



# Feedback to inform the drafting of regulations on violence leaves in the *Employment Standards Act*

## How long should the leave be? Should there be some combination of lengths that can be used continuously or intermittently?

Experiences of violence are extremely complicated and require flexibility to address effectively. In addressing violence, employees may be engaging with systems and supports that are prescriptive and rigid – the leave must be flexible to support employees in navigating them. We recommend:

- Both a shorter and longer term leave. The shorter term leave should be for 10 days and the longer term leave for 15 to 17 weeks per calendar year.
- That the shorter leave be able to be taken continuously or intermittently and that only actual time spent away from work should be considered use of leave time (e.g. half a day away from work would not be counted as a full day of leave).
- That the longer leave be able to be taken either continuously or intermittently on a weekly basis.

## Should the leave be paid, unpaid or a combination of the two?

In many situations of violence, financial abuse or dependency is present; an unpaid leave would be completely inaccessible to employees in these situations. Even in situations in which financial abuse from or dependency on an abuser is not a factor, an unpaid leave is still likely to be inaccessible for many – consider that most domestic, intimate

partner, and sexual violence is perpetrated against women and that adult women in New Brunswick represent the largest group working minimum wage jobs and are more likely than men to work part-time. Financial insecurity – whether part of the context of abuse or not – would prevent many employees from taking an unpaid leave. We recommend:

- That the first 10 days of leave, whether it is through the shorter or longer term period, be paid. The employee should be entitled to what they would normally have earned had they been at work. This should apply to both part and full time workers.
- That employers not be able to ask or compel employees to use other forms of paid leave instead of this designated leave. It should be noted that an employee may be eligible for multiple leaves relating to the same event or situation.

## Should an employer be permitted to request proof or verification of the leave request? If yes, what evidence should be required?

There continues to be shame and stigma attached to experiences of violence. Many survivors of violence hesitate to come forward precisely because they fear they will not be believed or their experiences will be minimized or they will be blamed for the violence. If this leave is to be effectively integrated into New Brunswick workplaces, then this reality must be taken

into account – particularly when it comes to when and what verification or proof employers can request before granting a leave. If the requirement for proof is too burdensome, then employees will likely not access the leave. We recommend:

- That an initial paid leave of five days or less not require any proof or verification.
- When proof is required, a variety of sources should be able to provide verification, including: social workers, counsellors, faith leaders and spiritual advisors, physicians and nurses, teachers and school administrators, community-based service providers (including individuals working or volunteering for these organizations who are not registered social workers), law enforcement, etc. Materials such as reports to law enforcement or child protection, restraining orders or peace bonds, or applications for intervention orders under the *Intimate Partner Violence Intervention Act* should also be considered adequate verification.

### **Should there be a requirement to maintain confidentiality?**

Again, this question must take into account the shame and stigma faced by survivors of violence. If employees are to access this leave, they must be confident that their disclosures of violence will remain confidential. Additionally, employees' safety (as well as the safety of their family, roommates, friends, etc.) may be jeopardized if information regarding disclosures, services they plan to access or intentions to relocate are shared. We recommend:

- That there be a requirement to maintain confidentiality except where there is a legal duty to report (e.g. if violence is being perpetrated against a minor).

### **Additional comments:**

In addition to our responses to questions posed in the request for input, we would like to share a number of additional comments. We recommend:

- That this leave be available to employees in the event that they themselves OR their spouse/ partner, child, elderly parent, other dependent, or anyone in their care or residing in a shared household is the victim of domestic, intimate partner or sexual violence.
- That, as with other forms of leave in New Brunswick, the qualifying period for this leave should be 90 calendar days.
- That the purposes for which the leave may be taken should be broad and not limited to accessing care and services (i.e. medical care, reporting to or liaising with law enforcement, receiving legal advice, counselling, programs and activities offered by community organizations, etc.) or relocation. Employees may need time away from work to simply process the situation and the related trauma. Employees may also require leave time to navigate systems and advocate for support and services. Finally, employees may need leave time to access supports and services (or navigate systems and advocate for access supports and services) that may not explicitly address violence but instead focus on traditional ceremony, immigration and settlement services, child care, elder care, etc.
- That training be made available to employers to support the implementation of this leave.