

Different leaves of absence and their particularities

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Different leaves of absence and their particularities

1. Unpaid leaves of absence and partial leaves of absence
 - i) Leaves without defined reasons
 - ii) Leaves for particular reasons
 - iii) Conditions applicable to unpaid leaves of absence

Articles 12 Local Provisions (DL) et 26 National Provisions (DN)

2. Leaves for Family Responsibilities and other special leaves
Articles 24 DN, Articles 79.8 and following of the **Labour Standards Act (LNT)**
3. Leave with deferred pay (Article 27 DN)
4. Other relevant provisions

1(i) Unpaid leaves and partial leaves of absence (without defined reasons)

1. Unpaid leave of absence (article 12.5 DL)
2. Extended unpaid leave of absence (article 12.5 DL)
3. Partial unpaid leave of absence (article 12.8 DL)
4. Partial leave of absence through a temporary exchange of positions (article 12.6 DL)
5. Days of leave for personal reasons (Article 30.31 DN) (For permanent full-time employees)

1. Unpaid leave of absence (article 12.5 DL)

- ▶ After 1 year of service, once per year
- ▶ Unpaid leave of absence not exceeding 1 month
- ▶ Can be divided into separate periods, each one of at least 1 week
- ▶ Following agreement with the employer **as to the dates**
- ▶ Exclusion of the months of June, July and August and the December holiday period (unless the immediate superior agrees for these periods **after** the posting of the annual vacation schedule)
- ▶ Written request 30 days in advance

2. Extended unpaid leave of absence (article 12.5 DL)

- ▶ After 5 years of service, and once per period of 5 years
- ▶ An extension of the 4-week unpaid leave of absence (the total duration not exceeding 52 weeks)
- ▶ Following agreement with the employer who cannot refuse without a valid reason
- ▶ Written request at least 60 days in advance specifying the length of the leave

3. Partial unpaid leave of absence (article 12.8 DL)

- ▶ An employee **holding a permanent position** (full-time or part-time)
- ▶ After 1 year of service
- ▶ Once per period of 2 years
- ▶ Minimum duration of 2 months, maximum of 52 weeks
- ▶ Minimum work equivalent to at least 2 days per week
- ▶ Following agreement with the employer who cannot refuse without a valid reason
- ▶ Written request at least 30 days in advance specifying the length of the partial leave

4. Partial leave of absence through a temporary exchange of positions (article 12.6 DL)

- ▶ An employee holding a permanent full-time position
- ▶ After 1 year of service, the partial leave « **may** » be granted
- ▶ Minimum duration of 2 months, maximum of 52 weeks
- ▶ Must be able to temporarily exchange her or his permanent full-time position with the permanent part-time position of another employee with the same job title and in the same centre of activities
- ▶ The exchange must not require a period of orientation or training for either of the positions (unless after agreement with the immediate supervisors)
- ▶ The partial leave ends if one or the other of the employees ceases to hold their permanent position (unless agreed to the contrary)
- ▶ Granted to an employee with less than 1 year of service if the employee's presence is required for an immediate family member because of illness

5. Days of leave for personal reasons (article 30.31 DN)

- ▶ Employee **holding a permanent full-time position**
- ▶ Up to 6 days from the annual bank of 9.6 sick days can be taken separately for personal reasons
- ▶ Upon 24 hours notice in advance
- ▶ Must not result in a serious detrimental effect to the functioning of the centre of activities
- ▶ Can be taken in advance between December 15 and January 15 only with the agreement of the employer
- ▶ These are days of leave **with pay** (paid out of the annual bank of sick days)

1(ii) Unpaid leaves of absence and partial unpaid leaves of absence (for particular reasons)

1. Unpaid leave of absence or partial leave of absence to teach in a school board, a cegep or a university (article 12.1 DL)
2. Unpaid leave of absence or unpaid partial leave for studies article 12.2 DL)
3. Unpaid leave for retaking an exam (article 12.3 DL)
4. Unpaid leave to work in a northern establishment (articles 26.06 and 26.07 DN)
5. Unpaid leave of absence for humanitarian aid (article 12.9 DL)
6. Unpaid leave for civic functions (article 12.4 DL)
7. Leaves for marriage or civil union (articles 24.07 DN and 12.7 DL)
8. Unpaid leave upon suspension of the right to practice (article 18.3 DL)

1. Unpaid leave or partial unpaid leave to teach in a school board, a cegep or a university (article 12.1 DL)

- ▶ After 1 year of service, following agreement with the employer
- ▶ To teach in a discipline specifically oriented to the health and social services sector
- ▶ Maximum duration of 52 weeks
- ▶ Written request at least 30 days in advance
- ▶ Length and conditions are established according to the teaching assignment
- ▶ Once per period of 2 years
- ▶ Before expiry of the leave, following agreement with the employer, the leave can exceptionally be renewed for a 2nd year

2. Unpaid leave or partial unpaid leave for studies (article 12.2 DL)

- ▶ After 1 year of service, and following agreement with the employer
- ▶ Written request at least 30 days in advance
- ▶ To pursue studies related to her or his profession or to another profession of the Health and Social Services Sector and which exists in the establishment
- ▶ For a maximum duration of 24 months
- ▶ The leave can also be partial, continuous or divided into 2 or 3 absences during a period not exceeding 36 months
- ▶ If the nature of the studies justifies an extension, exceptionally and following agreement with the employer, there is a possibility of extending it for the total duration of the studies

3. Leave for retaking exams (article 12.3 DL)

- ▶ The employee is granted a leave of absence without pay of a length sufficient to prepare for and to take one or more exam(s) related to a profession of the Health and Social Services sector

4. Unpaid leave of absence to work in a northern establishment (articles 26.06 et 26.07 DN)

- ▶ The employee recruited to work in one of the northern establishments specifically named in article 26.06 DN
- ▶ Written request at least 30 days in advance
- ▶ Following agreement with the employer
- ▶ Obtains an unpaid leave of absence to work in the northern establishment for a maximum duration of 12 months
- ▶ Following agreement with the employer, the leave can be extended for one or more period(s) for a total of at most 48 months

5. Unpaid leave of absence for humanitarian aid (article 12.9 DL)

- ▶ After 2 years of service
- ▶ Once per period of 5 years
- ▶ Leave of absence for a maximum duration of 60 days
- ▶ To work for a humanitarian organisation
- ▶ Following agreement with the employer
- ▶ Written request at least 30 days in advance, unless the humanitarian situation is exceptional

6. Unpaid leave for civic functions (article 12.4 DL)

- ▶ An employee who is a candidate for a civic function or who is elected to a civic function has the right to a leave of absence without pay according to the provisions of the applicable law.

- ▶ Consult the union counsellor via ccomtl@aptsq.com

7. Leaves for marriage or civil union (articles 24.07 DN and 12.7 DL)

Leave **with** pay for marriage (article 24.07 DN) :

- The employee holding a permanent full-time position has a right to one week of leave of absence **with pay** on the occasion of her or his marriage or civil union
- The employee holding a permanent part-time position or not holding a position has a right to this leave prorated to the number of days of her or his position or assignment
- Granted on the condition that the request is made at least 4 weeks in advance ; the dates are determined following agreement with the employer and must include the date of the day of the marriage or civil union

Leave **without pay** for marriage or civil union (article 12.7 DL) :

- The employee who benefits from the leave of absence with pay (24.07 DN) can add to it one week of leave of absence **without pay**, by requesting this at the same time as the request for the leave of absence with pay

8. Unpaid leave of absence during a suspension of the right to practice (article 18.3 DL)

- ▶ The employer **may grant** an unpaid leave of absence to an employee whose right to practice is suspended by her or his professional Order
- ▶ This provision does not have the effect of preventing the employer from imposing a disciplinary or administrative measure

1(iii) Conditions applicable to unpaid leaves of absence (article 12.10 DL)

- ▶ After one of the the unpaid leaves of absences or unpaid partial leaves of absence provided for in articles 12.1 (teaching), 12.2 (studies), 12.5 (unpaid leave of absence) or 12.8 (partial leave of absence), the employee must offer one year of service in order to again have access to one of these leaves
- ▶ For unpaid leaves of absence of 52 weeks or more, payment (before the start of the leave) of the vacation days of accumulated up to the date of the start of the leave
- ▶ The employee may end their leave early with advanced notice of 30 days to the employer
- ▶ For any absence of 3 months or more, the employee must advise the employer in writing of her or his intention to return at the expiry of the leave (otherwise, the employee is deemed to have abandoned her or his employment as of the date the leave started)

Conditions applicable to unpaid leaves (article 12.10 DL) (continued)

During the unpaid leave of absence, the employee may:

- ▶ Work part-time, either by registering on the availability list, or following an agreement with the employer on the weekly distribution of work days
- ▶ Apply as a candidate for a posted position and obtain it on condition that the employee ends her or his leave and starts the position on the scheduled start date (normally, at the latest 60 days after the employee's nomination, **art 7.8 DL**)
- ▶ Register on the « Job Registry » (**art 7.14 DL**) if the employee wishes to obtain a position or to change her or his position; in the event there is a vacancy in one of the desired positions during the employee's absence, registration on the Job Registry is considered as a candidacy for the position in question

(The registration is valid for the length of the absence, maximum for 1 year, and can be modified or withdrawn by the employee at any time)

Conditions applicable to unpaid leaves (article 26 DN)

Seniority :

- During unpaid leaves of 30 days or less, seniority is both conserved and it accumulates
- During unpaid leaves of more than 30 days, seniority is conserved but does **not** accumulate, except :
- Unpaid leave for **studies** related to one's profession, seniority is conserved and accumulates for a maximum period of 24 months
- Unpaid leave for **teaching** (school board, cegep or university), seniority is conserved and accumulates during the first year of the leave

Conditions applicable to unpaid leaves (article 26 DN) (continued)

Experience :

- During unpaid leaves of absence of more than 30 days, generally experience is not accumulated, **except:**
- Unpaid leave of absence for **studies**, experience is accumulated for a maximum of 24 months **if** the studies are related to the discipline in which the employee works **and** the employee has at least 2 years of service in the Health and Social Services Sector at the start of the leave
- Unpaid leave of absence for **teaching**, the time worked in a school board, cegep or university counts as acquired experience up to a maximum of 24 months

Conditions applicable to unpaid leaves (article 26 DN) (continued)

BENEVA Group insurance plans :

- Not automatically continued during an unpaid leave of absence of more than 30 days
- During an unpaid leave of absence of more than 30 days, it is required to maintain one's participation in the basic health insurance plan and to pay all of the contributions and premiums necessary to do so
- During an unpaid leave of absence of more than 30 days, one can choose to maintain one's participation in the other plans by paying all of the contributions and premiums required to do so

Conditions applicable to unpaid leaves of absence (article 26 DN) (continued)

Pension Plan (RREGOP) :

- According to the RREGOP legislation, for unpaid leaves of absence of 30 days or less, as well as for partial leaves of absence where the weekly leave is 20 % of full-time (1 day per week) or less, the employee is required to continue to participate in RREGOP for the period of leave, paying the usual employee's share of the contributions required
- For unpaid leaves of absence of more than 30 days as well as for partial leaves of absence where the weekly leave is more than 20 % of full-time (more than 1 day per week), the RREGOP legislation permits a buyback of service after the employee's return from the leave)
- For these leaves, article 26.05 DN permits the employee, if she or he so chooses, to maintain her or his participation during the leave on condition that the employee pays the usual employee's share of the contributions required

Conditions applicable to unpaid leaves of absence (article 26 DN) (continued)

- ▶ For the unpaid leaves of absence to work in a northern establishment:
 - ▶ The seniority and the experience acquired during the leave are recognized upon the return of the employee to the establishment
 - ▶ There is no detrimental effect related to the pension plan if the employee returns to the establishment at the end of the authorized period of leave
 - ▶ There is no access to the employer's group insurance plans during the leave, but the employee is covered by the group insurance plan in force in the northern establishment where she or he works during the leave

Conditions applicable to unpaid leaves of absence (article 26 DN) (continued)

- ▶ For unpaid leaves of absence of more than 30 days, there is an exclusion clause: During the leave the employee has no right to the benefits of the collective agreement **other** than those that are expressly provided for
- ▶ During the partial leave of absence, the full-time employee is covered by the rules applicable to part-time employees, except that the employee accumulates her or his seniority on a full-time basis

2. Absences for family responsibilities and other special leaves (articles 24 DN and 79.8 LNT)

Days of leave for family responsibilities (articles 24.10 DN, 79.7 LNT)

- ▶ 10 days per year (with the agreement of the employer, these can be split up into half-days)
- ▶ In order to meet obligations related to the care, the health or the education of the employee's child or the child of the employee's spouse, **OR** related to the state of health of the employee's spouse, father, mother, brother, sister or one the employee's grandparents *
- ▶ Without pay or, for the permanent full-time employee, a choice between unpaid or to be payed from the employee's annual bank of 9.6 sick days
- ▶ * Article 79.6.1 LNT: enlarged definition of « relative » or person for whom one acts as a caregiver
- ▶ The employee must **advise** the employer as soon as possible
- ▶ Accumulation of seniority and experience
- ▶ The employee must take reasonable means at her or his disposal to the limit the use and the length of these absences

Article 79.6.1 LNT

- ▶ For the purposes of articles 79.7, 79.8 et 79.8.1 de la LNT:
- ▶ « Parent » of the employee includes:
 - ▶ spouse, child, father, mother, brother, sister, grandparent: of the employee OR of the employee's spouse
 - ▶ as well as the spouses of these people, their children and the spouses of their children
 - ▶ other people identified are also considered as relatives, including people acting as a foster family for the employee or her or his spouse
- ▶ Articles 79.7, 79.8 and 79.8.1 also apply to people for whom the employee acts as « caregiver », attested by a professional of the Health and Social Services sector

Absences for family responsibilities and other special leaves(continued)

Absences for family responsibilities (articles 24.11 DN, 79.8 and 79.8.1 LNT)

- ▶ Absences without pay of one or more weeks (maximum of 16 weeks within a period of 12 months : art 79.8 LNT)
- ▶ When the employee's presence is required for a relative, or for a person for whom the employee acts as caregiver, because of a serious illness or serious accident
- ▶ If the person is a minor child, the absence can total 36 weeks within a period of 12 months
- ▶ If the person is not a minor child but the serious illness or injury is potentially fatal, the absence can last up to 27 weeks within a period of 12 months : art 79.8.1 LNT)
- ▶ The employee must **advise** the employer as soon as possible and provide proof justifying the absence
- ▶ Seniority and experience accumulate during the absence

Absences for family responsibilities (continued)

- ▶ The employee continues to participate in the group insurance plans by paying her or his share of the premiums (the employer must pay its share) (articles 79.16 and 79.3 LNT)
- ▶ The employee continues to participate in the pension plan (RREGOP) by paying her or his share of the contributions (the employer must pay its share) (articles 79.16 and 79.3 LNT)
- ▶ If the employee's child suffers from a serious illness, potentially fatal, attested by a medical certificate, the employee has the right to an extension of her or his absence up to a maximum of 104 weeks

Absences for family responsibilities (continued)

- ▶ Article 24.11 DN also applies to other absences provided for in the LNT:
- ▶ Article 79.9: Extension of the absence of 16 weeks up to 104 weeks if the employee's minor child has undergone serious bodily harm during a criminal act
- ▶ Article 79.10 : Absence of up to 52 weeks if the employee's minor child has disappeared
- ▶ Article 79.11: Absence of up to 52 weeks if the employee's child or the child of the employee's spouse dies by suicide
- ▶ Article 79.12: Absence of up 104 weeks if the death of the employee's child, or of the child of the employee's spouse, happens during a criminal act

Absences for family responsibilities

- ▶ The absences provided for in articles 79.8 and 79.8.1 LNT are without pay from the employer
- ▶ It is possible, depending on the situation, that the employee may have a right to claim « caregiver benefits » from the federal government's Employment Insurance program during some of these absences
- ▶ Check on the Employment Insurance web site for the eligibility, the length and amount of benefits, and the definitions at:

<https://www.canada.ca/fr/services/prestations/ae/proches-aidants.html>

Absences for family responsibilities and other special leaves (article 24 DN) (continued)

Absences for deaths (article 24.01 DN) :

- ▶ 5 calendar days of absence upon the death of the employee's child or of the employee's spouse
- ▶ 3 calendar days of absence upon the death of the employee's father, mother, brother, sister, father-in-law, mother-in-law, daughter-in-law or son-in-law
- ▶ 2 calendar days of absence upon the death of the child of the employee's spouse
- ▶ 1 calendar day of absence upon the death of the employee's sister-in-law, brother-in-law, grandparent or grandchild
- ▶ These days of absence are taken consecutively, on the dates chosen by the employee between the date of the death and the date of the funeral
- ▶ One of these days can be used to attend the burial or cremation when this event takes place outside of the period provided for
- ▶ The employee only receives pay for the days during which the employee would otherwise have to work during these periods of absence

3. Leave with deferred pay (article 27 DN)

- ▶ Plan which allows an employee holding a permanent position to have her or his salary spread out over a determined period in order to benefit from a leave of absence
- ▶ The plan includes:
 - (1) a period of contribution
 - (2) a period of leave of absence
- ▶ Length of the plan: 2, 3, 4 or 5 years
- ▶ Length of the leave:
 - ▶ 6, 7, 8, 9, 10, 11 or 12 consecutive months
 - ▶ Can be 3 months if it is to pursue studies (but in this case the leave must be taken during the last 3 months of the regime)

Leave with deferred pay (article 27 DN) (continued)

Length of Leave	Plan of 2 years	Plan of 3 years	Plan of 4 years	Plan of 5 years
3 months	87,5 %	91,67 %	N/A	N/A
6 months	75,0 %	83,34 %	87,5 %	90,0 %
7 months	70,8 %	80,53 %	85,4 %	88,32 %
8 months	N/A	77,76 %	83,32 %	86,6 %
9 months	N/A	75,0 %	81,25 %	85,0 %
10 months	N/A	72,2 %	79,15 %	83,32 %
11 months	N/A	N/A	77,07 %	81,66 %
12 months	N/A	N/A	75,0 %	80,0 %

Leave with deferred pay (article 27 DN) (continued)

Conditions to obtain the leave:

- ▶ Must hold a permanent position (full-time or part-time)
- ▶ After 2 years of service
- ▶ Following a written request to the employer specifying the length of the plan, the length of the leave and the time the leave is to be taken
- ▶ (An employee holding a permanent part-time position can only take the leave after having completed the contribution period)
- ▶ Must not be in a period of disability or on an unpaid leave of absence at the start of the plan
- ▶ Granted after agreement with the employer, who cannot refuse without a valid reason

Leave with deferred pay (article 27 DN) (continued)

- ▶ The employee accumulates seniority during the leave
- ▶ For the pension plan (RREGOP):
 - ▶ Each year of the plan (including the period of leave) = one year of service for the RREGOP pension plan
 - ▶ The salary calculated for the purposes of the RREGOP pension plan is the salary the employee would have received if she or he had not participated in the leave with deferred pay plan
 - ▶ The contributions to the RREGOP pension plan are calculated on the percentage of salary provided for by the leave with deferred pay plan
 - ▶ at the end of the leave, the employee must return to work for a period equivalent to the length of the leave

Leave with deferred pay (article 27 DN) (continued)

Early end of the plan:

- ▶ Layoff or end of employment
- ▶ Early withdrawal from the plan
- ▶ Expiry of the deadline of 7 years for the plan or of 6 years for taking the leave

4. Other relevant provisions

- ▶ Family leaves (maternity, paternity, adoption leaves and the parental leave of absence extending these) (article 25 DN)
- ▶ Preventive withdrawal of the pregnant worker (CNESST)
- ▶ Medical leave and salary insurance (article 30 DN)
- ▶ Absences due to workplace accidents (CNESST)
- ▶ Progressive Retirement Program (article 41 DN)
- ▶ Plan of Leave for the Conciliation of Family-Work-Studies with deferred salary (Letter of Agreement # 30 DN)

THANK YOU!

If you have any questions, please
write to us at ccomtl@aptsq.com
or call us at 514-609-3039