

STATE OF INDIANA

EXECUTIVE DEPARTMENT INDIANAPOLIS

EXECUTIVE ORDER 21-10

FOR: ACCOMMODATIONS FOR PREGNANT STATE EMPLOYEES

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, the State of Indiana is committed to recruiting and retaining skilled and talented employees as this leads to numerous benefits to the state such as having a more productive workforce, lower attrition rates, increased morale and a better reputation for the state;

WHEREAS, the majority of state employees are women, accounting for approximately 53% of those employed by the State of Indiana;

WHEREAS, the State of Indiana's support of women in its workforce must include reasonable accommodations for female employees during pregnancy when necessary;

WHEREAS, the benefits of providing reasonable pregnancy accommodations to women in the workplace can include, for example, reducing the chance of preterm births, promoting worker retention and productivity, and increasing workforce morale;

WHEREAS, the most commonly requested pregnancy accommodations do not place an undue hardship on employers, are fairly limited in scope and are often at no cost or a one-time low cost;

WHEREAS, while a federal pregnancy discrimination law exists, it does not contain a list of reasonable measures an employee may request and an employer should provide to accommodate a pregnant employee. Therefore, additional guidance is needed to assist state agencies in knowing what to implement as reasonable accommodations for pregnant workers; and

WHEREAS, it is the objective of this Executive Order to establish clear expectations for state agencies and employees regarding the subject of pregnancy accommodations.

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. Reasonable accommodations, as described herein, shall be made for pregnant employees in executive branch agencies, as defined in Ind. Code 4-2-6-1(a)(2) (hereinafter referred to as a "State Agency" or "State Agencies").
2. With respect to pregnant employees, State Agencies must:
 - a. make reasonable accommodation(s) for known limitations related to an employee's pregnancy, unless the accommodation(s) would impose an undue hardship on the State Agency;
 - b. refrain from taking adverse employment action against an employee at any time during her employment because she has requested or used an accommodation for her pregnancy;

- c. ensure that an employee who has requested a reasonable pregnancy accommodation remains eligible for employment opportunities for which they are qualified;
 - d. allow an employee to decline a pregnancy accommodation;
 - e. refrain from requiring an employee to take a leave if other reasonable pregnancy accommodation(s) can be provided; and
 - f. engage, with good faith, in a timely and interactive process with an employee who the State Agency knows has limitations related to her pregnancy, in order to determine effective and reasonable accommodations appropriate under the circumstances.
3. As used in this Executive Order, the phrase “reasonable accommodation” means a temporary modification or adjustment to address medical needs related to pregnancy, and may include the following:
 - a. more frequent or longer breaks;
 - b. unpaid time off work;
 - c. acquisition or modification of equipment;
 - d. alternatives to uniform or dress code standards;
 - e. seating or permission to stand;
 - f. transfer to a less strenuous or less hazardous assignment;
 - g. modification of job assignments or light duty;
 - h. unpaid work break time for expressing breast milk;
 - i. private non-bathroom space for expressing breast milk;
 - j. assistance with physical or manual labor;
 - k. modified work schedules; and/or
 - l. an accommodation prescribed by a health provider.
4. If a state employee requests a reasonable accommodation for her pregnancy, the State Agency may request, and the employee shall provide, proof of pregnancy from her healthcare provider.
5. The terms “pregnancy” or “pregnant” include pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.
6. The Indiana State Personnel Department shall:
 - a. cause notice of this right to be conspicuously posted at each State Agency, in an area accessible to employees;
 - b. in collaboration with the Department of Health, develop and make available educational materials on healthy pregnancy to state employees; and
 - c. ensure that existing and future policies adhere to the requirements of this Executive Order.

7. Disputes concerning application of this Executive Order are to be resolved through the State Agency's normal employee dispute resolution procedure; with the minimum assurance that the agency head or designee must respond to a pregnant employee's written complaint within fifteen (15) calendar days. Thereafter, unresolved issues may be escalated through available administrative remedies.



IN TESTIMONY WHEREOF, I, Eric J. Holcomb, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, on this 20th day of April, 2021.

Eric J. Holcomb
Governor of Indiana

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ATTEST: Holli Sullivan
Secretary of State