

**The Commonwealth of Massachusetts
Commission Against Discrimination**

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MATERNITY LEAVE FACT SHEET

**(Massachusetts General Laws, Chapter 149, Section 105D, Chapter 151B,
Section 4)**

**MASSACHUSETTS LAW STATES THAT AN EIGHT WEEK, UNPAID
MATERNITY LEAVE MAY BE TAKEN BY A FEMALE EMPLOYEE WHO
IS:**

- * Giving birth to a child
- * Adopting a child who is under 18 years of age, or
- * Adopting a person under the age of 23 who is mentally or physically disabled

**AN EMPLOYER IS REQUIRED TO PROVIDE SUCH AN EMPLOYEE A
MATERNITY LEAVE IF THE FOLLOWING CONDITIONS ARE MET:**

- 1) The employee must have completed the probationary period set by her employer, which cannot exceed six (6) months. If no probationary period has been set, the employee must have been continuously employed for at least three (3) consecutive months.
- 2) The employee must give at least two (2) weeks notice to her employer of her expected departure date, as well as notice that she intends to return to her job.
- 3) The employee must be a regular full time employee, and not a temporary or intermittent employee.

**IT IS ILLEGAL FOR THE EMPLOYER TO REQUIRE THE EMPLOYEE
TO LEAVE HER JOB AT SOME ARBITRARY STAGE IN HER PREG-
NANCY, OR TO REFUSE TO LET HER RETURN TO WORK UNTIL A
SPECIFIED TIME SET BY THE EMPLOYER.**

**IF A WOMAN IS ORDERED TO LEAVE WORK BY A DOCTOR, AND
PROVIDES HER EMPLOYER WITH DOCUMENTATION OF SUCH,
THEN THAT PERSON MAY BE CONSIDERED TO BE A QUALIFIED
HANDICAPPED INDIVIDUAL ON LEAVE OF ABSENCE TO REASON-
ABLY ACCOMMODATE HER DISABILITY, AND MAY NOT BE CONSID-
ERED TO BE ON MATERNITY LEAVE DURING THIS TIME.**

**THE EMPLOYEE CANNOT BE PENALIZED FOR TAKING A MATER-
NITY LEAVE.**

* The employer is required to restore the employee to her previous position, or to a reasonably similar position, without detriment to her pay, hours, status, length of service credit, or seniority (if applicable), unless the employer can demonstrate that other employees of equal length of service credit and status, in the same or similar positions have been laid off due to a legitimately motivated reduction in force.

* An employee returning from maternity leave is entitled to receive vacation time, sick leave, bonuses, advancement, seniority (if applicable), length of service credit, benefits, plans or programs for which she was eligible on the date of her leave. However, the employer is not required to include the period of the employee's leave in the computation of said benefits.

DURING HER EIGHT WEEK MATERNITY LEAVE, THE EMPLOYEE MAY USE OTHER TYPES OF PAID LEAVE FOR WHICH SHE IS ELIGIBLE, SUCH AS VACATION TIME, PERSONAL LEAVE, OR SICK LEAVE.

* The employer may restrict the use of sick leave to maternity leaves involving birth. Adoption is not viewed as a medical disability.

* The employer cannot *require* the employee to use paid leave for her maternity leave if she does not wish to do so.

THE EMPLOYER'S MATERNITY LEAVE POLICY MUST BE CONSISTENT WITH THE EMPLOYER'S OTHER TYPES OF LEAVE POLICIES.

* If the employer provides pay for all other leaves of absence, the employer must also provide pay for maternity leaves.

* If the employer provides pay for only medical leaves of absence, the employer must provide pay for the period of disability associated with pregnancy and childbirth, but is not required to provide pay for maternity leaves involving adoption.

* Any employer policy or collective bargaining agreement which provides for greater or additional benefits than those required by law must be adhered to.

NOTE: Employees should consult their personnel office, benefits office, or union office to receive the most current information about their employer's maternity leave policy.

If you feel that you have been discriminated against, contact the M.C.A.D. immediately. In all but a few exceptions, the Commission cannot accept complaints based on incidents that are more than 6 months old.