

## *A Member's Guide to Employment Insurance*

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Elementary Teachers' Federation of Ontario  
Fédération des enseignantes et des enseignants de l'élémentaire de l'Ontario  
480 University Avenue, Suite 1000  
Toronto, Ontario  
M5G 1V2

Phone: 416-962-3836 Toll Free: 1-888-838-3836  
Fax: 416-642-2424  
Website: [www.etfo.ca](http://www.etfo.ca)

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## **Clawback of Special Benefits for High Income Earners**

Claimants who receive maternity, parental and sickness benefits no longer have to repay those benefits regardless of their annual income. This ensures that parents who stay at home with their young children or workers who are too sick to work are not penalized.

## **EI Publications**

Following are some Employment Insurance publications that may be of assistance to you and are available from your local EI office.

- EI and Teachers
- The Extended Duration of EI Regular Benefits
- EI and Maternity, Parental, and Sickness Benefits
- Appealing an EI Decision
- EI and Repayment of Benefits at Income Tax Time - Year 2010
- Defrauding the EI Program is a Serious Offence
- What is the EI System?

Information is also available on the Service Canada website at [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca) or the federal government's benefits website, [www.canadabenefits.gc.ca](http://www.canadabenefits.gc.ca).

The Elementary Teachers' Federation of Ontario wishes to thank the Alberta Teachers' Association and the Newfoundland and Labrador Teachers' Association for permission to revise their publication, "Teachers' Guide to Employment Insurance".

hospital for an extended period of time after birth, benefits may be interrupted during the time the child is in hospital and then continued after the baby is released from hospital. Should a teacher receive sickness benefits from the school board during the period surrounding the birth of the child as specified by her doctor, the 15-week EI benefit period may be interrupted. Maternity benefits may not be extended beyond 17 weeks following the later of the week of delivery or the week when delivery was expected except in situations where the baby is hospitalized.

### **Parental (including adoption)**

A maximum of 35 weeks of parental benefits can be collected by both natural and adoptive parents while they are caring for their newborn or adopted child. The benefits can be paid to either the mother or father, or shared between them if both parents are eligible. Parental benefits may be claimed at any time during the year after the child arrives home. However, if a newborn or newly adopted child requires an extended period of hospitalization, the time limit for claiming parental benefits may be extended to a maximum of two years from the date of birth or adoption. Claimants of parental benefits must complete an online application form, submit a ROE, an adoption certificate or proof of the child's birth, and a statement declaring their intent to stay at home to care for the child.

### **Sickness**

Teachers who are off work and unable to earn regular pay due to illness may claim EI benefits for a maximum of 15 weeks any time during a benefit period. EI is a second payer, and all benefits provided by the employer (such as cumulative sick leave) must be used first. Sickness benefits may be collected before or after maternity or parental benefits, but the total of these special benefits may not exceed 65 weeks (except for natural mothers who meet medical requirements for an extension). To apply for sickness benefits, a medical certificate should be provided along with the online application form and ROE.

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## General Information

### Types of Benefits

There are two types of EI benefits:

- Regular benefits, which are paid to members who are unemployed and looking for work.
- Special benefits, which are paid to members who:
  - (a) cannot work due to illness and are not entitled to paid sick leave, or
  - (b) are taking maternity and/or parental leaves.

**NOTE:** A special benefit period can interrupt a regular benefit, e.g., maternity, while unemployed.

### Hours Required to Qualify for EI Benefits

Each member's ability to collect EI benefits will depend upon three hours-related factors:

- The number of insurable hours worked in the previous 52 weeks prior to the claim;
- Whether or not the member is considered to be a "new entrant" or a "re-entrant"; and
- The type of benefit.

**"Insurable hours"** are hours worked for which a premium was paid. These are reported on the Record of Employment (ROE) issued to members when they leave their employment permanently or to commence certain kinds of leaves. The insurable hours relevant to a benefit are the hours worked in the "qualifying period" which is the 52 weeks before the start of the claim.

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### Occasional Teacher Members, ESP, PSP Members

Occasional teachers and ESP, PSP members may qualify for EI benefits if they have the required number of hours of insurable employment in the 52 weeks preceding application for benefits or since the start of the last EI claim. Occasional teachers and ESP, PSP members in receipt of EI benefits can receive additional income from employment of \$75 per week or 40 percent of the amount being received from EI, whichever is higher, without affecting the payments from EI. See "Allowable Earnings While on EI" for further explanation.

## Special Benefits

There are three types of special EI benefits: maternity, parental (including adoption) and sickness. Claimants may receive each type of benefit up to its maximum (i.e., 15 weeks maternity, 35 weeks parental, 15 weeks sickness) as long as the cumulative duration of special benefits does not exceed 65 weeks.

### Eligibility

To be eligible for special benefits, teachers must have a minimum of 600 insurable hours of employment within the last year or since the last EI claim. Eligible teachers will receive maternity/parental benefits during July and August. Earnings during special claims are deducted dollar for dollar.

### Maternity

These benefits are available only to the natural birth mother. A maximum of 15 weeks of benefits is payable at any time during the period beginning 8 weeks before the expected date of delivery and ending 17 weeks following the week in which delivery occurs. Benefits commence after the two-week waiting period has been served except where the EI claim is made immediately following a sick leave, in which case the waiting period may be waived. Should the newborn infant remain in

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benefit period will be extended for a corresponding period of time. This allows a claimant to participate in programs offered by the EI Commission during the allocation period.

## Retired Teachers

Retired teachers may not be eligible for EI benefits if their resignation is considered to be voluntary. However, if a resignation is due to a “just cause” (see *Quitting or Being Fired*), retired teachers may be eligible to receive EI benefits. Effective January 5, 1986, income from retirement, including retirement gratuities, is regarded as “earnings” in determining eligibility for EI benefits, except for those retirees who undertake post-retirement employment in which contributions to the Ontario Teachers’ Pension Plan is not a requirement. (Teaching 95 days or fewer in a school year will not affect a teacher’s pension.) These retirees may claim EI benefits upon termination of the post-retirement employment as long as they have the required number of insurable hours and they maintain an active job search. The provision of EI benefit recipients to earn up to \$50 or 25 percent of benefits, whichever is higher, referred to in this publication also applies to retired teachers.

## Types of Contracts and Their Effects on EI Insurability

### Statutory Teacher Members

Although teachers on a continuing statutory contract do have an interruption of work during July and August, EI legislation disqualifies them from receiving benefits unless they are on maternity/parental leave or have sufficient hours of non-teaching employment. If their continuing contract is terminated at the end of June, members may apply for benefits during the months of July and August, as long as they are searching for non-teaching jobs. In September they may resume searching for a teaching position for a “reasonable” period of time and continue to qualify for EI benefits. However, after a reasonable period of time, the Commission will expect teachers to look for work in other fields of employment.

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Other than for “new entrants” or “re-entrants”, the number of insurable hours needed for members to qualify for EI benefits depends upon the type of benefits claimed:

- For special benefits (i.e., maternity, parental, and sickness), a minimum of 600 insurable hours in the previous 52 weeks is required.
- For regular EI benefits, most people will need between 420 and 700 insurable hours to qualify depending upon the regional rate of employment. A chart outlining the relationship between insurable hours and the regional rate of employment is found in this publication in the section entitled “Regular EI Benefits”.

“**New entrants**” or “**re-entrants**” are members entering the workforce for the first time, members who have less than 490 hours of Labour Force Attachment in the 52 weeks preceding the qualifying period, or members who are re-entering the workforce after two years’ absence. To be in a position to become entitled to regular benefits, new entrants” or “re-entrants” may need 910 insurable hours. This requirement is not necessary for entitlement to special benefits.

## Amount of Benefit

The maximum EI weekly benefit is \$457, which is based on 55 percent of the average insured earnings up to a yearly maximum of \$43,200. The benefit will vary as is described below in the “Benefit Calculations” section.

Low income families (an income of less than \$25,921) with children and in receipt of the Canada Child Tax Benefit (CCTB) will receive a Family Supplement based on the CTB.

## Benefit Calculations

Effective October 26, 2008, claimants living in one of the participating economic regions may benefit from a new method of calculating the weekly benefit rate. This is based on the best 14 weeks of insurable earnings over the last 52 weeks.

If you are not living in one of the participating economic regions, the benefit rate is based on the average insured earnings in the 26-week period preceding and including the last paid working day. The 26-week period must fall within the qualifying period. Insured earnings are averaged over a number of weeks known as a divisor. The divisor is the greater of the number of weeks of insured earnings in the 26-week period or the number of weeks specified in the divisor table. The table assigns divisors to regions depending on their rate of employment.

**TABLE**

<b>Regional Rate of Unemployment</b>	<b>Divisor</b>
Not more than 6%	22
More than 6% but not more than 7%	21
More than 7% but not more than 8%	20
More than 8% but not more than 9%	19
More than 9% but not more than 10%	18
More than 10% but not more than 11%	17
More than 11% but not more than 12%	16
More than 12% but not more than 13%	15
More than 13%	14

The divisor table cannot be less than 14 or greater than 26.

- (c) discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act;
- (d) working conditions that constitute a danger to health or safety;
- (e) obligation to care for a child;
- (f) reasonable assurance of other employment in the immediate future;
- (g) significant modification of terms and conditions respecting wages or salary;
- (h) excessive overtime work or refusal to pay for overtime work;
- (i) significant changes in work duties;
- (j) antagonistic relations between an employee and a supervisor for which the employee is not primarily responsible;
- (k) employer's practices that are contrary to law;
- (l) discrimination with regard to employment because of membership in an employee organization;
- (m) undue pressure by an employer on employees to leave their employment; and
- (n) such other circumstances as are prescribed."

To date, no other circumstances have been prescribed.

## Severance Pay/Early Retirement Incentive Payments

As of March 31, 1985, monies other than salary paid or payable on or after termination are regarded as "earnings" in determining eligibility for EI benefits. If a member receives such payments, the EI Commission will consider these payments as money earned and will allocate them as if they were the member's weekly salary. Therefore, EI benefits will not begin until all such earnings have been allocated. Prior to June 20, 1993, claimants who received separation payments had the commencement date of their claim delayed until the monies received on separation had been "used up" based on the allocation mentioned above. Effective June 20, 1993, claimants should have their benefit period established immediately. They are still subject to an allocation of earnings, however, the

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- Make enquiries of friends, relatives and business acquaintances;
  - Identify organizations that might need workers with your particular background;
  - Prepare a brief, clear, well-organized resume and make sufficient copies to distribute to potential employers.

## **Clawback of Regular Benefits for High Income Earners**

Claimants are now exempt from the benefit repayment if they are first-time claimants of regular or fishing benefits. They are not by definition repeat claimants.

Members with income of \$48,750 in a taxation year who do not fall within the exemption may be required to return 30% of the EI benefit payments made in that same taxation year.

## **Quitting or Being Fired**

Members who quit their jobs without “just cause” or are fired for wrongful misconduct are disqualified from receiving any benefits. This has no effect on members who quit with “just cause”.

## **Just Cause**

For a person to qualify for benefits, there must be “just cause” for leaving a job. The term “just cause” is defined in the Employment Insurance Act as follows:

“Just cause” for voluntarily leaving an employment exists where, having regard to all circumstances, including any of the circumstances mentioned in paragraphs (a) to (n), the claimant had no reasonable alternative to immediately leaving employment:

- (a) sexual or other harassment;
- (b) obligation to accompany a spouse or dependent child to another residence;

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## **Working While on EI**

Claimants cannot work full-time and receive EI benefits. However, it is possible to work part-time. Claimants are allowed to earn the greater of \$75 or 40% of weekly benefits.

Claimants must report any earnings made while collecting regular benefits.

## **Clawback of Benefits for High Income Earners**

Since the clawback rules differ for regular and special benefits, read the appropriate section for further information.

## **Waiting Period**

There is usually a two-week waiting period from the Sunday of the week of application before benefits are payable.

## **Entitlement**

Regular benefits can be paid from 19 to a maximum of 50 weeks. The number of weeks of benefits which may be paid are determined at the start of the benefit period, based on the unemployment rate in the region and the amount of insurable hours a claimant has accumulated in the qualifying period.

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## Applying for Benefits

Two documents are required in applying for regular EI benefits: an application form (available online @ [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca)) and Records of Employment (sometimes called Separation Certificates) which must be provided by employers when there is an interruption of earnings because employment has terminated or a leave has commenced. If you are working at more than one job, obtain a Record of Employment from each employer. Additional documents are required for special benefits. Please refer to the Special Benefits section.

The Record of Employment (ROE) is the most important single document in the EI program. Everyone applying for EI benefits needs a ROE to establish insurable employment. Service Canada uses this form to determine a person's eligibility for benefits, the applicable benefit rate and the length of the benefit period. Employers must, by law, issue the ROE within five working days of learning that an interruption of earnings has taken place. Most employees file the ROE electronically with Service Canada.

When applying for regular benefits, two areas of the application form should receive the member's special attention. Please see the Application Form section for details.

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## Maintaining Benefits

The following procedures should be carefully adhered to by teachers receiving EI regular benefits:

- Keep a record of all employers contacted by phone, by email, by written application and/or by personal contact;
- Keep a record of dates of applications and replies;
- Complete all EI questionnaires and report cards promptly and accurately and return them to the EI office;
- Keep a copy of all correspondence to and from EI.

Members receiving regular EI benefits who are not conducting an active job search may be asked to discuss their job-hunting efforts.

## Looking for Work

All claimants for EI benefits must be available for work, must be willing and able to work, must be actively seeking employment and must be unable to find work. All applicants for EI benefits are advised to apply for several jobs every week. Members will be given a "reasonable" period of time during the school year to obtain a job in education; after that, and during the months of July and August, they will be expected to look for work in other fields of employment. Members eligible for EI benefits for the months of July and August must seek employment even if they intend to return to teaching in September.

The following are some avenues that should be explored or considered in looking for work:

- Apply for employment with appropriate school boards within traveling distance of your residence (whether or not they are advertising vacancies at the time);
- Check advertisements in local papers and trade journals;

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## Application Form

Two areas of the application form should receive the member's special attention. The first concerns the type of work the member is willing to accept. Although it is permissible, in principle, to restrict the job search to the field of education during the school year (September to June), the EI Commission has disqualified a teacher from benefits on the grounds that there are few or no employment opportunities in education.

Similarly, during the non-teaching period, applicants must seek work outside the field of education since teaching positions are virtually non-existent in this period. Applicants intending to return to teaching in September should look for temporary positions and should contact employers hiring on a temporary basis. Therefore, members are strongly advised not to be too restrictive on their EI application form as to the type of work they are willing to accept. It is acceptable for members to indicate that they are prepared to accept employment for which their education, experience and training make them suitable. Members should not restrict themselves to one specific example. Rather, they should leave the answer to this question as broad and general as possible and provide a number of wide-ranging examples such as clerical work, camp counsellor, child-care and librarian. Members with backgrounds outside of education should extend their potential job search accordingly.

The second area of the application form that requires special care is the question dealing with expected salary. Again, members are strongly advised to not be restrictive in their demands in this area. Rather than citing a single figure, members should indicate a salary range, taking into account the economic climate at the time of application for benefits. This does not mean that minimum wage should be accepted or be indicated on the form but the wage expected should be commensurate with the occupation sought.

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## Appeals

Applicants who do not agree with the disposition of their claim by the EI Commission may appeal the decision to a Board of Referees.

Appeals must be filed within 30 days of the date on which written notification of the disposition of a claim is received.

Members who have been disentitled from benefits must continue to complete the cards and submit them to the EI office weekly while waiting for the appeal to be heard. They must also continue to look for work.

## Regular EI Benefits

### Eligibility – General

Members claiming regular EI must:

- Have worked in insurable employment (refer to “insurable hours”) for a minimum of 420 to 910 hours during the qualifying period. The qualifying period is the past 52 weeks or the number of weeks since the start of the last EI claim, whichever is shorter.
- Have been without work and without pay for at least seven consecutive days.
- Conduct an active job search. A job search during the non-teaching period (July and August) **MUST** be outside the field of education.

The number of insurable hours required depends on the rate of unemployment in the region of the province where a member lives.

The following table shows the minimum number of weeks needed to qualify.

**TABLE**

**Insurable hours required**

<b>Regional Rate of Unemployment</b>	<b>Required number of hours of insurable employment in the last 52 weeks</b>
0% to 6%	700 hours
6.1% to 7%	665 hours
7.1% to 8%	630 hours
8.1% to 9%	595 hours
9.1% to 10%	560 hours
10.1% to 11%	525 hours
11.1% to 12%	490 hours
12.1% to 13%	455 hours
13.1% and over	420 hours

**Entitlement**

The following table illustrates the maximum number of weeks of EI benefits available. The entitlement is based on the number of hours a person has worked and the regional unemployment rate.

**TABLE OF WEEKS OF BENEFIT**

*Regional Rate of Unemployment*

<b>Hours of work</b>	<b>6% and under</b>	<b>+ 6% to 7%</b>	<b>+ 7% to 8%</b>	<b>+ 8% to 9%</b>	<b>+ 9% to 10%</b>	<b>+ 10% to 11%</b>	<b>+ 11% to 12%</b>	<b>+ 12% to 13%</b>	<b>+ 13% to 14%</b>	<b>+ 14% to 15%</b>	<b>+ 15% to 16%</b>	<b>over 16%</b>
420-454									31	33	35	37
455-489	0	0	0	0	0	0	0	29	31	33	35	37
490-524	0	0	0	0	0	0	28	30	32	34	36	38
525-559	0	0	0	0	0	26	28	30	32	34	36	38
560-594	0	0	0	0	25	27	29	31	33	35	37	39
595-629	0	0	0	23	25	27	29	31	33	35	37	39
630-664	0	0	22	24	26	28	30	32	34	36	38	40
665-699	0	20	22	24	26	28	30	32	34	36	38	40
700-734	19	21	23	25	27	29	31	33	35	37	39	41
735-769	19	21	23	25	27	29	31	33	35	37	39	41
770-804	20	22	24	26	28	30	32	34	36	38	40	42
805-839	20	22	24	26	28	30	32	34	36	38	40	42
840-874	21	23	25	27	29	31	33	35	37	39	41	43
875-909	21	23	25	27	29	31	33	35	37	39	41	43
910-944	22	24	26	28	30	32	34	36	38	40	42	44
945-979	22	24	26	28	30	32	34	36	38	40	42	44
980-1014	23	25	27	29	31	33	35	37	39	41	43	45
1015-1049	23	25	27	29	31	33	35	37	39	41	43	45
1050-1084	24	26	28	30	32	34	36	38	40	42	44	46
1085-1119	24	26	28	30	32	34	36	38	40	42	44	46
1120-1154	25	27	29	31	33	35	37	39	41	43	45	47
1155-1189	25	27	29	31	33	35	37	39	41	43	45	47
1190-1224	26	28	30	32	34	36	38	40	42	44	46	48
1225-1259	26	28	30	32	34	36	38	40	42	44	46	48
1260-1294	27	29	31	33	35	37	39	41	43	45	47	49
1295-1329	27	29	31	33	35	37	39	41	43	45	47	49
1330-1364	28	30	32	34	36	38	40	42	44	46	48	50
1365-1399	28	30	32	34	36	38	40	42	44	46	48	50
1400-1434	29	31	33	35	37	39	41	43	45	47	49	50
1435-1469	30	32	34	36	38	40	42	44	46	48	50	50
1470-1504	31	33	35	37	39	41	43	45	47	49	50	50
1505-1539	32	34	36	38	40	42	44	46	48	50	50	50
1540-1574	33	35	37	39	41	43	45	47	49	50	50	50
1575-1609	34	36	38	40	42	44	46	48	50	50	50	50
1610-1644	35	37	39	41	43	45	47	49	50	50	50	50
1645-1679	36	38	40	42	44	46	48	50	50	50	50	50
1680-1714	37	39	41	43	45	47	49	50	50	50	50	50
1715-1749	38	40	42	44	45	48	50	50	50	50	50	50
1750-1784	39	41	43	45	47	49	50	50	50	50	50	50
1785-1819	40	42	44	46	48	50	50	50	50	50	50	50
1820-	41	43	45	47	49	50	50	50	50	50	50	50