



*Worth Knowing #54 (2021 05 11)*

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## **WORTH KNOWING**

### **Accommodation of Pregnancy in Schools**

Pregnancy can be a time of joyful expectation and excitement for teachers and their families; however, the coronavirus pandemic raises many concerns. Teachers who are pregnant are understandably very concerned about coronavirus and want to do everything they can to avoid contracting the virus. For women with underlying or complex medical conditions, typical precautions (including wearing a mask, handwashing, physical distancing and immunization) may not be sufficient.

However, teachers in Alberta who are pregnant can work with their physicians to arrange for workplace accommodations to ensure that they are able to protect their own health and the health of their family.

As every woman experiences pregnancy differently, the form of accommodation adopted must be suitable to the individual. Pregnant women are not ill and, in most cases, are both willing to work and capable of working throughout their pregnancy. However, some pregnant teachers need special accommodations to ensure their health and the health of their baby. In these cases, teachers must have medical documentation showing that they require the employer to make changes to certain rules, standards, policies, workplace cultures or physical environments to ensure that school conditions do not have a negative effect on their health. This may mean extra personal protective equipment (PPE), barrier protection or, in more complex situations, a teacher not being able to work in a regular school setting.

Accommodation is intended to operate as a dialogue whereby both the employer and the teacher attempt to find a workable solution for both parties, and each party has certain roles and responsibilities. It is teachers' responsibility to work with their health-care provider and Teacher Employment Services (TES) to provide the appropriate medical documentation. As a first step, teachers looking for accommodation are encouraged to call TES to discuss their options.

Unfortunately, accommodation of pregnancy in the workplace is one of the most misunderstood areas of human rights law. Employers sometimes view pregnancy as a personal choice that does

not require any obligations on the part of the employer. This viewpoint is inaccurate and unfair to women.

Section 44 of the *Alberta Human Rights Act* notes that “whenever this Act protects a person from being adversely dealt with on the basis of gender, the protection includes, without limitation, protection of a female from being adversely dealt with *on the basis of pregnancy*” (emphasis added). Equal opportunity does not exist if women are penalized for participating in an activity that is beneficial to society as a whole, such as raising a family. Employers must take measures to accommodate pregnancy, and this duty goes further than some realize.

It is the duty of the employer to make accommodations for medical disability to the point of undue hardship. Given the temporary nature of pregnancy, accommodation in this context is unlikely to meet the threshold of undue hardship except in very specific circumstances. Thus, this will require working with the employer to establish the medical limitations of the teacher’s disability and to ensure that the employer best accommodates the teacher’s disability. Teachers must bear in mind that employers have the ability to direct them to attend a medical examination under section 226 of the *Education Act*.

## **WORTH SHARING**

Pregnant teachers need a safe working environment for themselves and for their babies. Teachers who need information about their options for workplace accommodation can call Catherine in the Local’s office at 780-455-2164 or Teacher Employment Services at 1-800-232-7208.

**#WEAREATA**