THE FAIR HOUSING LAW

THE FAIR HOUSING LAW DECLARES THAT IT IS ILLEGAL TO DISCRIMINATE ON THE BASIS OF RACE, COLOR RELIGIOUS CREED, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION, AGE, CHILDREN, ANCESTRY, MARITAL STATUS, VETERAN HISTORY, PUBLIC ASSISTANCE RECIPIENCY, OR HANDICAP (MENTAL OR PHYSICAL)

It its unlawful practice for Owners, lessees, sublessees, licensed real estate brokers, assignees, managing agents, or unit owners to refuse (on the basis of membership in one or more of the above groups) the:

Right to Buy Right to Lease Right to Rent

Right of Ownership Right of Possession

Under Massachusetts Law, it is illegal to:

Discourage a person from buying or renting a dwelling in a particular area and encourage him or her to buy or rent in another area.

Represent that a dwelling is not available for sale, rent or inspection when the dwelling is in fact so available.

Charge or quote a higher rental or sale price for a dwelling.

State or provide less favorable terms for the rental or a sale of a dwelling.

Publish discriminatory advertising.

Discriminate in the granting or mortgage loans.

Discriminate on the basis of handicap by refusing to make reasonable accommodations in policies and services or refusing to permit reasonable modifications of dwellings.

Discriminate on the basis of rental subsidy recipiency by refusing to rent to subsidy recipients because of subsidy program requirements.

Refuse to rent to families with children under six because of lead paint.

Notice to Real Estate Agents:
State Law provides *limited* exemptions for owners of *certain types* of residential properties. *These exemptions do not apply to real estate agents.*

Complaints:

ALL COMPLAINTS MUST BE FILED IN WRITING. INFORMATION ON THE FILING OF COMPLAINTS CAN BE OBTAINED BY EITHER VISITING OR CONTACTING THE MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION AT THE FOLOWING LOCATIONS:

One Ashburton Place, Rm. 601
Boston MA 02108
617-994-6000 Voice
617-994-6196 TTY

436 Dwight Street, Rm. 220
Springfield MA 01103
413-739-2145 Voice

www.mass.gov/mcad

Massachusetts General Laws, G.L. c. 151B §7 mandates the posting of this notice.

Massachusetts Commission Against Discrimination

PARENTAL LEAVE

An Act Relative to Parental Leave expands the current maternity leave law, G.L. c. 149, § 105D, which is enforced by the Massachusetts Commission Against Discrimination (MCAD). Currently, Massachusetts law requires employers with six or more employees to provide eight weeks of unpaid maternity leave for the purpose of giving birth or for the placement of a child under the age of 18, or under the age of 23 if the child is mentally or physically disabled, for adoption. The new law goes into effect on April 7, 2015 and expands the current leave law in the following ways:

The parental leave law is now gender neutral. Both men and women are entitled to parental leave.

If the employer agrees to provide parental leave for longer than 8 weeks, the employer must reinstate the employee at the end of the extended leave unless it clearly informs the employee in writing before the leave and before any extension of that leave, that taking longer than 8 weeks of leave shall result in the denial of reinstatement or the loss of other rights and benefits.

The law clarifies that the right to leave applies to employees who have completed an initial probationary period set by the terms of employment, but which is not greater than 3 months.

The law provides that if two employees of the same employer give birth to or adopt the same child, the two employees are entitled to an aggregate of 8 weeks of leave.

The law clarifies that an employee seeking leave must provide at least 2 weeks' notice of the anticipated date of departure and the employee's intention to return, but also permits the employee to provide notice as soon as practicable if the delay is for reasons beyond the employee's control.

The law clarifies that an employee on parental leave for the adoption of a child shall be entitled to the same benefits offered to an employee on leave for the birth of a child.

The law expands the notice requirements, mandating that employers keep a posting in a conspicuous place describing the law's requirements and the employer's policies as to parental leave.

Boston: One Ashburton Place, Room 601, Boston, MA 02108; 617-994-6000
Springfield: 436 Dwight Street, Room 220, Springfield, MA 01103; 413-739-2145
Worcester: 484 Main Street, Room 320, Worcester, MA 01608; 508-453-9630
New Bedford: 800 Purchase, Room 501, New Bedford, MA 02740; 508-990-2390
Visit our website for more resources and instructions on filing a complaint: www.mass.gov/mcad

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Guidelines on M.G.L. c. 149, §105D:

Maternity Leave in the Workplace

Introduction

The Massachusetts Commission Against Discrimination ("MCAD" or "commission") is issuing these guidelines to provide guidance to practitioners, employers, individuals and MCAD staff about how to interpret, apply and enforce the Massachusetts Maternity Leave Act ("MMLA"), M.G.L. c. 149, §105D. The MCAD is responsible for enforcing the MMLA. The standards governing employment practices with regard to maternity leave and related issues are part of the statutory and regulatory framework governing fair employment practices under Massachusetts General Laws Chapter 151B, Chapter 149, §105D, and Code of Massachusetts Regulations, tit. 804, §3.01 and §8.00. These guidelines are issued pursuant to M.G.L. c. 151B, § 2. [1]

Definitions

For the purposes of these Guidelines, the following definitions shall apply:

A. The term "employer" means one or more individuals, governments, government agencies, political subdivisions, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, or receivers, having six or more employees. The term "employer" does not include a club exclusively social, or a fraternal association or corporation, if such club, association or corporation is not organized for private profit. Nonprofit clubs, associations, or corporations which are not exclusively social are not excluded.
B. In determining whether an employee is treated as a "full time" employee the commission considers such factors as hours worked, days worked, benefits received, other leave entitlement, the employer's policies and other factors tending to show whether the employee is treated as a full time employee.
C. The term "maternity leave" means a period of time, not exceeding eight weeks, that a female employee is absent from employment for the purpose of giving birth or adopting a child and subsequently caring for that newborn or adopted child.
D. The phrase "pregnancy related disability" means a physical or mental impairment, associated with an individual's pregnancy, miscarriage, abortion, childbirth, or recovery therefrom, which substantially limits one or more major life activities. [2]
E. The definitions of the terms "disability," "impairment," "substantially limits" and "major life activities" can be found in the MCAD's "Guidelines: Employment Discrimination on the Basis of Handicap - Chapter 151B."
F. Absence for "the purpose of giving birth" as used in the MMLA refers to absence from work for the purpose of preparing for or participating in the birth or adoption of a child, and caring for a newborn or newly adopted child.
G. The term "similar position" is defined in Section IV regarding job restoration after leave.
H. The term "initial probationary period" means a period of time, not exceeding six calendar months, set by an employer to establish initial suitability of an employee to perform a job

notwithstanding the fact that the actual period required to attain tenure or other employment benefits may be longer.

Eligibility for Leave Under the MMLA

A female employee is eligible for maternity leave under the MMLA if:

A. She has completed the initial probationary period, if any, set by the terms of her employment; or, if there is no such probationary period, has been employed by the same employer for at least three consecutive months as a full-time employee; and
B. She is absent from such employment for a period not exceeding eight weeks for the purpose of:
    - giving birth; or
    - adopting a child under the age of 18; or
    - adopting a child under the age of 23, if the child is mentally or physically disabled; and

C. She gives her employer at least two weeks notice of her anticipated date of departure and intention to return.

If an employee meets these eligibility requirements, the employer must grant eight weeks of unpaid maternity leave under the MMLA. An employer cannot refuse to grant MMLA leave on the grounds that doing so would constitute a hardship.

The MMLA, by its terms, provides maternity leave to female employees only. This means that the MCAD is unable to take jurisdiction over claims in which male employees are seeking eight weeks of unpaid paternity leave. Providing maternity leave in excess of the eight weeks required by the MMLA to female employees only, and not to males, would in most circumstances constitute sex discrimination in violation of Chapter 151B.

An employer who provides leave to female employees only, and not to male employees, may also violate the federal prohibitions against sex discrimination even though the employer has acted in compliance with the MMLA. According to the EEOC, "[w]hen an employer does grant maternity leave, the employer may not deny paternity leave to a male employee for similar purposes, e.g., preparing for or participating in the birth of his child or caring for the newborn. Accommodating female but not male employees constitutes unlawful disparate treatment of males on the basis of sex." EEOC Compliance Manual, Section 626.6 on Paternity Leave.

The Massachusetts Supreme Judicial Court has not as of the date of these Guidelines considered whether the MMLA's requirement of leave for females only violates the Massachusetts Equal Rights Amendment, Article CVI of the Massachusetts Constitution. Given the possibility of a successful challenge to the constitutionality of the MMLA, employers should consider providing leave to all members of their workforce who otherwise meet the eligibility requirements of the MMLA.

When Leave May be Taken, and the Type of Leave Taken

A. When Maternity Leave May be Taken
Maternity leave under the MMLA is available to a female employee either "for the purpose of giving birth" or to adopt a child. Thus, it is available at the time of the birth or adoption, but not substantially earlier or substantially later.

B. Paid or Unpaid Leave and Entitlement to Benefits
The MMLA does not require that leave be paid or that maternity leave be included in the computation of benefits, rights and advantages incident to employment, or that an employer pay for the costs of any benefits, plans or programs during the maternity leave. [3]

An employee may, however, be entitled to receive pay or benefits during her maternity leave pursuant to a collective bargaining agreement, company policy, employment contract or other agreement with the employer. In addition, if an employer generally provides pay, benefits or the costs of such benefits to employees on non-MMLA leaves of absence, the employer must provide the same such pay, benefits or costs to employees on MMLA leave. For example, if an employer generally provides pay to employees who are on extended sick leave, the employer must provide pay to employees on maternity leave.

C. Use of Accrued Vacation, Personal and Sick Time During Maternity Leave
If maternity leave is unpaid, the employee must be permitted to use, concurrently with the maternity leave, accrued paid sick, vacation or personal time under the following circumstances.

1. Vacation or Personal Time
An employee may voluntarily use any accrued vacation or personal time she has concurrently with all or part of her maternity leave. Employers cannot require an employee to use her accrued paid vacation or personal time concurrently with all or part of her maternity leave, even if such requirement is imposed upon similarly situated persons who take leave for other reasons.

2. Sick Leave
If an employer provides paid sick leave, an employee may use such sick leave concurrently with any part of her maternity leave that satisfies the employer's sick leave policy. An employer may not require an employee to use her accrued sick leave for any part of her maternity leave that satisfies the employer's sick leave policy, even if the employer requires its employees to use accrued sick leave for other types of absences that satisfy the employer's policy.
The MMLA does not in any way limit the right of an employee to use accrued vacation, sick leave or personal time before her statutory maternity leave begins, or after her leave ends, in accordance with her employer's policies and applicable law.

Job Restoration After Leave

The MMLA requires that an employee on leave be restored to her previous or a similar position upon her return to employment following leave. That position must have the same status, pay, length of service credit and seniority as the position the employee held prior to the leave. If an employee's job was changed temporarily because of her pregnancy prior to leave (e.g., her hours were reduced or her duties

were changed as an accommodation) she should be restored to the same or similar position held prior to such temporary change.
In determining whether a position's "status" is the same or similar, the commission considers such factors as:

- reporting relationships;
- whether the position would be considered a demotion;
- title;
- responsibilities; and
- other evidence tending to illustrate the employee's status.

In determining whether "pay" is the same or similar, the commission considers all compensation, including, but not limited to:

- salary;
- wages;
- bonuses;
- commissions;
- vacations; and
- benefits.

In determining whether a position offered to an employee returning from leave is similar to her prior position, the commission considers, in addition to the factors listed above, such factors as:

- duties, functions and responsibilities;
- location or distance of commute;
- facilities;
- resources or support;
- hours of work;
- training opportunities; and
- opportunities for advancement.

The MMLA also requires that a maternity leave not affect an employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, and any other advantages or rights of her employment incident to her position. Such maternity leave, however, need not be included in the computation of such benefits, rights and advantages. [4] For example, if the employee has accrued 7.5 years of seniority as of the commencement of her leave, she must be returned to work following her leave with the same 7.5 years of seniority.

An employee returning from maternity leave has no greater right to reinstatement or to other benefits and conditions of employment than other employees who were continuously working during the leave period. An employer is not required to restore an employee on maternity leave to her previous or a similar position if other employees of equal length of service credit and status in the same or similar positions have been laid off due to economic conditions or due to other changes in operating conditions affecting employment during the period of such maternity leave; provided, however, that such employee on maternity leave shall retain any preferential consideration for another position to which she may be entitled as of the date of her leave.

Nothing in the MMLA shall be construed to affect any bargaining agreement, employment agreement or company policy providing benefits that are greater than, or in addition to, those required under the statute. An employer may grant a longer maternity leave than required under the MMLA. If the employer does not intend for full MMLA rights to apply to the period beyond eight weeks, however, it must clearly so inform the employee in writing prior to the commencement of the leave. [5]

Sex Discrimination Issues Arising Under M.G.L. c. 151B

Pregnancy and childbirth are sex-linked characteristics, and any actions of an employer that adversely affect an employee because of her pregnancy, childbirth or the requirement of a maternity leave may also amount to sex discrimination under M.G.L. c. 151B. [6] Employers may not treat employees and applicants who are affected by pregnancy or related conditions less favorably than employees who are affected by other conditions but who are similarly able or unable to work. [7] Such disparate treatment may constitute sex discrimination.
An employer may not deny a woman the right to work or restrict her job functions, such as heavy lifting or travel, during or after pregnancy or childbirth when the employee is physically able to perform the necessary functions of her job. The mere fact of pregnancy does not automatically establish a disqualifying disability. An employer may not, therefore, use a woman's pregnancy, childbirth or potential or actual use of MMLA leave as a reason for an adverse job action, such as refusing to hire or promote a woman or for discharging her, laying her off, failing to reinstate her or restricting her duties. An employer may not, moreover, force a pregnant woman to take leave prior to giving birth if she is willing to continue working, nor can an employer prevent her from returning to work after she recovers from any temporary disability associated with her pregnancy or a related condition. [8] Similarly, an employer may not treat an employee returning from maternity leave less favorably than it treats other employees seeking to return to work after comparable absences for non-pregnancy reasons.

Normal pregnancy and related short-term medical conditions may, at some point, incapacitat a woman from performing her usual work for a short period of time. In some circumstances these short-term conditions may rise to the level of a disability under Chapter 151B. [9] Whether or not an employee's short-term condition rises to the level of a disability, an employer must treat such employee in the same manner as it treats employees who are temporarily incapacitated or disabled for other medical reasons. When an employee is unable to perform some or all of the functions of her job, such as heavy lifting, because of pregnancy or a related condition, an employer must offer her the opportunity to perform modified tasks, alternative assignments or a transfer to another available position if the employer offers such opportunities to employees who are temporarily disabled for other reasons. Failure to do so may constitute sex discrimination. It may also constitute sex discrimination for an employer to base employment decisions on a woman's reproductive capacity. For this reason, employers may not adopt policies that limit or preclude women from performing specific jobs or tasks, such as performing physical labor or working with hazardous substances. [10]

Providing maternity leave to female employees and not to males may, in some circumstances, constitute sex discrimination under Chapter 151B, §4(1). See Part III, Eligibility for Leave Under the MMLA.

Pregnancy-Related Medical Conditions as a Disability

Chapter 151B's prohibitions against disability discrimination protect employees who have a pregnancy-related disability. Generally, a normal, uncomplicated pregnancy will not be considered a disability even

if the employee is unable to work for a period of time as a result of the pregnancy or childbirth. A female employee will be considered a "handicapped person", however, if she can show that she has a pregnancy-related physical or mental impairment that substantially limits a major life activity, or that she is regarded as having or has a history of such an impairment. [11]In such a case, the employee is entitled to the same protections under Chapter 151B as are other disabled employees.

Under the MMLA an employer must grant eight weeks of maternity leave to an eligible female employee regardless of whether the employee is incapacitated from working or is a "handicapped person" as defined by Chapter 151B, § 1 during such period. If the employee is disabled at the expiration of her maternity leave, however, the employer may have an obligation, pursuant to Chapter 151B, to provide a reasonable accommodation to her disability. In some circumstances additional leave may constitute such reasonable accommodation. [12];

An employer may not require a pregnant employee to take maternity leave based on the fact that the employee is pregnant, nor may an employer require an employee to remain out of work for a fixed period of time before or after the birth of her child. To the extent that an employee is unable to perform the essential functions of her position, however, the employer should treat the employee as it would treat any other disabled employee, being mindful of obligations of nondiscrimination and reasonable accommodation.

Interrelationship of the MMLA and the FMLA

As described above, the MMLA requires covered Massachusetts employers to provide no fewer than eight weeks of unpaid leave to eligible female employees for the purpose of giving birth or for adopting a child under the age of 18 (or under the age of 23 if the child is disabled).
Employees also may be entitled to leave under the Family and Medical Leave Act ("FMLA"), a federal law enforced by the United States Department of Labor, Wage and Hour Division, that applies to employers with 50 or more employees. The FMLA requires covered employers to provide up to 12 weeks of unpaid leave during a 12-month period to an eligible female or male employee who needs leave: (1) for a serious health condition of the employee which renders him/her unable to perform the functions of his/her job; (2) to care for certain family members who have a serious health condition; or (3) to care for a newborn, adopted or foster child.
In certain instances, the MMLA and FMLA will overlap. Where leave is taken for a reason specified in both the FMLA and MMLA, the leave may be counted simultaneously against the employee's entitlement under both laws. [13] For example, a female employee who takes a leave for the purpose of caring for a newborn or adopted child may be covered both by the FMLA and MMLA. In such an instance, provided that all FMLA requirements are met, the employee's leave may count simultaneously against her 12-week entitlement under FMLA and her 8-week entitlement under the MMLA.

In other instances, however, the MMLA may entitle an employee to leave in addition to leave taken under the FMLA. The FMLA provides that nothing in the law supersedes any provision of state law that provides greater family or medical leave rights. [14] Thus, for example, if an employee takes 12 weeks of FMLA leave for a purpose other than birth or adoption of a child, she will still have the right to take eight weeks of maternity leave under the MMLA.

Unlike the FMLA, the MMLA does not require an employer to specifically designate leave as MMLA leave. Thus, if an employee takes leave for an MMLA purpose, such as giving birth, that leave will count towards that employee's MMLA entitlement whether or not the employer designates it as such. FMLA leave, by contrast, must be specifically designated as such, in writing, in order for that leave to be counted toward that employee's twelve-week entitlement. [15]

Under the MMLA, an employee may take a maternity leave each time she gives birth or adopts a child. Thus, for example, if an employee gives birth in January and adopts a second child in March, she would be entitled to two separate eight-week maternity leaves under the MMLA for a total of 16 weeks. By contrast, under the FMLA, leave is limited to a maximum of 12 weeks in a 12-month period.

Inquiries regarding rights and obligations under the FMLA should be directed to the United States Department of Labor's Wage & Hour Division.

MMLA Notice and Posting Requirements

A. Posting Requirements

All employers must post a notice in a conspicuous place that contains at least the following information: PURSUANT TO M.G.L. C. 151B, §4(1) AND C. 149, §105D EVERY FULL-TIME FEMALE EMPLOYEE IS ENTITLED AS A MATTER OF LAW TO AT LEAST EIGHT WEEKS MATERNITY LEAVE IF SHE COMPLIES WITH THE FOLLOWING CONDITIONS:

1. SHE HAS COMPLETED AN INITIAL PROBATIONARY PERIOD SET BY HER EMPLOYER WHICH DOES NOT EXCEED SIX MONTHS OR, IN THE EVENT THE EMPLOYER DOES NOT UTILIZE A PROBATIONARY PERIOD FOR THE POSITION IN QUESTION, HAS BEEN EMPLOYED FOR AT LEAST THREE CONSECUTIVE MONTHS; AND,
2. SHE GIVES TWO WEEKS' NOTICE OF HER EXPECTED DEPARTURE DATE AND NOTICE THAT SHE INTENDS TO RETURN TO HER JOB.

   SHE IS ENTITLED TO RETURN TO THE SAME OR A SIMILAR POSITION WITHOUT LOSS OF EMPLOYMENT BENEFITS FOR WHICH SHE WAS ELIGIBLE ON THE DATE HER LEAVE COMMENCED, IF SHE TERMINATES HER MATERNITY LEAVE WITHIN EIGHT WEEKS. (THE GUARANTEE OF A SAME OR SIMILAR POSITION IS SUBJECT TO CERTAIN EXCEPTIONS SPECIFIED IN M.G.L. C. 149, § 105D.). ACCRUED SICK LEAVE BENEFITS SHALL BE PROVIDED FOR MATERNITY LEAVE PURPOSES UNDER THE SAME TERMS AND CONDITIONS WHICH APPLY TO OTHER TEMPORARY MEDICAL DISABILITIES. ANY EMPLOYER POLICY OR COLLECTIVE BARGAINING AGREEMENT WHICH PROVIDES FOR GREATER OR ADDITIONAL BENEFITS THAN THOSE OUTLINED IN THIS NOTICE SHALL CONTINUE TO APPLY.

B. Notice by Employees

An employee seeking maternity leave must give two weeks notice of her anticipated date of departure and intent to return. "Anticipated" date of departure does not mean "exact" date. Thus, for example, an employee who gives birth prior to her anticipated departure date is entitled to start her maternity leave earlier. Likewise, an employee may desire to start her leave later or return from leave earlier than anticipated. It is expected that employers and employees will communicate in good faith with regard to making arrangements for leave, taking into account the uncertainty inherent in delivery and adoption dates and the needs of the employer to plan in advance for an employee's absence.

Enforcing Rights Under the MMLA

The MCAD enforces the MMLA. An employee, to initiate a formal action, must file a complaint with the MCAD. The complaint must be filed within 300 days of the alleged violation of the MMLA, subject only to very limited exceptions. A violation of the MMLA constitutes a violation of M.G.L. c. 151B, §4(11A). An aggrieved employee is therefore entitled to the same remedies under the MMLA as are available pursuant to M.G.L. c. 151B.

Hypothetical Questions and Answers Under the MMLA

Question 1: Employee develops a medical condition in the seventh month of her pregnancy. Her doctor hospitalizes her for three weeks until her condition stabilizes, and then she is able to return to work. Would her three-week leave come under the MMLA?

Answer 1: No. The three weeks would not count as MMLA leave because it is not "for the purpose of giving birth." Employee may be entitled, however, to this three weeks of leave under the employer's sick leave or disability policy, under the FMLA, or as reasonable accommodation if the condition constitutes a disability under Chapter 151B. Employee would still be entitled to eight weeks of maternity leave under the MMLA at the time her child is born.

Question 2 Employee schedules her maternity leave to begin before her expected due date. Does the period before the due date count as maternity leave under the MMLA?

Answer 2: Yes. Maternity leave may be taken "for the purpose of giving birth," which is defined as leave taken for the purpose of preparing for or participating in the birth or adoption of a child, and for caring for the newborn or newly adopted child.

Question 3: Employee has a knee operation in January. She takes 12 weeks of leave, which is designated by her employer as FMLA leave. Employee has a baby in June of that year, and requests an additional leave of absence as maternity leave. Employer denies her request for leave, on the grounds that she has used up her total family and/or medical leave entitlement for the year. Has Employer done anything wrong?

Answer 3: Yes. Employee is entitled to an additional eight weeks of leave under the MMLA. The first 12 weeks did not count as MMLA leave, since it was not for the purpose of giving birth or adopting a child.

Question 4: Employee has a baby in January. She takes 12 weeks of leave, which is designated by Employer as FMLA leave. At the expiration of the 12 weeks, she asks for an additional 8 weeks of maternity leave in connection with the same child. Does Employer have to grant her request?

Answer 4: No. Employer has already complied with the MMLA's requirement that Employee receive up to 8 weeks of leave for the purpose of giving birth to a child. In this instance, the MMLA leave runs concurrently with the FMLA leave.

Question 5: Employee has a child in January, and takes eight weeks of leave. In June, she adopts a second child. Is she entitled to eight more weeks of leave?

Answer 5: Yes. The MMLA allows eight weeks of leave each time Employee gives birth or adopts a child.

Question 6: Employee gives birth to twins. She demands 16 weeks of leave, on the grounds that she has given birth twice. Must Employer give her the 16 weeks?

Answer 6: Yes. An employee who gives birth to twins has given birth two times and is entitled to eight weeks of leave for each child.

Question 7: Employee adopts two babies at the same time. How many weeks of leave is she entitled to?

Answer 7: Sixteen weeks. The MCAD treats multiple adoptions the same as multiple births.

Question 8: Employee informs Employer that she is pregnant, that she expects to deliver the baby in June, and that she plans to return to work following her leave. The baby is delivered prematurely, in May. Is Employee entitled to take her maternity leave early?

Answer 8: Yes. The MMLA requires Employee to give two weeks' notice of her "anticipated date of departure and intention to return." Employee has satisfied this requirement; therefore, she is entitled to the leave.

Question 9: At the time her leave begins, Employee has five weeks of accrued vacation time. In the past, employees who have taken disability or sick leave have not been required to use their accrued vacation time concurrently with such leave. Employee informs Employer that she wishes to take a total of 13 weeks of leave, eight weeks of unpaid maternity leave followed by five weeks of paid vacation time. Is she entitled to the 13 weeks?

Answer 9: Yes. Employer must treat Employee consistently with how Employer has treated other employees on a leave of absence. In addition, Employer may not require Employee to use accrued sick or vacation time during her maternity leave.

Question 10: At the time her leave begins, Employee has five weeks of accrued vacation time. In the past, employees who have taken disability or sick leave have been required by Employer to use their accrued vacation time concurrently with such leave. Employee informs Employer that she wishes to take a total of 13 weeks of leave, eight weeks of unpaid maternity leave followed by five weeks of paid vacation time. Is she entitled to the 13 weeks?

Answer 10: Yes. Under the MMLA, Employer may not require Employee to use up her five weeks of accrued vacation time during her eight week MMLA leave, even though Employer has imposed a similar requirement with respect to other types of leave.

Question 11: Employer's maternity leave policy provides eight weeks of leave to female employees only. Does a male employee have a right to leave upon the birth or adoption of his child?

Answer 11: No. The MMLA, by its terms, provides eight weeks of maternity leave to female employees only. An employer who complies with the MMLA by providing eight weeks of maternity leave to female employees only does not violate a male employee's right under Chapter 151B to be free from sex discrimination. However, an employer who provides leave to female employees only, and not to male employees, may violate the federal prohibitions against sex discrimination even though the employer has acted in compliance with the MMLA.

Question 12: Employer's maternity leave policy provides sixteen weeks of leave to female employees only. Does a male employee have a right to leave upon the birth or adoption of his child?

Answer 12: Yes. Providing maternity leave in excess of the eight weeks required by the MMLA to female employees only, and not to males, would in most circumstances constitute sex discrimination in violation of Chapter 151B.

Question 13: Prior to her maternity leave, Employee received dental insurance through Employer, as did all other employees. During the leave, Employer eliminated dental insurance for all employees. Is the employee entitled to dental insurance upon her return from leave?

Answer 13: No, because Employee would have lost the dental insurance even if she had remained at work during her leave.

Question 14: Prior to her leave, Employee was a Vice-president. Upon return from her leave, she was transferred to a position with the same pay, but which was not considered an officer-level position, and which had a lower grade level. No other officer-level employees were similarly transferred. Has Employer complied with the MMLA?

Answer 14: No, because the new position does not have the same status as the prior position.

Question 15: Prior to her leave, Employee was a secretary, working the day shift, at a location 15 minutes from her home. Upon return from leave, she was reinstated as a clerk, working the night shift, but she was transferred to a location one and one-half hours from her home. No other employees were similarly transferred. Has the Employer complied with the MMLA?

Answer 15: No. The two positions are not "similar", because the duties, schedule and commute have changed significantly.

Question 16: While Employee is on leave, Employer decides to eliminate her position for operational reasons. Employer's decision is not in any way linked to Employee's pregnancy or need for maternity leave. Is Employee entitled to reinstatement?

Answer 16: No, because Employee's pregnancy, need for maternity leave and fact that she has taken MMLA leave was not a factor in the decision, and because Employee's position would have been eliminated even if she had remained at work.

Question 17: Employee requests maternity leave. Employer denies the leave, on the grounds that Employee's absence would cause undue hardship to the business. Has Employer complied with the MMLA?

Answer 17: No. If Employee meets the eligibility requirements for the MMLA, she is entitled to take maternity leave, even if granting leave would cause hardship to Employer.

Question 18: During a job interview, an applicant informs Employer that she is pregnant. Employer chooses not to hire her, on the grounds that Employer does not want to have to grant maternity leave. Has Employer done anything wrong?

Answer 18: Yes. Employer may not consider Employee's pregnancy, or potential need for leave, in hiring decisions since doing so would constitute gender discrimination under M.G.L. c. 151B.

Question 19: Employer's Collective Bargaining Agreement provides for six weeks of maternity leave only. Is Employee entitled to a full eight weeks of MMLA leave, even if granting such leave would violate the terms of the Collective Bargaining Agreement?

Answer 19: Yes. Employer may not avoid the requirements of the MMLA by a Collective Bargaining Agreement or other contract.

Question 20: Employer grants a bonus to all employees who have worked for one year. At the time her MMLA leave commences, Employee has worked 10 months. Must Employer grant her the bonus upon her return from leave?

Answer 20: No. Employer need not count the two months of maternity leave in computation of months of service for the purposes of the bonus. Employee may be eligible for the bonus, however, upon completion of two months of service following her return from leave, if similarly situated employees are also deemed eligible for the bonus.

Question 21: Employer's Handbook provides that employees are not eligible for any benefits prior to completing a six-month probationary period. Employee requests to begin maternity leave four months after the start of her employment. Is she entitled to the leave?

Answer 21: No. An employee is not eligible for maternity leave until she has completed the initial probationary period set by her employer which may be as long as six months.

Question 22: Employee who works 25 hours per week is considered a part-time employee under Employer's Handbook, and is not eligible for the benefits given to full-time employees. Is Employee eligible for MMLA leave?

Answer 22: No. Absent other factors tending to show full-time status, Employee would be considered a "part-time" employee, and therefore would not be eligible for MMLA leave. Employee may be entitled to leave under the FMLA, however, or if Employer provides leaves to part-time employees for other reasons.

Question 23: Employee adopts an adult of 21 years of age who has a mental disability. Is Employee entitled to MMLA leave?

Answer 23: Yes. The MMLA applies to adoption of a "child under the age of twenty three if the child is physically or mentally disabled" The MMLA applies to female employees only.

Question 24: Prior to her leave, Employee is eligible for participation in the Company 401K Plan. Upon return from her leave, Employer no longer permits her to participate in the Plan, on the grounds that there has been a break in her service. Has Employer violated the MMLA?

Answer 24: Yes. Maternity leave may not affect Employee's right to participate in programs for which Employee was eligible at the date of her leave.

Question 25: Employer's maternity leave policy provides ten weeks of maternity leave. Employee takes ten weeks of leave. May the Employer deny job restoration on the grounds that Employee has taken more than eight weeks of leave?

Answer 25: The MCAD takes the position that job restoration should not be denied unless the Employer clearly informs the employee in writing prior to the commencement of her leave that taking more than eight weeks of leave will result in the denial of reinstatement.

Footnotes

[1] These guidelines will not answer every question concerning application of the laws regarding maternity leave. The MCAD exists to enforce Mass. Gen. ch. 151B and ch. 149, §105D, and is not bound by federal law. However, "the Federal guidelines can be used to guide Massachusetts in interpreting G.L. c. 151B." Labonte v. Hutchins & Wheeler, 424 Mass. 813, 823 n. 13 (1997). Sources of guidance under analogous federal law include: the Pregnancy Discrimination Act, 42 U.S.C §2000e, §701(k); EEOC Compliance Manual on the Pregnancy Discrimination Act, §626; The Family Medical Leave Act of 1993 ("FMLA"), 29 U.S.C. §12101 et. seq. ; U.S. Department of Labor Regulations: The Family and Medical Leave Act of 1993, 29 C.F.R §825.100 et. seq.

[2] The commission understands that the words "disabled" and "disability" are the more accepted parlance than the words "handicapped" and "handicap" and therefore utilizes the former terms in these guidelines. Those utilizing these Guidelines should note that the words "handicap" and "handicapped" are utilized in the statutes and regulations governing disability discrimination in employment.

[3] Additional protections apply for employees of the Commonwealth. It is unlawful practice "for the commonwealth and any of its boards, departments and commissions to deny vacation credit to any female employee for the fiscal year during which she is absent due to a maternity leave taken in accordance with [the MMLA] or to impose any other penalty as a result of a maternity leave of absence." G.L.c.151B, §4(11A).

[4] As to certain additional protections applicable to employees of the Commonwealth, see footnote 3.

[5] Employers covered by the Family and Medical Leave Act of 1993 ("FMLA") are required to provide and employee with up to twelve weeks of leave. Such employers must, upon an employee's return from FMLA leave, restore the employee to the same or an equivalent position. 29 CFR 825.214

[6] See School Committee of Braintree v. MCAD, 377 Mass. 424, 386 N.E.2d 1251 (1979); White v. Michaud Bus Lines, Inc., 19 MDLR 18, 20 (1997), quoting Lane v. Laminated Papers, Inc., 16 MDLR 1001, 1013 (1994).

[7] See Id.

[8] An employer may, however, make inquiries into the ability of an employee to perform any job-related function, provided that the inquiry is consistent with business necessity and limited to job-related functions. See MCAD Guidelines: Employment Discrimination on the Basis of Handicap, p. 20 (1998).

[9] See Part VII, Pregnancy-Related Medical Conditions as a Disability .

[10] For example, in International Union, UAW v. Johnson Controls, Inc., 499 U.S. 187, 111 S. Ct. 1196 (1991), the Supreme Court struck down an employer's fetal protection policy as a violation of Title VII as amended by the Pregnancy Discrimination Act. The Court found that a policy that prohibits women of childbearing capacity to work in a job that exposes them to certain lead levels was facially discriminatory, and that employing sterile women in these jobs was not a bona fide occupational qualification (BFOQ). Recognizing that the BFOQ test is very narrow, the Court found that fertile women participate in the manufacture of batteries as efficiently as others, and that the concerns about the welfare of future generations cannot be considered the "essence" of the employer's business. "Decisions about the welfare of future children must be left to the parents who conceive, bear, support, and raise them, rather than to the employers who hire those parents." Id. At 206, 111, S.Ct. at 1207.

[11] M.G.L. c. 151B, § 1(17)(definition of "handicapped" person)

[12] For further guidance, see MCAD Guidelines: "Employment Discrimination on the Basis of Handicap- Chapter 151B"

[13] 29 C.F.R. §825.701(a)

[14] 29 C.F.R. §825.701(a)

[15] 29. C.F.R. §825.208

FAIR EMPLOYMENT IN MASSACHUSETTS

Applicants to and employees of private employers with 6 or more employees*, state and local governments, employment agencies and labor organizations are protected under Massachusetts General Laws Chapter 151B from discrimination on the following bases:

RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, SEX, GENDER IDENTITY, SEXUAL ORIENTATION, GENETIC INFORMATION, ANCESTRY, MILITARY SERVICE
M.G.L. c. 151B protects applicants and employees from discrimination in hiring, promotion, discharge, compensation, benefits, training, classification and other aspects of employment on the basis of race, color, religion, national origin (including unlawful language proficiency requirements), age (if you are 40 years old or older), sex (including pregnancy), gender identity, sexual orientation, genetic information, ancestry, and military service. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose an undue hardship.

HARASSMENT
Sexual harassment includes sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with a person's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. ***The law also prohibits harassment based on the protected classes set forth above.***

PARENTAL LEAVE
The law requires employers to grant an employee who has completed an initial probationary period and has given two (2) weeks' notice of the anticipated date of departure and the employee's intention to return, at least eight (8) weeks of paid or unpaid leave for the purpose of childbirth, adoption of a child under 18, or adoption of a child under 23 years old if the child has a mental or physical disability.

DISABILITY
M.G.L. c. 151B prohibits discrimination the basis of disability, a record of disability or perceived disability, in hiring, promotion, discharge, compensation, benefits, training, classification and other aspects of employment. Disability discrimination may include failing to reasonably accommodate an otherwise qualified person with a disability.

RETALIATION
It is illegal to retaliate against any person because s/he has opposed any discriminatory practices or because s/he has filed a complaint, testified, or assisted in any proceeding before the Commission. It is also illegal to aid, abet, incite, compel or coerce any act forbidden under M.G.L. c. 151B, or attempt to do so.

DOMESTIC WORKERS
M.G.L. c. 151B prohibits discrimination and harassment against certain domestic workers where the employer has one (1) or more employee.* While some exclusions apply, domestic workers generally include individuals paid to perform work of a domestic nature within a household on a regular basis, such as housekeeping, housecleaning, nanny services, and/or caretaking. Employers are prohibited from engaging in sexual harassment and harassment and/or discrimination based on the protected classes described above, i.e. race, color, etc. Domestic workers are also entitled to parental leave.

CRIMINAL HISTORY INQUIRIES
The law prohibits employers from asking applicants on an initial employment application for any criminal background information unless an exemption by statute or regulation exists.

MENTAL HEALTH FACILITY ADMISSION INQUIRIES
Employers may not refuse to hire or terminate an employee for failing to furnish information regarding his/her admission to a facility for the care and treatment of mentally ill persons. An employment application may not seek information about an applicant's admission to such a facility.

IF YOU HAVE BEEN DISCRIMINATED AGAINST
If you feel you have been harassed or discriminated against, you should immediately file a charge of discrimination with the **Massachusetts Commission Against Discrimination**, www.mcad.gov, at one of the offices below.

An agreement with your employer to arbitrate your discrimination claim(s) does not bar you from filing a charge of discrimination.

Boston Office: 1 Ashburton Pl., Suite 601, Boston, MA 02108 – P: 617-994-6000 F: 617-994-6024
New Bedford Office: 800 Purchase St., Room 501, New Bedford, MA 02740 – P: 508-990-2390 F: 508-990-4260
Springfield Office: 436 Dwight St., Room 220, Springfield, MA 01103 – P: 413-739-2145 F: 413-784-1056
Worcester Office: 484 Main St., Room 320, Worcester, MA 01608 – P: 508-453-9630 F: 508-755-3861
For more information, please see our website: www.mass.gov/mcad/

Rev. 4/7/2015

EARNED SICK TIME

Notice of Employee Rights

Beginning July 1, 2015, Massachusetts employees have the right to earn and take sick leave from work.

WHO QUALIFIES?

All employees in Massachusetts can earn sick time.

This includes full-time, part-time, temporary, and seasonal employees.

HOW IS IT EARNED?

- Employees earn 1 hour of sick time for every 30 hours they work.
- Employees can earn and use up to **40 hours per year** if they work enough hours.
- Employees with unused earned sick time at the end of the year can **rollover up to 40 hours.**
- Employees **begin earning** sick time on their first day of work and **may begin using** earned sick time 90 days after starting work.

WILL IT BE PAID?

- If an employer has 11 or more employees, sick time must be paid.
- For employers with 10 or fewer employees, sick time may be unpaid.
- Paid sick time must be paid on the same schedule and at the same rate as regular wages.

WHEN CAN IT BE USED?

- An employee can use sick time when the employee or the employee's child, spouse, parent, or parent of a spouse is sick, has a medical appointment, or has to address the effects of domestic violence.
- The smallest amount of sick time an employee can take is one hour.
- Sick time cannot be used as an excuse to be late for work without advance notice of a proper use.
- Use of sick time for other purposes is not allowed and may result in an employee being disciplined.

CAN AN EMPLOYER HAVE A DIFFERENT POLICY?

Yes. Employers may have their own sick leave or paid time off policy, so long as employees can use at least the same amount of time, for the same reasons, and with the same job-protections as under the Earned Sick Time Law.

RETALIATION

- Employees using earned sick time cannnot be fired or otherwise retaliated against for exercising or attempting to exercise rights under the law.
- Examples of retaliation include: denying use or delaying payment of earned sick time, firing an employee, taking away work hours, or giving the employee undesirable assignments.

NOTICE & VERIFICATION

- Employees must **notify** their employer before they use sick time, except in a emergency.
- Employers may require employees to **use a reasonable notification system** the employer creates.
- If an employee is out of work for 3 consecutive days **OR** uses sick time within 2 weeks of leaving his or her job, an employer may require documentation from a medical provider.

DO YOU HAVE QUESTIONS?

Call the Fair Labor Division at 617-727-3465 **Visit** www.mass.gov/ago/earnedsicktime

Commonwealth of Massachusetts
Office of the Attorney General
English - July 2016

The Attorney General enforces the Earned Sick Time Law and regulations.
It is unlawful to violate any provision of the Earned Sick Time Law.
Violations of any provision of the Earned Sick time law, M.G.L. c. 149, §148C, or these regulations, 940 CMR 33.00 shall be subject to paragraphs (1), (2), (4), (6) and (7) of subsection (b) of M.G.L. c. 149, §27C(b) and to §150.
This notice is intended to inform.
Full text of the law and regulations are available at www.mass.gov/ago/earnedsicktime.

Massachusetts Wage & Hour Laws

Office of Massachusetts
Attorney General
Maura Healey

Fair Labor Hotline
(617) 727-3465
TTY (617) 727-4765

www.mass.gov/ago/fairlabor

State law requires all employers to post this notice at the workplace in a location where it can easily be read. M.G.L. Chapter 151, Section 16; 454 C.M.R. 27.07(1)

Minimum Wage

M.G.L. Chapter 151, Sections 1, 2, 2A, and 7

In Massachusetts, all workers are presumed to be employees. The minimum wage applies to **all** employees, except:

- agricultural workers ($8.00 per hour is the minimum wage for most agricultural workers),
- members of a religious order,
- workers being trained in certain educational, nonprofit, or religious organizations, and
- outside salespeople.

Effective Date	Minimum Wage	Service Rate
January 1, 2017	$11.00	$3.75
January 1, 2019	$12.00	$4.35
January 1, 2020	$12.75	$4.95
January 1, 2021	$13.50	$5.55
January 1, 2022	$14.25	$6.15
January 1, 2023	$15.00	$6.75

Tips

M.G.L. Chapter 149, Section 152A; M.G.L. Chapter 151, Section 7

The hourly "service rate" applies to workers who provide services to customers and who make more than $20 a month in tips.
The average hourly tips, plus the hourly service rate paid to the worker must add up to the minimum wage (or more).
Managers, supervisors and owners must never take any part of their employees' tips.
Tips and service charges listed on a bill must be given only to wait staff, service bartenders, or other service employees.
Tip pooling is allowed only for wait staff, service bartenders, and other service employees.

Overtime

M.G.L. Chapter 151, Sections 1A and 1B

Generally, employees who work more than 40 hours in any week must be paid overtime. Overtime pay is at least 1.5 x the regular rate of pay for each hour worked over 40 hours in a week.
For some employees who get paid the "service rate," the overtime rate is 1.5 x the basic minimum wage, *not* the service rate.
Exception: Under state law, some jobs and workplaces are exempt from overtime. For a complete list of overtime exemptions, visit *www.mass.gov/ago/fairlabor* or call the Attorney General's Fair Labor Division at (617) 727-3465.

Payment of Wages

M.G.L. Chapter 149, Section 148; 454 C.M.R. 27.02

The law says when, what, and how employees must be paid. An employee's pay (or wages) includes payment for all hours worked, including tips, earned vacation pay, promised holiday pay, and earned commissions that are definitely determined, due and payable.
Hourly employees must be paid every week or every other week (bi-weekly). The deadline to pay is 6 or 7 days after the pay period ends, depending on how many days an employee worked during one calendar week.
Employees who *quit* must be paid in full on the next regular payday or by the first Saturday after they quit (if there is no regular payday). Employees who are *fired* or *laid off* must be paid in full on their last day of work.

Paystub Information

M.G.L. Chapter 149, Section 148

All employees must get a statement, at no cost, with their pay that says the name of the employer and employee, the date of payment (month, day, and year), the number of hours worked during the pay period, the hourly rate, and all deductions or increases made during the pay period.

Pay Deductions

M.G.L. Chapter 149, Section 148; 454 C.M.R. 27.05

An employer cannot deduct money from an employee's pay unless the law allows it (such as state and federal income taxes), or the employee asked for a deduction to be made for the employee's own benefit (such as to put money aside in the employee's savings account).
An employer cannot take money from an employee's pay for the employer's ordinary business costs (for example: supplies, materials or tools needed for the employee's job). An employer who requires an employee to buy or rent a uniform must refund the actual costs to the employee.
The law also puts limits on when and how much money an employer can take from an employee's pay for housing and meals the employer gives to the employee.

Hours Worked

454 C.M.R. 27.02

Hours worked or "working time" includes all time that an employee must be on duty at the employer's worksite or other location, and works before or after the normal shift to complete the work.

Meal Breaks

M.G.L. Chapter 149, Sections 100 and 101

Most employees who work more than 6 hours must get a 30-minute meal break. During their meal break, employees must be free of all duties and free to leave the workplace. If, at the request of the employer, an employee agrees to work or stay at the workplace during the meal break, the employee must get paid for that time.

Payroll Records

M.G.L. Chapter 151, Section 15

Payroll records must include the employee's name, address, job/occupation, amount paid each pay period, and hours worked (each day and week).
Employers must keep payroll records for 3 years. Employees have the right to see their own payroll records at reasonable times and places.

Sick Leave

M.G.L. Chapter 149, Section 148C

Most employees have the right to earn 1 hour of sick leave for every 30 hours they work, and they may earn and take up to 40 hours of sick leave a year. Employees begin accruing sick time on their first day of work. Employees must have access to their sick leave 90 days after starting work.
Eligible employees may use their sick leave if they or their child, spouse, parent, or spouse's parent is sick, injured, or has a routine medical appointment. They may also use sick leave for themselves or their child to address the effects of domestic violence.
Unless it is an emergency, employees must notify the employer before using sick leave.
Employees who miss more than 3 days in a row may need to provide their employer a doctor's note.

Paid Sick Leave

Employers with 11 or more employees *must* provide paid sick leave. Employers with fewer than 11 employees must provide sick leave; however, it does not need to be paid.

Employers Must Not Discriminate

M.G.L. Chapter 149, Section 105A; M.G.L. Chapter 151B, Section 4

Subject to certain limited exceptions, employers must not pay one employee less for doing the same or comparable work as another employee of a different gender.
They must not discriminate in hiring, pay or other compensation, or other terms of employment based on a person's:

- Race or color
- Religion, national origin, or ancestry
- Sex (including pregnancy)
- Military service
- Sexual orientation or gender identity or expression
- Genetic information or disability
- Age

Small Necessities Leave

M.G.L. Chapter 149, Section 52D

In some cases, employees have the right to take up to 24 hours unpaid leave every 12 months for their:

- child's school activities,
- child's doctor or dentist appointment, or
- elderly relative's doctor or dentist appointments, or other appointments.

Employees are eligible for this leave if the employer has at least 50 employees and the employee has:

- been employed for at least 12 months by the employer and
- worked at least 1,250 hours for the employer during the previous 12-month period.

Reporting Pay

454 C.M.R. 27.04(1)

Most employees must be paid for 3 hours at no less than minimum wage if the employee is scheduled to work 3 or more hours, and reports to work on time, and is not given the expected hours of work.

Rights of Temporary Workers

M.G.L. Chapter 149, Section 159C

To learn about rights of temporary workers and employees hired through staffing agencies, call: 617-626-6970 or go to: *www.mass.gov/dols*.

Rights of Domestic Workers

M.G.L. Chapter 149, Section 190

To learn about additional rights for workers who provide housekeeping, cleaning, childcare, cooking, home management, elder care, or similar services in a household, go to *www.mass.gov/ago/DW*.

Public Works and Public Construction Workers

M.G.L. Chapter 149, Section 26-27H

Workers who work on public construction projects and certain other public work must be paid the prevailing wage, a minimum rate set by the Department of Labor Standards based on the type of work performed.

Domestic Violence Leave

M.G.L. Chapter 149, Section 52E

Employees who are victims, or whose family members are victims, of domestic violence, sexual assault, stalking or kidnapping have the right to 15 days of leave for related needs, such as health care, counseling, and victims services; safe housing; care and custody of their children; and legal help, protective orders, and going to court.
The leave can be paid or unpaid depending on the employer's policy. This law applies to employers with 50 or more employees.

Employees Have the Right to Sue

M.G.L. Chapter 149, Section 150; M.G.L. Chapter 151, Sections 1B and 20

Employees have the right to sue their employer for most violations of wage and hour laws.
Employees may sue as an individual or they may sue their employer as a group if they have similar complaints. Employees who win their case will receive back pay, triple damages, attorneys' fees, and court costs.
Important! There are strict deadlines for starting a lawsuit. For most cases, the deadline is 3 years after the violation.

Employers Must Not Retaliate

M.G.L. Chapter 149, Section 148A; M.G.L. Chapter 151, Section 19

It is against the law for an employer to punish or discriminate against an employee for making a complaint or trying to enforce the rights explained in this poster.
The laws explained in this poster apply to all workers, regardless of immigration status, including undocumented workers. If an employer reports or threatens to report a worker to immigration authorities because the worker complained about a violation of rights, the employer can be prosecuted and/or subject to civil penalties.

Employees Under 18 – Child Labor

M.G.L. Chapter 149, Sections 56 –105

All employers in Massachusetts must follow state and federal laws for employees who are under 18 (minors). These laws say *when, where,* and *how long* minors may work. They also say what kinds of work or tasks minors must NOT do.

Work Permits Required - Most workers under 18 must obtain a work permit. Employers must keep their minor workers' work permits on file at the worksite. To get a work permit, the minor must apply to the superintendent of the school district where the minor lives or goes to school. To learn more about getting a work permit, contact the Department of Labor Standards at (617) 626-6975, or *www.mass.gov/dols.*

Dangerous Jobs & Tasks Minors Must Not Do

Age	Must Not	
16 & 17	• Drive most motor vehicles or forklifts • Work at a job that requires that the employee have or use a firearm • Use, clean or repair certain kinds of power-driven machines	• Handle, serve, or sell alcoholic beverages • Work 30 or more feet off of the ground
14 & 15	• Cook (except on electric or gas grills that do not have open flames), operate fryolators, rotisseries, NIECO broilers, or pressure cookers • Operate, clean or repair power-driven food slicers, grinders, choppers, processors, cutters, and mixers	• Work in freezers or meat coolers • Perform any baking activities • Work in or near factories, construction sites, manufacturing plants, mechanized workplaces, garages, tunnels, or other risky workplaces
Under 14	• Minors under 14 cannot work in Massachusetts in most cases.	

These are just some examples of tasks prohibited under both state and federal law. **For a complete list** of prohibited jobs for minors, contact the Attorney General's Fair Labor Division: (617) 727-3465 • *www.mass.gov/ago/youthemployment.* Or contact the U.S. Department of Labor: (617) 624-6700 • *www.youth.dol.gov*

Time & Schedule Restrictions for Minors

Age	Must not work	At any time:
16 & 17	At **night**, from 10 p.m. to 6 a.m. (or past 10:15 if the employer stops serving customers at 10 p.m.) *Exception:* On non-school nights, may work until 11:30 p.m. or until midnight, if working at a restaurant or racetrack.	• More than **9 hours** per day • More than **48 hours** per week • More than **6 days** per week
14 & 15	At **night**, from 7 p.m. to 7 a.m. *Exception:* In summer (July 1 – Labor Day), may work until 9 p.m. **During the School Year:*** • During school hours • More than **3 hours** on any school day • More than **18 hours** during any week • More than **8 hours** on any weekend or holiday	**When school is not in session:** • More than **8 hours** on any day • More than **40 hours** per week • More than **6 days** per week

**Exception:* For school-approved career or experience-building jobs, students may be allowed to work during the school day, up to 23 hours a week.

Adult Supervision Required After 8 p.m. - After 8 p.m., all minors must be directly supervised by an adult who is located in the workplace and is reasonably accessible. *Exception:* **Adult supervision is not required for minors working at a kiosk or stand in a common area of an enclosed shopping mall that has security from 8 p.m. until the mall closes.**

Contact the Attorney General's Fair Labor Division: (617) 727-3465 **–** www.mass.gov/ago/fairlabor

Rev. 10/2018

NOTICE

NO SMOKING

Notice of Benefits Available Under M.G.L. Chapter 175M

Paid Family and Medical Leave

Beginning on October 1, 2019:

- Employers will deduct payroll contributions from a covered individual's wages or other earnings to fund PFML benefits.

Beginning on January 1, 2021:

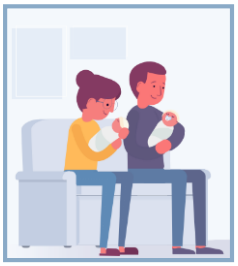
- Covered individuals may be entitled to up to 20 weeks of paid medical leave in a benefit year if they have a serious health condition that incapacitates them from work.
- Covered individuals may be entitled to up to 12 weeks of paid family leave in a benefit year related to the birth, adoption, or foster care placement of a child, or because of a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call to active duty in the Armed Forces.
- Covered individuals may be entitled to up to 26 weeks of paid family leave in a benefit year to care for a family member who is a covered service member with a serious health condition.

Beginning on July 1, 2021:

- Covered individuals may be entitled to up to 12 weeks of paid family leave to care for a family member with a serious health condition.

Covered individuals are eligible for no more than 26 total weeks, in the aggregate, of paid family and medical leave in a single benefit year.

Who is a Covered Individual Under the Law?



Generally, a worker qualifies as a covered individual and may be eligible for paid family and medical leave if:

- S/he is paid wages by a Massachusetts employer; or
- S/he resides in Massachusetts and is paid for contract services by a Massachusetts entity that is required to report payment for services on IRS Form 1099-MISC for more than 50 percent of its workforce; or
- S/he is a self-employed individual who resides in Massachusetts and chooses to opt-in to the program.

Job Protection

Generally, an employee who has taken paid family or medical leave must be restored to the employee's previous position or to an equal position, with the same status, pay, employment benefits, length-of-service credit, and seniority as of the date of leave.

These job protections do not apply to contractors.

Weekly Benefits

To fund PFML benefits, employers will deduct payroll contributions from a covered individual's wages or other earnings beginning on Oct. 1, 2019. Covered individuals can apply for benefits beginning in January 2021 through the Department of Family and Medical Leave. A covered individual's average weekly earnings will determine his or her benefit amount, for a maximum weekly benefit of up to $850.

No Retaliation or Discrimination

- It is unlawful for an employer to discriminate or retaliate against an employee for exercising any right to which s/he is entitled under the law.
- An employee or former employee who is discriminated or retaliated against for exercising rights under the law may, not more than three years after the violation occurs, institute a civil action in the superior court, and may be entitled to damages of as much as three times his or her lost wages.

Private Plans

If an employer offers employees paid family leave, medical leave, or both, with benefits that are at least as generous as those provided under the law, the employer may apply for an exemption from paying the contributions. Employees continue to be protected from discrimination and retaliation under the law even when an employer opts to provide paid leave benefits through a private plan.

If you have questions or concerns about your Paid Family and Medical Leave rights, please contact:
MassPFML@Mass.gov or visit: https://www.mass.gov/DFML

This notice must be posted in a conspicuous place on the employer's premises.

MCAD Guidance
PREGNANT WORKERS FAIRNESS ACT
Issued 1/23/2018

The Pregnant Workers Fairness Act ("the Act") amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, effective on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers' obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an "interactive process," and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. "Undue hardship" means that providing the accommodation would cause the employer significant difficulty or expense.
- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court's website here:

https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Information on Employees' Unemployment Insurance Coverage

Employer name _____ Employer DUA ID # _____

Address _____

Employees of this business or organization are covered by Unemployment Insurance (UI), a program financed entirely by Massachusetts employers. No deductions are made from your salary to cover the cost of your Unemployment Insurance benefits.

If you lose your job, you may be entitled to collect Unemployment Insurance. Outlined below is the information you need in order to apply for Unemployment Insurance (UI) benefits. Before you file, your employer will give you a copy of the pamphlet: *How to Apply for Unemployment Insurance Benefits*, provided by the Massachusetts Department of Unemployment Assistance (DUA).

You must be in the United States, its territories, or Canada when filing a claim or certifying for weekly UI benefits.

There are two ways to apply for UI Benefits:

Apply by Using UI Online

UI Online is a secure, easy-to-use, self-service system. You can apply for benefits, reopen an existing claim, request weekly benefit payments, check your claim status, sign up for direct deposit, update your address, and even file an appeal online. To apply for benefits using UI Online, go to www.mass.gov/dua, and select *UI Online for Claimants,* and complete the required information to submit your application.

Apply by calling the TeleClaim Center

Unemployment Insurance services are available by telephone. You can apply for Unemployment Insurance benefits, reopen a current claim, obtain up-to-date information on the status of your claim and benefit payment, resolve problems, and sign up for direct deposit — all by telephone. To apply for benefits by telephone, call the TeleClaim Center at 1-877-626-6800 from area codes 351, 413, 508, 774, and 978; or 1-617-626-6800 from any other area code. You will be asked to enter your Social Security Number and the year you were born. You will then be connected to an agent who will take the information necessary to file your claim.

Note: During peak periods from Monday through Thursday, call scheduling may be implemented, providing priority for callers based on the last digit of their Social Security Number. This helps ensure that you and others can get through to the TeleClaim Center in a timely manner. Please check the schedule on the right before calling.

If the last digit of your Social Security Number is:	Assigned day to call Teleclaim is:
0, 1	Monday
2, 3	Tuesday
4, 5, 6	Wednesday
7, 8, 9	Thursday
Any last digit	Friday

This document contains important information. Please have it translated immediately.

В данном документе содержится важная информация. Вам необходимо срочно сделать перевод документа.

Este documento contiene información importante. Por favor, consiga una traducción inmediatamente.

Tài liệu này có chứa thông tin quan trọng. Vui lòng dịch tài liệu này ngay.

Questo documento contiene informazioni importanti. La preghiamo di tradurlo inmediatamente.

Este documento contém informações importantes. Por favor, traduzi-lo imediatamente.

Docikman sa gen enfòmasyon enpòtan. Tanpri fè yon moun tradwi l touswit.

본 문서에는 중요한 정보가 포함되어 있습니다. 본 문서를 즉시 번역하도록 하십시오.

ເອກະສານສະບັບນີ້ ບັນຈຸຂໍ້ມູນອັນສຳຄັນ. ກະລຸນາເອົາເອກະສານສະບັບນີ້ໄປແປອອກຢ່າງບໍ່ລໍຊ້າ.

ឯកសារនេះមានន្ទូវព័ត៌មានដ៏សំខាន់ ។ សូមបកប្រែវាជាបន្ទាន់ ។

Ce document contient des informations importantes. Veuillez le faire traduire au plus tôt.

此文件含有重要信息。請立即找人翻譯。

تحتوي هذه الوثيقة على معلومات هامة. يرجى ترجمتها فورًا.

IMPORTANT: Massachusetts General Law, Chapter 151A, Section 62A requires that this notice be displayed at each site operated by an employer, in a conspicuous place, where it is accessible to all employees. It must include the name and mailing address of the employer, and the identification number assigned to the employer by the Department of Unemployment Assistance .

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
For hearing-impaired relay services, call 711.