

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. 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, faculty and librarians are expected to undertake their Academic and Professional Responsibilities unless they are on an approved Leave under the Collective Agreement.

However, the BC Human Rights Code protects against discrimination in employment on the basis of the protected ground of “family status” (s. 13(1)). The law requires an employer to provide reasonable accommodation *to the point of undue hardship* to enable a person to do their work (i.e. not face discrimination in relation to a protected ground). 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 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.

Should you make a request for family status accommodation to your Chair/Director/Dean, you must do the following:

1. Outline the request in writing, including:
 - a. 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 made to seek publicly available family care services) and any barriers to seeking alternative family care (this may include COVID-19 related restrictions);

- b. the specific impact on the work that is expected of you (i.e. why you cannot do the 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 (including a course); doing the work differently; receiving TA or co-instructor support; access to equipment or on-campus space to enable completion of work; allowing for a leave, an Alternative Workload or Reduced Workload under the Collective Agreement, etc.).

Your Chair/Director will consider the request and will make a recommendation to your Dean who will determine if the accommodation is appropriate to grant in the circumstances. If the accommodation involves an Alternative Workload arrangement, the Dean will make their recommendation to the Provost whose approval is required under the Collective Agreement. Any accommodation must be formally documented.