

Pregnancy and maternity/ parental leave

INFORMATION SHEET

The *Alberta Human Rights Act* (the *Act*) prohibits discrimination based on gender, which includes pregnancy. Pregnancy-related discrimination can occur under any of the *Act*'s protected areas. For example, **it is against the *Act* to:**

- fire, lay off, or demote someone because they are pregnant
- raise rent or try to make a tenant move because they are pregnant or have small children
- refuse to let someone use or access any public service, such as hotels, restaurants, retail stores, schools, or hospitals, because they are pregnant or breastfeeding/chestfeeding

Most pregnancy-related complaints made to the Commission relate to the area of employment. This information sheet focuses on pregnancy and maternity/parental leave in the workplace.

An employer cannot discriminate against an employee:

- because they are pregnant or could get pregnant (includes job candidates)
- for taking maternity or parental leave
- because of their family responsibilities, such as caring for a child

Examples of discrimination related to pregnancy in employment include:

- denying someone a job because they are of child-bearing age
- asking on a job application or in an interview if the candidate is pregnant or plans to have children
- terminating employment because the employee is pregnant or absent from work for pregnancy-related health reasons

- not accommodating work restrictions due to pregnancy, such as heavy lifting
- making a pregnant employee take a leave of absence because they are pregnant

Employer's duty to accommodate

An employer has a duty to accommodate an employee's pregnancy and maternity/parental leave to the point of undue hardship.

In some cases, an employee's pregnancy may prevent them from doing their job in part or in full. Where possible, an employer must try to modify the workplace so the pregnant employee can safely work. This may mean allowing the employee to take breaks more often, modify their work duties, or take a leave of absence. For example, a pregnant employee may not be able to carry heavy boxes. Someone else could perform this task temporarily in exchange for the employee assuming other less physically demanding tasks.

Sometimes a job simply cannot accommodate a pregnant person's needs. In this case, the employer must treat the employee like any other employee who temporarily cannot perform all their duties.

Taking a maternity or parental leave

Only a pregnant person can take maternity leave. Any parent, including biological or adoptive parents, can take parental leave to care for their newborn or newly adopted child. Often, a pregnant person takes a maternity leave followed by a parental leave. An employer cannot deny an

employee from taking maternity or parental leave. An employer also cannot discriminate against an employee who wants to or who takes a leave.

An employer can terminate an employee who is going or was recently on maternity or parental leave if there is another reason for the termination. For example, an employer could terminate an employee's employment before or while they are on maternity leave if the economy is poor and the employer is permanently eliminating the employee's position.

There are other laws that apply to maternity and parental leaves. For example, employment standards laws set out who is eligible for maternity and parental leaves, and they prohibit an employer from terminating an employee while on leave. Employment insurance legislation sets out who can receive maternity and parental leave benefit payments. Refer to the relevant agency for more information about these laws.

Access to medical leaves and benefits

Pregnancy is a valid health-related reason to be absent from work. This means maternity leave is a combination of health-related and voluntary leave, not solely a general leave of absence.

The health-related part of maternity leave is where the pregnant person's health condition meets the employer's normal rules for being away from work because of health. The rest of the maternity leave is voluntary. A health-related leave can happen at any time before, during, or after a maternity leave.

An employer must treat an employee on a health-related leave due to pregnancy the same as it would any other employee on a health-related leave. For example, an employer cannot exclude pregnancy-related health issues from its sick leave policy. An employer also cannot deny an employee from choosing between a maternity leave or a valid health-related leave.

For more information

Visit **albertahumanrights.ab.ca** for more information and to read the Commission's human rights guide, *Human Rights, Pregnancy, and Parental Rights and Responsibilities*.

Contact us

Website: albertahumanrights.ab.ca

Confidential inquiry line: 780-427-7661

Fax: 780-427-6013

Toll-free within Alberta: 310-0000 and then enter the area code and phone number

Video Relay Service (VRS): For Albertans who are deaf, hard of hearing, or speech-impaired, you can access our services via your own interpreter or via Canada VRS (srvcanadavrs.ca), which provides an interpreter.

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Upon request, the Commission will make this publication available in accessible formats for people with disabilities who do not read conventional print.

Please note: A complaint must be made to the Alberta Human Rights Commission within one year after the alleged incident of discrimination. The one-year period starts the day after the date on which the incident occurred. For help calculating the one-year period, contact the Commission.