

# Proposal: Language and Policy Regarding UBC Parental Leave Benefits

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## Executive Summary

In order to support faculty members as they form families, we recommend:

1. Either:

Adopt [SFU's new policy](#): have only one benefit: a parental leave benefit of 25-26 weeks (or more – SFU has 36 weeks), and no maternity benefit.

Or,

Extend the parental benefit from 10-11 weeks to something longer; reducing maternity benefits. However, as long as the maternity benefit is large, it will remain difficult to fix the gender gap in the workplace, because birth mothers who parent will remain incentivized to stay at home and out of the workplace for longer than other parents.

In both recommendations, the total amount of maternity benefits plus parental benefits would not be reduced from those in the current policy.

2. Use non-gendered language when referring to parents (e.g., do not use the terms “mother” and “father”), and use language that does not distinguish how a family is formed (e.g., do not use the terms “birth parent” and “adoptive parent”). If UBC keeps a maternity benefit, this benefit should be called a “pregnancy benefit” so that it is not misidentified as a benefit for the purpose of parenting.

The updated *policy* would especially help families formed through adoption and surrogacy, as a maternity benefit is not available to these parents. It would also incentivize traditional families to allocate childcare as they choose, as opposed to placing more incentive on the mother.

The updated *language* would be inclusive of all types of identities, and does not discriminate against how a parent receives their child (especially amongst parents that do not give birth, such as a birth father and adoptive parent).

## Introduction

The early stages of a child's life are crucial for future emotional and mental health. Thus, families must be able to spend adequate time with their children to create the bonds and safe environment needed for the child's development.

Unfortunately, [UBC's parenting-related benefits for faculty members](#) do not provide the support needed for children to thrive in some types of families. The policies are based on the model that a traditional mother is primarily the caregiver, and thus the policies perpetuate a specific view of family. This is problematic for families without traditional mothers (e.g. families formed through adoption or surrogacy), as these families receive much smaller benefits. UBC's policy should incentivize all parents to spend a sufficient time caring for their new child, and should be communicated using inclusive and accurate language.

Specifically, when we say "benefits", we are referring to the Supplemental Employment Benefits (SEB), which is additional salary that UBC provides to supplement the EI benefit.

Compared to other top Canadian universities, UBC is lagging in both policy and language. Both Simon Fraser University and the University of Toronto have long had equitable benefits for families formed by birth or adoption, recognizing the possible added challenges of bonding with an adoptive child. SFU, in acknowledging the new ways families are formed (such as through surrogacy), has recently modified [its policy](#) to provide equitable benefits for all types of families. Negotiations at the University of Toronto are ongoing.

## Language

Language at the federal level has evolved along with changes in the structure of families. However, UBC still uses inexact language, including the ambiguous and gendered terms of birth mother and birth father. Here are just a few examples of issues arising from these terms:

1. The definition of "birth parent" is not clear<sup>1</sup>. It can't be defined by giving birth -- for instance, most dads do not give birth. It can't be defined by genetics -- for instance, a mom can give birth to her child who was conceived through an egg donor.
2. The use of gendered language excludes non-binary people.
3. The use of gendered language is inaccurate. For instance, a transgendered dad who gives birth is entitled to the benefits of a birth mother. A mom whose wife gives birth would not receive the benefits listed for birth mothers.
4. The UBC website uses the term "adoption leave", which implies that adoptive parents receive a special leave. In reality, this is simply parental leave.
5. Parents through surrogacy do not easily fit into any of UBC's three categories, nor does the surrogate themselves.

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<sup>1</sup> [Cambridge Dictionary definition](#) of birth parent: "the woman who gave birth to a child or the man who helped to conceive a child (= cause a baby to begin to form), although she or he may not now be the child's legal parent". If UBC uses this definition, a parental leave benefit would be granted to a sperm donor, and both parental and maternity leave benefits would be granted to a surrogate.

Further, UBC uses the term “maternity”<sup>2</sup> to name the leave associated with giving birth, giving the incorrect impression that maternity leave is about motherhood. However, this leave is necessarily *only* about pregnancy, otherwise it would be discriminatory as it is not available to other new parents (as outlined in the next section).

We suggest aligning language with the non-gendered [federal language](#). The federal policy is in terms of two separate leaves: a leave for someone who gives birth, and a leave for someone who takes on a new parental role (parental leave). We suggest naming the birth-related leave “pregnancy leave”, following the [BC](#) and [Ontario](#) language, because it accurately describes the sole purpose of this leave.

## Policy

### Background

UBC’s policy for each category of parent (birth mothers, birth fathers, and adopting parents) is:

- A faculty member who is a birth mother is entitled to 95% salary during 15-16 weeks of maternity leave<sup>3</sup> and 10 weeks of parental leave.
- A faculty member who is a birth father or an adopting parent is entitled to 95% salary during 10-11 weeks of parental leave.

However, as mentioned earlier, this is an inaccurate and unclear statement of the policy. Adopting the proposed language, UBC’s current policy becomes both accurate and clear:

- A faculty member who gives birth is entitled to 95% salary during 15-16 weeks of pregnancy leave.
- A faculty member who takes on a new parenting role is entitled to 95% salary during 10-11 weeks of parental leave.

These benefits are independent, in that one does not imply or preclude another. Examples:

- Someone only entitled to a pregnancy benefit: a surrogate, or someone who is pregnant and loses the baby during pregnancy.
- Someone only entitled to a parental benefit: a parent who does not give birth to their child.
- Someone entitled to both benefits: a mother who gives birth to her child.

We emphasize that a parent who forms a family through adoption or surrogacy is only entitled to federal parental leave benefits, and thus is not eligible for the UBC maternity benefit.

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<sup>2</sup> [Cambridge Dictionary definition](#) of maternity: “the state of being a mother”.

<sup>3</sup> Unless the birth mother did not give birth, in which case she would not receive maternity leave.

An interesting historical note is that, until 2000, UBC recognized the challenges faced by adoptive parents and regularly provided them an additional five weeks of parental benefit.

Some principles must be considered when creating or removing benefits. First and foremost, all children new to a family deserve time with their family. Another important principle is that the current total benefits should not be reduced under any changes. There are also legal principles, as evidenced by [the legal case with the BC Teachers' Federation and BC Public School Employer's Association](#):

1. Institutions are not required to provide benefits.
2. If an institution provides a benefit, the benefit must be provided equitably. This means:
  - A benefit for parenting must apply to all faculty members who are new parents.
  - A benefit for giving birth must apply to all faculty members who give birth.

There are a couple noteworthy implications of the last legal principle:

- A lawsuit is likely if a maternity benefit is defined as a benefit for the purpose of parenting, because the benefit applies to only some new parents: those that give birth. That's why a maternity benefit is defined as a benefit for the purpose of pregnancy only (not parenting), and why a surrogate is entitled to a maternity benefit, even though they are not parenting the new child. It's also why maternity leave is better called "pregnancy leave".
- According to recent court rulings, UBC cannot make a new "adoption/surrogacy parenting benefit" to support new parents through adoption or surrogacy, because it would exclude some parents (including birth mothers). In order for such a benefit to withstand court challenges, the benefit would have to be for some non-parenting purpose, such as dealing with the particular administrative and medical burdens that come with these methods of forming a family. However, such a need must be backed by evidence.

## **The Problem, and Suggestions**

On paper, UBC's policy is in fact legally sound and equitable: 10-11 weeks are reserved for all new parents, and if the parent also gave birth, they can also take an additional 15 weeks to recover.

The only problem "on paper" is that 10-11 weeks is an insufficient amount of time for a parent to care for and bond with their new child.

Of course, women who give birth and also parent their newborn use their maternity leave for both pregnancy recovery and parenting. They are incentivized to spend a sufficient amount of time with the new child. But the same incentive is not available to other parents. The result is a promotion of our society's gender gap in the workforce (incentivizing women to stay home and men in the workplace), and an unawareness of the challenges faced by non-traditional families.

Our recommendation:

Adopt [SFU's new policy](#): have only one benefit: a parental leave benefit of 25-26 weeks (or more – SFU has 36 weeks).

Please note: eliminating maternity benefits may have undesirable consequences for surrogates or pregnant people who lose the baby during pregnancy, who might consider sick leave as an alternative. There are certain protections for employment when you are on a leave under the Employment Standards Act, as opposed to sick leave under the collective agreement. For someone on pregnancy leave, s. 56 of the Employment Standards Act deems the employee's employment to be continuous and requires the employer to provide any pay increases as though the person had not been on leave. People on sick leave would not necessarily have these protections, depending upon what is in the collective agreement.

OR;

Extend parental benefits from 10-11 weeks to something longer, reducing maternity benefits. However, as long as the maternity benefit is large, it will remain difficult to fix the gender gap in the workplace, because most mothers will remain incentivized to stay at home and out of the workplace for longer than other parents.

In both recommendations, the total amount of maternity benefit plus parental benefit would not be reduced from those in the current policy.

Making policy changes may align UBC with its stated diversity, equity and inclusion goals. According to [UBC's \(2018\) strategic plan](#), UBC aims for "Embedding equity and diversity across university systems and structures" (page 19), and states "We will review and revise policies, practices and services to reflect our commitment to diversity, equity and inclusion" (page 42). According to the [Equity and Inclusion website](#), "We are working to build a community in which human rights are respected, and equity and inclusion are embedded in all areas of academic, work and campus life." We hope to have UBC policy align with that of [UBC Faculty of Science](#) "to support our faculty members and trainees in their teaching and research endeavors, while balancing commitments in their personal lives".