

Administrative Policy No. 18.90

Subject: Workplace Pregnancy Accommodation

Authorizing Sources: [RCW 43.10.005](#) (Workplace Pregnancy Accommodations)

Information Contact: DSHS Human Resources

Effective Date: September 21, 2020

Revised: New

Approved By: Original signed by Wendy Long
Senior Director, Human Resources Division

Purpose

To provide guidance to Department of Social and Health Services managers and employees regarding pregnancy and pregnancy related health condition accommodations.

Scope

This policy applies to all employees of the department.

Additional Guidance

[Administrative Policy 18.85 Lactating Employees in the Workplace Breaks for Lactating Employees](#) micro learning

Definitions

Pregnancy: Includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

Undue Hardship: Means an action requiring significant difficulty or expense. An employer may not claim undue hardship for the accommodations under sections A.1(a), (b), (c), or (d) below.

Policy Requirements

The department is committed to equal employment opportunities for department employees without regard to pregnancy status. Washington law provides specific civil rights protections for pregnant employees. These protections apply to an employee's pregnancy and pregnancy related health conditions, which include health conditions during pregnancy and after the birth of the baby, such as breastfeeding or expressing milk ([AP 18.85 Lactating Employees in the Workplace](#)). It is the policy of the department not to discriminate because of pregnancy status in

any term or condition of employment, or in access to programs, facilities, and services offered by the department.

- A. The department must:
 - 1. Provide the following accommodations without written health care provider certification when an employee requests:
 - a. Frequent, longer, or flexible restroom breaks.
 - b. Modification to a no food or drink policy.
 - c. Seating or allowing the employee to sit more frequently
 - d. Limits on lifting more than 17 pounds.

- B. The department may require:
 - 1. Written healthcare provider certification when an employee requests:
 - a. Job restructuring, part time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's workstation.
 - b. A temporary transfer to a less strenuous or less hazardous position.
 - c. Assistance with manual labor and limits on lifting 17 pounds or less.
 - d. Scheduling flexibility for prenatal visits.
 - e. Reasonable break time for an employee to express breast milk or breastfeed for two years after the child's birth and in accordance with AP 18.85 lactating employees in the workplace, including a private location, other than a bathroom, that is shielded from view and free of intrusion from co-workers and the public, if such a location exists at the place of business or worksite. If the employee's location does not have a space for the employee to express milk, the administration will work with the employee to identify a location to accommodate the employee's needs.
 - f. Any further pregnancy accommodation that the employee may need.

- C. For additional information, please contact a department human resource division reasonable accommodation specialist.

- D. The department is prohibited from:
 - 1. Failing or refusing to make reasonable accommodation for an employee for pregnancy unless the department can demonstrate that doing so would impose an undue hardship on the department's program, enterprise or business.
 - 2. Taking adverse action against pregnant employees because they request, decline, or use an accommodation under this section that affects the terms, conditions, or privileges of employment.
 - 3. Denying employment opportunities to pregnant or lactating employees who are otherwise qualified if such denial is based on the employer's need to make a reasonable accommodation.

4. Requiring pregnant or lactating employees to take leave if an alternative is available.
 - **Exception:** if an employee has medical documentation that states they cannot perform their essential job duties and is offered a reasonable accommodation that would allow them to continue working and **declines**, the department may offer the employee a leave of absence as a form of reasonable accommodation until they are released to return to perform their job duties. If the employee declines leave, the employee is expected to perform the essential duties at performance standards, without reasonable accommodation.
 5. Employees with a pregnancy related disability may have rights in addition to those listed here.
- E. Any pregnant or lactating employee as defined within this policy whose workplace rights may have been violated may file a complaint with any or all of the following:

Washington state attorney general's civil rights unit

pregnancy@atg.wa.gov

1-(833)-660-4877

www.atg.wa.gov/pregnancy-accommodations

Human resources division

Investigations unit

1115 S. Washington, OB - 2nd Floor NE Wing

PO Box 45830

Olympia, WA 98504-5830

360-725-5807 or 1-800-521-8060

Toll Free TDD 1-800-521-8061