

COVID-19 Family Status Accommodation – Employee Information

Staff, faculty and librarians may experience challenges working from home at a time when childcare is unavailable, schools are not operating normally, or when there is a medical reason a child cannot attend childcare or school or cannot live with family members exposed to COVID-19. Under the British Columbia Human Rights Code, it may be necessary for the employer to accommodate these challenges under the protected ground of “family status.” This is intended to provide information for you in the event you wish to make a request for family status accommodation.

Generally speaking, employees are expected to undertake their work-related responsibilities unless they are on an approved leave.

Specific to COVID related accommodations on the basis of family status, the BC Office of the Human Rights Commissioner notes in their Policy Statement on COVID-19 Pandemic (excerpts p.

7) (https://bchumanrights.ca/wp-content/uploads/2020/03/BC-OHRC_COVID19_Policy-V3.pdf)

Employers are entitled to expect that employees will continue to perform their work unless they have a legitimate reason for why they cannot, including current public health guidance to socially distance or self-isolate. Employers may also need to accommodate employees with increased child care obligations due to the pandemic. Protections related to family status may require employers to take all actions short of undue hardship to accommodate family care giving responsibilities where an employee is unable to cover the necessary care through other means. Accommodations may include allowing for flexible work hours, working from home or taking paid leave time. The same may be true for employees who are required to care for sick family members at home.

Under British Columbia law, in order to establish discrimination or claim an accommodation on the basis of family status, *the employee must establish* that there has been a change in a term or condition of employment imposed by the employer that results in a serious interference with a substantial parental duty or other family duty or obligation. Normally, this would entail the employee providing evidence that they did everything reasonable to procure alternative family care that would have enabled them to do their work without accommodation in the face of the employer imposed change.

Like medical accommodations, each accommodation request needs to be considered on its own merits, giving due regard to the circumstances and the needs of the requestor.

In making a request for family status accommodation to your supervisor/leader, you must do the following:

Outline the request in writing, including:

- a. The details of the situation giving rise to your need for accommodation (what is the objective evidence that you have experienced a change in employment conditions that has resulted in a serious interference with a substantial parental/family duty, based on present COVID-19 conditions?);
 - i. In the case of a family care claim: details what your obligation is to their family member(s) (e.g. I am a single mother of two children solely responsible for their care) and all of the efforts you have made to seek alternative family care (this includes outlining the family care contributions of your partner, other family members and friends, or why they can't contribute; and what efforts have been

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made to seek publicly available family care services) and any barriers to seeking alternative family care (this may include COVID-19 related restrictions).

- ii. In the case of a family exposure concerns: detail your obligation to your family member (e.g. I am the sole caregiver for my elderly mother who lives with me; I am the father of a child with a severe immunocompromising illness) and provide information about their circumstances, including the medical situation of the family member and risks posed (based on objective and scientific evidence), their housing arrangements and what alternative arrangements could be made and any steps taken at home to limit the family member's exposure.

In all cases, provide:

- b. the specific impact on the work that is expected of you (i.e. why you cannot do particular work or require modification to the work);
- c. the requested accommodation which will enable you to do the work (e.g. deferral of a deadline; delaying an assignment; doing the work differently or remotely; receiving support; access to equipment or on-campus space to enable completion of work; allowing for a leave, an alternative or reduced workload, etc.).

Your supervisor/leader will consider the request and will respond. In the case of a family status accommodation that involves the medical status of your family member, you may be required to provide a Physician's Statement confirming their medical information and the need to accommodate you as a parent/family caregiver.

The employee and the supervisor/leader will complete the Family Status Accommodation Plan, to document the arrangement. (Hyperlink "Family Status Accommodation Plan" to the form at <https://www.uvic.ca/hr/assets/docs/Temporary%20FS%20Accommodation%20Plan.pdf>).

Approvals for certain types of work arrangements may be required under relevant policy and collective agreements.