



It is unlawful for an employer to discriminate in terms of compensation, conditions, or privileges of employment because of pregnancy.



Department of Fair Employment and Housing

If a voluntary settlement cannot be reached, and there is sufficient evidence to establish a violation of the law, DFEH may issue an accusation and litigate the case before the Fair Employment and Housing Commission or in civil court. If the Commission or court decides in favor of the complaining party, remedies may include reinstatement, back pay, reasonable attorney's fees, damages for emotional distress, and administrative fines.

For more information, call toll free at
(800) 884-1684
Sacramento area & out-of-state at
(916) 478-7200
TTY number at (800) 700-2320
or visit our Web site at www.dfeh.ca.gov

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State of California
Department of Fair Employment & Housing

DFEH-186 (07-07)

Pregnancy Leave

The Fair Employment and Housing Act (FEHA) contains provisions relating to pregnancy leave. These provisions cover all employers with five or more employees. It is unlawful for an employer to discriminate in terms of compensation, conditions, or privileges of employment because of pregnancy. In addition, there are certain leave and transfer protections and guarantees provided under the FEHA and the *California Family Rights Act (CFRA)*.

All employers must provide information about pregnancy leave rights to their employees and post this information in a conspicuous place where employees tend to gather. Employers who provide employee handbooks must include information about pregnancy leave in the handbook.

Leave Requirements

- An employee disabled by pregnancy is entitled to up to four months disability leave. If the employer provides more than four months of leave for other types of temporary disabilities, the same leave must be made available to women who are disabled due to pregnancy, childbirth, or a related medical condition.
- Leave can be taken before or after birth during any period of time the woman is physically unable to work because of pregnancy or a pregnancy-related condition. All leave



The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

taken in connection with a specific pregnancy counts toward computing the four-month period.

- Pregnancy leave is available when a woman is actually disabled. This includes time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, or any related medical condition.
- If an employee is disabled as the result of a condition related to pregnancy, childbirth, or associated medical conditions and requests reasonable accommodation upon the advice of her health-care provider, an employer must provide reasonable accommodation.
- As an accommodation, and with the advice of her physician, an employee can request transfer to a less strenuous or hazardous position for the duration of her pregnancy.
- Employees are entitled to take pregnancy disability leave in addition to any leave entitlement they might have under CFRA. For example, an employee could take four months pregnancy disability leave for her disability, and 12 weeks CFRA leave to bond with the baby; to bond with an adopted child; or to care for a parent, spouse, or child with a serious health condition. CFRA leave may also be taken for the employee's own serious health condition. For more information, see DFEH-188 "California Family Rights Act."

- If possible, an employee must provide her employer with at least 30 days advance notice of the date for which the pregnancy disability leave is sought or transfer begins and the estimated duration of the leave.
- If 30 days advance notice is not possible due to a change in circumstances or a medical emergency, notice must be given as soon as practical. The leave may be modified as a woman's changing medical condition dictates. If a woman desires to return earlier than agreed, an employer must reinstate her within two business days of her notice.

Salary and Benefits During Leave

- Employers who provide health insurance coverage for employees who take leave for non-pregnancy-related, temporary disabilities must provide coverage for employees who take leave for pregnancy, childbirth or related medical conditions.
- An employer may require an employee to use her accrued sick leave during any unpaid portion of her pregnancy disability leave. The employee may also use vacation leave credits to receive compensation during an otherwise unpaid portion of her pregnancy disability leave. An employer may not require an employee to use vacation leave or other accrued time off during pregnancy disability leave.

Return Rights

- After a pregnancy disability leave or transfer, employees are guaranteed a return to the same position and can

request the guarantee in writing.

- If her same position is no longer available, such as in a layoff due to plant closure, the employer must offer a position that is comparable in terms of pay, location, job content, and promotional opportunities, unless the employer can prove that no comparable position exists.

Filing a Complaint

If you believe you are a victim of illegal discrimination, you can explore filing a complaint with the Department of Fair Employment and Housing (DFEH) by following these steps:

- Contact DFEH by calling the toll-free number at (800) 884-1684 to schedule an appointment or use our online appointment system at www.dfeh.ca.gov
- Be prepared to present specific facts about the alleged discrimination or denial of leave.
- Keep records and provide copies of documents that support the charges in the complaint, such as paycheck stubs, calendars, correspondence and other potential proof of discrimination.

Complaints must be filed within **one year** of the last act of discrimination.

DFEH will conduct an impartial investigation. We are not an advocate for either the person complaining or the person complained against. We represent the State of California. DFEH will, if possible, try to assist both parties to resolve the complaint.