



Massachusetts Commission Against Discrimination

Know Your Rights: A Brief Guide to the Massachusetts Parental Leave Act

Issued: May 17, 2023

The Law: The Massachusetts Parental Leave Act (“MPLA”) guarantees eight weeks of unpaid, job-protected leave from employment for any parent, regardless of that parent’s sex, who is welcoming a new child to the family by birth or adoption. The Massachusetts Commission Against Discrimination (“MCAD”) enforces the MPLA.

Eligibility for Leave Under the MPLA: The law applies to full-time employees who have completed their probationary period. A probationary period is no more than three consecutive months in a full-time position. The law also applies to all domestic workers. Full-time employees and domestic workers must give at least two weeks’ notice of their anticipated date of departure and intention to return to work.

When Parental Leave May be Taken: If an employee meets the eligibility requirements above, the employer must grant eight weeks of unpaid parental leave under the MPLA. Parental leave under the MPLA is available to an employee for the purpose of:

- giving birth and / or caring for a newborn;
- intending to or adopting a child under the age of twenty-three, if the child has a mental or physical disability; or
- intending to or adopting a child under the age of eighteen.

Types of Leave:

- Continuous Leave: Employees may take parental leave for eight continuous weeks.
- Intermittent Leave: Employees may take up to eight weeks in separate blocks of time.
- Reduced Schedule: Employees may take up to eight weeks of time by working less than their typical hours per week or hours per workday.

Both Parents Work for the Same Employer: If two employees who work for the same employer want parental leave for the birth or adoption of the same child, those two employees are only entitled to eight weeks of leave in the aggregate for that particular child.

Employee’s Rights: The MPLA protects an employee by guaranteeing job restoration after an eight-week leave of absence. Parental leave may not affect an employee’s right to vacation time, sick time, bonuses, advancement, seniority, length of service credit, benefits, plans, or programs for which the employee was eligible at the date of their leave.

- Vacation, Sick, and Personal Time: Employees are entitled to maintain their accrued paid time off which they accrued as of the commencement of their leave. They do not accrue

vacation or other time during their leave (unless the employer has a policy allowing such accrual). Employers may not require employees to use vacation or personal time during parental leave, and, with very limited exception, employers may also not require employees to use sick time during parental leave.

- **Return to Work:** Employee's must be restored to their previous or a similar position upon the employee's return to work following leave. That position must have the same status, pay, length of service credit, and seniority as the position the employee held prior to leave.

Prohibited Employer Conduct: An employer who fails to provide an employee with their rights under the MPLA violates M.G.L. c. 151B, §4(11A). An employer may also violate other provisions in Chapter 151B if they discriminate on the basis of a person's membership in a protected class when taking action related to MPLA leave or requests for leave.

- **Denial of Leave:** If an employer refuses to grant the parental leave entitlement to an eligible employee, it has violated the law. To prove a violation the employee must show that: (a) the employee was eligible for the MPLA leave; (b) the employee gave proper notice under MPLA; and (c) the employer refused to grant the MPLA leave.
- **Refusal to Reinstate:** If an employer refuses to reinstate an eligible employee it has violated the law. To prove a violation the employee must show that: (a) the employee was eligible for MPLA leave; (b) the employee gave proper notice under MPLA; (c) the employee was ready, willing, and able to return to work; and (d) the employer refused to reinstate the employee.
- **Penalty:** If an employer penalizes an employee for exercising their rights under the MPLA it has violated the law. To prove a violation the employee must show that: (a) the employee requested or took MPLA leave; (b) the employer penalized the employee; and (c) there was a causal connection between the MPLA leave and the penalty.
- **Discrimination, Harassment, or Retaliation:** If an employer takes actions against an employee for using or requesting MPLA leave, in addition to violating the penalty provision of M.G.L. c. 151B, §4(11A), such action may amount to discrimination on the basis of sex, gender identity, sexual orientation, pregnancy, or other protected classes. An employer may not treat an employee returning from parental leave less favorably than it treats other employees returning to work from parental or other leave.

Enforcement: The MCAD enforces the MPLA. To initiate a formal action, an employee must file a complaint with the Commission. The complaint must be filed within 300 days of the alleged violation of the MPLA, subject only to very limited exceptions. An aggrieved employee is therefore entitled to the same remedies under the MPLA as are generally available pursuant to M.G.L. c. 151B, including but not limited to monetary damages, civil fines, and other equitable remedies.

Paid Family Medical Leave: The MCAD does not oversee or administer the Paid Family and Medical Leave Act. For more information about paid leave in Massachusetts, please visit the Dept. of Family Medical Leave website: <https://www.mass.gov/orgs/department-of-family-and-medical-leave>.