



Canadian
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droits de la personne

Pregnancy, becoming a parent, and human rights

A guide for federally regulated workplaces

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Introduction

Becoming a parent, whether through pregnancy or other means, is a workplace human rights issue.

This guide is for every worker who is pregnant or becoming a parent through various means and their employers. First and foremost, it is important to understand that every worker has the right to be treated with dignity, respect, and accommodation in their workplace. This means that people should not suffer negative consequences in the workplace because they are pregnant or in the process of becoming a parent.

Workers who are in the process of becoming parents may be affected differently by specific job functions or workplace rules compared to other workers. As a result, employers may need to make adjustments to working conditions or policies to prevent workplace discrimination.

This guide will help both employers and workers understand the human rights around pregnancy in the workplace, and how to prevent workplace discrimination related to a worker becoming a parent. The Canadian Human Rights Act (the Act) protects people in Canada from pregnancy-related discrimination, or discrimination related to becoming a parent through other means. For ease of reading, this guide will often only refer to the term “pregnant workers.” But this term should be read in the broadest, most inclusive sense.

This guide also uses the term worker, instead of employee, in order to use the broadest term possible. The term “worker” means all full-time, part-time, casual, contract, permanent and temporary employees, including service employees in military and other public safety roles, as well as trainees/cadets, students, interns, volunteers, job applicants and candidates, and those on approved leave.

Finally, please note that this guide is not legal advice. Nothing in this guide limits the Canadian Human Rights Commission (Commission)’s discretion in accepting a complaint based on any of the grounds in the Act or referring such a complaint to the Canadian Human Rights Tribunal for further review.

About the Canadian Human Rights Act

The Act is Canada's federal anti-discrimination law. Its purpose is to ensure that everyone has an equal opportunity to live the lives they are able and wish to have, free from discrimination. It applies to all federally regulated employers, such as:

- federal departments and agencies in the federal public service
- First Nations governments
- banks
- Crown Corporations, such as Canada Post
- radio and television broadcasting

- air or rail transportation

Under the Act, it is illegal in Canada to discriminate against someone for reasons linked to a set of certain personal traits. These traits are known as [prohibited grounds of discrimination](#), and include things like your race, age, sex or disability.

There are 13 prohibited grounds of discrimination under the Act:

- race
- national or ethnic origin
- colour
- religion
- age
- sex
- sexual orientation
- gender identity or expression
- marital status
- family status
- genetic characteristics
- disability
- conviction for which a pardon has been granted

A worker who feels they have been discriminated against based on one or more prohibited grounds of discrimination in the Act may choose to file a complaint with the Commission within one year of the last alleged act of discriminatory treatment.

Grounds related to becoming a parent

Under the Act, people are protected from discrimination related to pregnancy **under the ground of “sex.”** Later in this guide, you will find a list of some of the possible ways you can interpret discrimination related to pregnancy.

As well, **the ground of “family status”** under the Act protects people from discrimination related to becoming a parent through means other than their own pregnancy (i.e. adoption, fostering, surrogacy or having a pregnant partner).

A broad definition of pregnancy

One of the keys to creating a welcoming workplace for pregnant workers is to use the broadest, most modern and inclusive interpretation of “pregnancy.”

Federal human rights law in Canada — the Act — recognizes that “pregnancy” includes various related conditions and circumstances, including:

- childbirth

- fertility treatment(s), or family planning
- medical conditions or complications that might affect or be affected by pregnancy or childbirth (e.g. diabetes, high blood pressure)
- pregnancy as a surrogate
- miscarriage or conditions arising as a direct or indirect result of miscarriage
- stillbirth or conditions arising as a direct or indirect result of stillbirth
- abortion or conditions arising as a direct or indirect result of abortion
- reasonable recovery time after childbirth, miscarriage, stillbirth or abortion
- placing a baby for adoption¹
- maternity and pregnancy-related leave
- breastfeeding

The ground of sex: Discrimination related to pregnancy

Pregnancy-related discrimination is any action, decision or policy that negatively affects a worker or group of workers, because of pregnancy or pregnancy-related conditions or circumstances. All pregnant workers are deserving of equal respect and dignity in the workplace, just as any worker.

If a pregnant worker is not having their pregnancy-related needs met in the workplace, even after talking to their supervisor or employer, the worker can [file a human rights complaint on the ground of sex](#).

Examples of pregnancy-related discrimination

The following actions are some that could be considered pregnancy-related discrimination:

- refusing to hire or promote someone because they are pregnant, plan to become pregnant, or recently gave birth
- negative, unequal treatment in employment because of pregnancy-related circumstances or conditions
- terminating a worker's employment due to pregnancy-related conditions or circumstances
- creating or following policies or practices that negatively affect a worker, because of pregnancy-related conditions or circumstances
- failing to provide reasonable accommodation for a worker who is pregnant, trying to become pregnant or recently gave birth
- failing to provide leave to a worker requesting it because of their abortion or miscarriage

¹ The rights of expectant adoptive parents or foster parents would be covered under the ground of "family status" in the Canadian Human Rights Act. Keep reading for more information.

Harassing workers because of pregnancy or related conditions or circumstances is also considered discrimination. Harassment includes joking, teasing, and unwelcome comments or touching.

Understanding intersectionality

While discrimination related to pregnancy is protected under the ground of “sex,” discrimination is unique to each situation, and can be linked to other grounds.

Sometimes, people face discrimination because of their religion, race, gender identity or expression, disability, marital or family status, or sexual orientation. When these factors overlap, it can create unique challenges. This is called **intersectionality**. To address it, we need to look carefully at how these different factors combine and make inequality worse.

A specific example of intersectionality is that some groups of people may be particularly vulnerable while pregnant due to discrimination they have experienced when trying to access the same level of healthcare as others. This is a common form of discrimination experienced by equity-deserving groups such as Indigenous, Black, or other racialized people, as well as trans or non-binary people. Examples of healthcare barriers they may face include:

- discrimination, prejudice or unconscious bias
- lack of culturally competent or gender-affirming care
- lack of attention during a hospital stay, specifically a lack of sufficient pain management
- medical mistrust due to past and ongoing injustices
- limited access to appropriate services, especially in rural or underserved areas

This discrimination in the healthcare system can impact workplace accommodation needs. For example, a worker may require time off for additional appointments to ensure their overall well-being during their pregnancy.

Employers need to understand the broader context of these kinds of intersecting and systemic issues so they can find the best possible workplace accommodations for each individual worker. It is important to treat each accommodation request uniquely and evaluate it based on the individual's circumstances and specific needs.

If a pregnant worker is not having their pregnancy-related needs met in the workplace because of their intersectional identity, for example as a pregnant woman who identifies as Black, she could [file a human rights complaint on the grounds of both sex and race](#).

Pregnancy and disability

Pregnancy is not a disability. However, a worker may have health or disability accommodation needs related to the pregnancy. Pregnancy-related disability issues might arise before, during, or after pregnancy. For example, pregnancy may introduce new health conditions such as

gestational diabetes, hypertension, preeclampsia, or kidney issues. These may require additional medical appointments or other workplace accommodation needs.

Additionally, people with disabilities who are pregnant may have distinct accommodation needs. For example, some workers may need time off for specialized medical care if they have pre-existing, underlying conditions that complicate fertility, conception, or pregnancy. Others may need accommodation in the workplace for separate disability, mental health and/or pregnancy related needs.

If a pregnant worker is not having their pregnancy-related needs met in the workplace because of a new or pre-existing disability, she could file a [human rights complaint on the grounds of both sex and disability](#).

The ground of family status: Other discrimination related to becoming a parent

It has been established that under the Act, the ground of “sex” protects a person from being discriminated against because of anything related to their pregnancy. For workers who are in the process of becoming parents through other means, the Act protects them from discrimination under the ground of “family status.”

The ground of family status is all about who your family is. It protects workers from being discriminated against for reasons linked to becoming a parent through adoption, fostering, surrogacy, or supporting a partner who is pregnant. Family status rights also extend beyond expanding one’s family. For instance, a worker may have caregiving obligations, such as to a child, a parent, or a loved one with a disability. For more information about promoting a caregiving-friendly workplace, please refer to the Commission’s guide [Creating a caregiver-friendly workplace](#).

Here are some common examples of situations where the ground of family status could apply:

- taking time off work to accompany a pregnant spouse or partner to a medical appointment
- additional childcare obligations when a pregnant spouse or partner is on bedrest
- taking leave from work to attend a meeting with an adoption or foster care agency
- taking leave from work to attend the birth of one’s child via surrogate
- parental leave for non-birthing parents

Denying a worker these kinds of accommodation arrangements could potentially be considered discrimination under the ground of “family status.”

Understanding the duty to accommodate

Some pregnant workers or workers who are becoming parents may have new needs that arise. Employers have a legal duty to meet those needs. This is called the duty to accommodate.

It essentially means that employers have a legal obligation to adjust the working conditions for an individual or group to ensure that those individuals who otherwise able to work are not unfairly excluded.

For more detailed information on workplace accommodation, please refer to the Commission's guide [Workplace accommodation: a guide for federally regulated workplaces](#).

Before deciding on an accommodation solution for a pregnant worker or a worker who is becoming a parent, employers should meet with the worker to understand their needs and to discuss the options.

At the end of this guide, you will find a go-to list of some recommended accommodation solutions.

Working together to find a reasonable accommodation: Taylor's story

Taylor's job requires that she wear a uniform. The uniform is supplied and paid for by her employer. Taylor is pregnant and asks her employer for two new uniforms, in different sizes, to meet her changing physical needs.

After discussing Taylor's needs with her, the employer offers an appropriate accommodation: to supply Taylor with one new uniform, to be altered as needed throughout her pregnancy, at the employer's expense.

Addressing health and safety risks

Health and safety in the workplace are important and should be balanced with the right of a worker to participate fully in the workplace. That said, employers should not assume a worker is unable to perform their duties merely because they are pregnant or have pregnancy-related concerns.

The pregnant worker should raise any concerns related to their workplace health and safety. They should do this with their supervisor, or their health and safety officer at the earliest opportunity.

Then after that open conversation, the **employer** should:

- find ways to reduce or eliminate the source of harm
- protect the pregnant worker in their substantive job
- consider a temporary option to avoid health risks during the worker's pregnancy

The pregnant **worker** should:

- work with the employer to find alternate ways to reduce risks while still fulfilling the core functions of their job
- be open to a temporary reassignment to another position, or temporary leave

When should the employer initiate the conversation?

If an employer believes that workplace conditions will result in a serious health or safety risk to a pregnant worker, or others, they should initiate a conversation with the worker.

This is especially true in the case of safety-sensitive positions.

A safety-sensitive position is one that, if not performed in a safe manner, can cause direct and significant damage to property, and/or injury to the worker, others around them, the public and/or the immediate environment.

Finding the balance: Priya's story

Priya works as a manager in a medical lab and is pregnant. She recently applied to a job competition in a new lab. The job requires exposure to chemicals proven to be toxic during pregnancy. Priya is the top candidate in the competition and as such must not be denied the job opportunity if she can be accommodated throughout her pregnancy. The employer must first ask how Priya's pregnancy can be accommodated in the workplace.

- What can be done to adjust the job or the working conditions to make it safer?
- Is chemical exposure avoidable during the period of the pregnancy?
- Can the core functions of the job be done without the risk of chemical exposure?
- Can certain functions be shared with others for the duration of the pregnancy?

Since Priya is the top candidate, the employer offers her the job. The employer meets with Priya to understand her accommodation needs. In the end, Priya's duties that require exposure to chemicals are temporarily reassigned to another employee, and Priya takes on alternative duties for the remainder of her pregnancy.

Creating a workplace that supports pregnancy and becoming a parent

At this point in this guide, you already have so many of the important pieces you need to create a workplace that is welcoming and inclusive for all types of expectant parents. You have a better understanding of the Canadian Human Rights Act, the grounds of sex and family status, the concept of intersectionality, and the duty to accommodate.

Another important part of creating a pregnancy-friendly workplace is putting proactive measures in place to help prevent pregnancy-related discrimination before it happens.

Typically, there are four phases of employment where pregnancy-related discrimination — based on the grounds of “sex” or “family status” — can be identified and prevented. In this next section, you will find a break-down of those four phases, with some proactive practices for each phase.

Phase one: During the hiring process and/or job promotion

- When hiring for new job opportunities, ensure that candidates who are pregnant are not excluded
- Assume all candidates — regardless of their age, sex, gender identity, disability, marital status — could eventually become parents and require workplace accommodation
- When interviewing, do not ask candidates about plans to have children, use of birth control, or pregnancy
- Ensure that hiring, training or promotional opportunities are equally available to workers who are pregnant, who are in the process of becoming parents, or who plan to take maternity or parental leave

Phase two: During pregnancy or when becoming a parent

- Assume all workers — regardless of their age, sex, gender identity, disability, marital status — who are expectant parents may require workplace accommodation
- Allow leave for workers to attend pregnancy-related appointments, including allowing workers to attend appointments with a pregnant partner. This may be leave with or without pay, depending on the workplace policies
- Allow pregnant workers to take sick leave when they are ill and be mindful and respectful that everyone’s situation is unique and requires different amounts of leave
- When restructuring or downsizing, assess all positions in the same manner
- Do not force workers to take more maternity or pregnancy-related leave than they are requesting, or to start their leave earlier
- Provide leave (bereavement, medical, family-related, etc.) to a worker requesting it because of their or their partner’s miscarriage, abortion, or because their adoption has fallen through
- Never terminate employment contracts or term employment early because of pregnancy, or a worker’s intention to take parental leave

Phase three: During maternity leave, parental leave or pregnancy-related absence(s)

- Ensure that workers on any kind of parental or pregnancy leave are still eligible for the same benefits as any other worker on leave. (i.e. Workers responsible for a portion of the cost of benefits during employment continue to be responsible for that portion while on maternity, parental or pregnancy-related leave)

- Inform workers of job opportunities that become available while on leave and allow them to apply
- Inform workers on leave of any changes to their job and provide them the opportunity to participate in any related discussions or consultations
- Ensure workers on leave can continue to gain seniority and years of service
- In the event of layoffs, consider all workers equally and never discriminate based on someone's pregnancy or leave status

Phase four: During a worker's return to work

- Allow workers to return to their same job
- If a worker's job no longer exists, allow them to return to a similar job
- Pay workers any wage increases that came into effect while they were on leave

Examples of accommodation solutions

When looking at accommodation solutions, managers and supervisors should always be open to creative and flexible responses to each individual worker's needs.

Before deciding on an accommodation solution for a pregnant worker, employers should meet with the worker to understand their needs and to discuss the options. Typically, the kinds of accommodation solutions you consider will be temporary. They will generally only need to last as long as the pregnancy, parental leave, adoption process, etc. Employers should maintain open, respectful lines of communication with the worker and be flexible and responsive to changing needs.

Effective accommodation solutions may include, but are not limited to, the following:

- flexible work hours
- part-time work
- changing shifts
- a private place for breastfeeding or pumping
- flexible start time to deal with morning sickness or breastfeeding schedules
- extra washroom breaks as needed
- time off for pregnancy-related medical appointments
- preferred parking
- modified uniforms
- job sharing
- altering work duties or tasks to address any health or safety concerns
- leave or a leave extension
- alternate work arrangements

- a different position, on a temporary basis

More guidance on workplace accommodation can be found in the Commission's publication:
[Workplace accommodation - A guide for federally regulated workplaces](#)