

Talking to Your Boss About Your Bump: California

This fact sheet focuses on California law. Protections will differ in other states. In addition, you may be protected by federal law through the Americans with Disabilities Act or the Pregnancy Discrimination Act.¹ Visit babygate.abetterbalance.org/California/ for more information.

WHEN to break the news:

- There are no legal deadlines for notifying your employer of your pregnancy, except that you must give your employer 30 days' advance notice of a request for pregnancy-related leave, accommodation, or temporary transfer if the need for leave, accommodation, or transfer is foreseeable. If 30 days' notice is not practicable (for example, if a unforeseeable medical issue develops), you must provide notice as soon as possible.
- If you suspect that your boss won't be happy to hear you are pregnant, don't feel pressure to tell before you are ready. However, keep in mind that your colleagues and boss may appreciate being told as soon as you feel comfortable, so that they, and you, can plan ahead.

WHAT to say:

- Before starting the conversation, it's a good idea to do your homework and review your employer's policies about pregnancy and parental leave. You may also want to consult with human resources.
- Reassure your boss that you are committed to your job and that you plan to return to work after the baby arrives. Many bosses wrongly assume that pregnancy means the end of an employee's dedication and reliability. It's important to tackle those assumptions up front.
- Stress that you are willing and able to keep working—even if your pregnancy impacts your work, it will be a short-term situation, like a temporary disability. You don't need a doctor's note to announce your pregnancy, and in fact, sometimes a note can cause trouble if your boss thinks it limits what you can do on the job.
- Highlight that you are a breadwinner (or primary earner) for your family, and your household depends on your paycheck.



¹ The Equal Employment Opportunity Commission enforces the Pregnancy Discrimination Act (PDA) and Americans with Disabilities Act (ADA), which cover employers nationwide who have 15 or more employees. The PDA makes it illegal for your employer to punish you because of your pregnancy or to treat you differently than other workers because you are pregnant. The ADA protects you from discrimination and entitles you to reasonable accommodations if you have a pregnancy-related disability, such as hypertension, preeclampsia, gestational diabetes, or another pregnancy-related impairment that substantially limits a major life activity.

- If you have access to parental leave, come armed with a plan to help your boss prepare for your absence and cover your workload while you are gone.
- Listen carefully and take careful notes after your conversation, especially about anything that sounded strange or wrong to you.
- Unfair treatment based on pregnancy (e.g. firing, penalizing, or harassing you upon learning you are pregnant) is illegal.

Workplace Accommodations

Under a California law² that applies to employers with 5 or more employees, you have a right to a reasonable accommodation for your pregnancy, childbirth, lactation, or related medical condition when requested with the advice of your health care provider. For example, you may ask for:

- Modified work practices, policies, or duties
- Modified work schedules to permit earlier or later hours
- More frequent or longer breaks (e.g., to use the restroom or eat a snack)
- A stool or chair for sitting
- Periodic rest
- Assistance with manual labor (including acquiring lifting devices)
- Temporary transfers to less strenuous or hazardous duties or positions (if available)
- Break time and appropriate facilities for pumping breast milk
- Other accommodations, so long as they are reasonable.

Have a conversation with your medical provider about your job duties to understand if you may need changes at work because of your pregnancy. Keep in mind that your needs may change over the course of your pregnancy. If you do want to seek an accommodation, keep reading!

² California's Pregnancy Disability Leave law also provides up to four months of unpaid job-protected leave if you are disabled by pregnancy, childbirth, or a related medical condition (unable to perform your job duties). Cal. Gov't. Code § 12945. However, if your employer provides more generous leave to other employees out on temporary disability, it must provide more generous leave to you too. 2 CCR § 11042. Additionally, you may be entitled to receive partial income replacement when you are out on disability leave through the State Disability Insurance (SDI) program. Beginning on January 1, 2021, employees who work for employers with 5 or more employees may be eligible for up to 12 weeks of unpaid job-protected leave under the California Family Rights Act, which may be used to bond with a new child following recovery from pregnancy disability. 2020 Cal SB 1383, to be codified at Cal. Gov't. Code §§ 12945.2, 12945.6. You may be entitled to receive up to 8 weeks of partial income replacement when you are out on bonding leave through the Paid Family Leave (PFL) program. Contact the Employment Development Department for more info on how to apply for SDI and/or PFL: www.edd.ca.gov.

HOW to ask for an accommodation:

1. **Tell your boss that you need a reasonable accommodation because of your pregnancy, childbirth, lactation, or related medical condition.**
 - a. Come prepared with a plan—what kind of changes do you need and how can you make that work? Talk with coworkers and enlist their help.
 - b. For accommodation ideas, see the list above or look at The Center for Worklife Law’s list of pregnancy-related conditions and possible workplace accommodations: www.pregnantatwork.org/wp-content/uploads/Workable-Accommodation-Ideas.pdf.
2. **Specify what your limitation is and what kind of accommodation you need,** including any job duties that you need modified, and make sure your boss knows you can still perform the bulk of the duties of your job. Refer your boss to the Job Accommodation Network (<http://askjan.org/soar/other/preg.html>) for more information and ideas.
3. **Explain how your requested accommodation is reasonable and workable** (e.g. it’s time limited, another employee is willing to help you on occasion with the task you can’t perform, etc.).
4. **If your boss requires a note from your health care provider to confirm that a reasonable accommodation is medically advisable, make sure that the provider’s note is as specific as possible and outlines exactly what you can and cannot do at work.** Avoid vague terms like “heavy lifting,” “avoid stress,” or “light duty,” which may be interpreted by your boss to mean you can no longer do your job. Be aware that employers often use doctor’s notes to say that pregnant women can’t do their jobs and to push them out of the workplace, either by forcing them onto leave before they are ready or by firing them outright. Here are guidelines on writing effective work accommodation notes that you can print and share with your prenatal care provider: <https://www.pregnantatwork.org/wp-content/uploads/california-work-note-guidelines.pdf>.
5. **Make sure to get any conversation with your employer documented in writing**—you may send an e-mail or note summing up what was discussed and keep a copy for your records.

Your employer’s obligations:

- When you ask your employer for an accommodation, it should be a two-way conversation—your boss must engage with you. If she asks for additional information to understand your limitations, you should provide it. Your boss may ask you to bring in a note from a healthcare professional to confirm the reasonable accommodation is “medically advisable.” If you have questions about whether a request is permissible, contact us at the phone numbers below.

- You are not entitled to receive your first choice accommodation, but your boss cannot send you out on leave if there is any other reasonable accommodation available that would address your pregnancy-related limitation(s).
- Your employer may not discriminate or retaliate against you (e.g., fire, penalize, or harass you) for requesting an accommodation.

**Questions? Call:
A Better Balance at (833) 633-3222
Center for Worklife Law at (415) 703-8276**