

Chapter 162-30 WAC

SEX DISCRIMINATION

WAC

162-30-010 General purpose and scope.
162-30-020 Pregnancy, childbirth, and pregnancy related conditions.

WAC 162-30-010 General purpose and scope. The general purpose of the law against discrimination in employment because of sex is to equalize employment opportunity for men and women. This chapter interprets and implements the sex discrimination protection of RCW 49.60.180, and provides guidance regarding certain specific forms of sex discrimination.

[Statutory Authority: RCW 49.60.120(3). WSR 99-15-025, § 162-30-010, filed 7/12/99, effective 8/12/99; Order 9, § 162-30-010, filed 9/23/71.]

WAC 162-30-020 Pregnancy, childbirth, and pregnancy related conditions. (1) **Purposes.** The overall purpose of the law against discrimination in employment because of sex is to equalize employment opportunity for men and women. This regulation explains how the law applies to employment practices that disadvantage women because of pregnancy or childbirth.

(2) **Findings and definitions.** Pregnancy is an expectable incident in the life of a woman. Discrimination against women because of pregnancy or childbirth lessens the employment opportunities of women.

(a) "Pregnancy" includes, but is not limited to, pregnancy, the potential to become pregnant, and pregnancy related conditions.

(b) "Pregnancy related conditions" include, but are not limited to, related medical conditions, miscarriage, pregnancy termination, and the complications of pregnancy.

(3) Unfair practices.

(a) It is an unfair practice for an employer, because of pregnancy or childbirth, to:

(i) Refuse to hire or promote, terminate, or demote, a woman;

(ii) Impose different terms and conditions of employment on a woman.

(b) The sole exception to (a) of this subsection is if an employer can demonstrate business necessity for the employment action. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months.

(c) It is an unfair practice to base employment decisions or actions on negative assumptions about pregnant women, such as:

(i) Pregnant women do not return to the job after childbirth;

(ii) The time away from work required for childbearing will increase the employer's costs;

(iii) The disability period for childbirth will be unreasonably long;

(iv) Pregnant women are frequently absent from work due to illness;

(v) Clients, co-workers, or customers object to pregnant women on the job;

(vi) The terms or conditions of the job may expose an unborn fetus to risk of harm.

(4) Leave policies.

(a) An employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. Employers must treat a woman on pregnancy related leave the same as other employees on leave for sickness or other temporary disabilities. For example:

(i) If an employer provides paid leave for sickness, or other temporary disabilities, the employer should provide paid leave for pregnancy related sickness or disabilities;

(ii) If the uniform policy requires a physician's statement to verify the leave period, a physician's statement may be required to verify the leave period relating to pregnancy or childbirth.

(iii) If the uniform policy permits the retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period for other temporary disabilities, the policy must also permit it during leave for pregnancy related temporary disabilities.

(iv) If the employer permits extensions of leave time (e.g., use of vacation or leave without pay) for sickness or other temporary disabilities, the employer should permit such extensions for pregnancy related sickness or disabilities.

(b) There may be circumstances when the application of the employer's general leave policy to pregnancy or childbirth will not afford equal opportunity for women and men. One circumstance would be where the employer allows no leave for any sickness or other disability by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(c) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. Refusal to do so must be justified by adequate facts concerning business necessity.

(d) Employers may be required to provide family medical leave, in addition to leave under this chapter. Please see appropriate federal and state family and medical leave laws and regulations.

(5) **Employee benefits.** Employee benefits provided in part or in whole by the employer must be equal for male and female employees. For example, it is an unfair practice to:

(a) Provide full health insurance coverage to male employees but fail to provide full health insurance coverage, including pregnancy and childbirth, to female employees.

(b) Provide maternity insurance to the wives of male employees but fail to provide the same coverage to female employees.

(6) **Marital status immaterial.** The provisions of this chapter apply irrespective of marital status.

(7) **Labor unions and employment agencies.** The provisions of this chapter apply equally to employers, labor unions, and employment agencies.

[Statutory Authority: RCW 49.60.120(3). WSR 99-15-025, § 162-30-020, filed 7/12/99, effective 8/12/99; Order 15, § 162-30-020, filed 9/28/73; Order 11, § 162-30-020, filed 6/26/72.]