of an occupational injury, the Handbook also walks employers through how they should report and respond and how to effectively reintegrate workers back into the workplace. It includes a summary of joint health and safety committees and the WorkSafeBC Certificate of Recognition program, as well as references to the *Workers Compensation Act* and the *Occupational Health and Safety Regulation* when applicable.

To support the launch of this Handbook, a series of regional presentations are being planned around the province in September and October. The sessions will allow participants to:

- Obtain an in-depth overview of the Community Social Services Health & Safety Handbook
- Receive an overview on best practices pertaining to injury prevention, return to work and disability management
- Learn how to access vital information on your injury rate, return to work and disability management performance
- Discuss current health and safety challenges in community social services
- Engage on health & safety issues and interact directly with presenters and WorkSafeBC specialists
- Receive a hard copy of the Handbook

Stay tuned for registration details, dates, times and locations!

SNAPSHOTS OF 2019 BARGAINING



Listening was an integral part of the bargaining experience, as exemplified by Diane Entwistle (foreground), Tammy Khanna and Fernando Coelho.



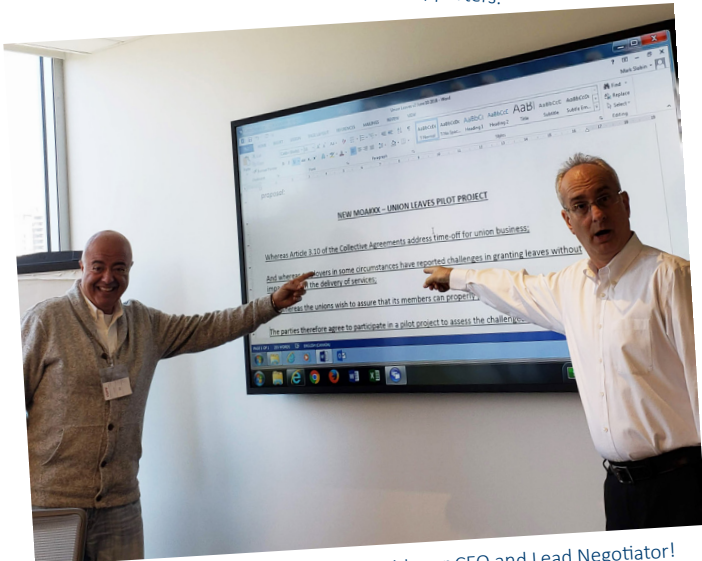
CEO Gentil Mateus and Vice-Chair Fernando Coelho talking strategy.



Sara Grujin, Advocate, was one of CSSEA's staff supporters.



Brainstorming sessions involved candid and open dialogue.



There were also some light moments with our CEO and Lead Negotiator!



Healthy snacks (and some junk food) powered the long days and nights.