

# Metro | *Policies and procedures*

**Subject** Pregnancy Transfer and Leave  
**Section** Human Resources; Finance and Regulatory Services (Risk)  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Metro may provide modified duty, a temporary transfer, or a leave of absence for a pregnant employee who is unable to perform any or all job duties without undue risk to the health and safety of the employee or the pregnancy.*

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## **Applicable to**

All employees who are or may become pregnant.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

## **Guidelines**

1. Metro may provide modified duty, a temporary transfer, or a leave of absence for a pregnant employee who is unable to perform any or all job duties without undue risk to the health and safety of the employee or the pregnancy.
  - a. Metro will grant a leave of absence only if modified duty and temporary transfer are not feasible within the terms of this policy, except that if necessary an eligible employee may be granted leave pending consideration of modified duty and transfer options.
2. This policy is intended to address situations that do not meet the legal requirements for coverage under the Americans with Disabilities Act (ADA), Oregon Family Leave Act (OFLA), Family and Medical Leave Act (FMLA). Pregnant employees may have additional options for extended modified duty, transfer, or leave under those laws or other Metro policies. Employees should consult the applicable Metro policies and contact the HR Department for more information as needed.

## **Procedures**

1. To request modified duty, employees must provide their supervisor or the HR Department with written medical restrictions from their health care provider.
  - a. Supervisors must forward this information to HR immediately.

- b. Employees who work around chemicals may find it helpful to ask their health care provider to review copies of the Material Safety Data Sheets (MSDS) for their work area. Supervisors will ensure that MSDS sheets are available to employees.
  - c. If more information is needed to clarify the restrictions or evaluate the suitability of possible transfer options, the HR Department may request that the employee provide additional information before a decision is made on the employee's request. With the employee's consent, the HR Benefits Manager may request follow-up information directly from the employee's health care provider.
  - d. Employees are not required to meet eligibility requirements under the ADA, OFLA or FMLA to qualify for modified duty, transfer or leave under this policy.
  - e. Metro will not assume a pregnant employee is unable to perform regular duties without a request by the employee.
  - f. The employee must meet all the attendance, conduct, and performance expectations for the modified duty or transfer position.
2. A temporary transfer will be provided only if:
- a. It is not feasible to modify the duties of the employee's current position;
  - b. There is an available position for which the employee is qualified;
  - c. The duties in the temporary position are consistent with the employee's medical restrictions; and
  - d. The transfer does not create a hardship to Metro's operations.
3. Metro may remove an employee from a modified duty or transfer assignment for any of the following reasons:
- a. The employee's medical restrictions are lifted or change substantially such that the modified duty or transfer assignment is no longer appropriate;
  - b. The transfer assignment is needed for an employee with a disability that requires accommodation or for an employee with on-the-job injury covered by the Workers' Compensation system;
  - c. The employee is unable or unwilling to meet the attendance, performance and conduct expectations for the modified duty or transfer assignment; or
  - d. Continuation of the modified duty or transfer assignment will create a hardship to Metro's operations.
4. If modified duty or temporary transfer is not feasible, Metro will provide a leave of absence unless it would create a hardship to Metro's operations.
- a. A leave of absence for pregnancy will be paid from accrued paid time off. Once accrued paid time off is exhausted, leave will be unpaid.
  - b. If the employee is benefits-eligible, benefits will be continued for as long as the employee's leave is paid by accruals. For unpaid leave, benefits will continue through the last day of the month following the month in which unpaid leave begins. After that date, leave will be without benefits unless the employee elects to continue benefits at the employee's own expense.
    - i. If the leave is covered by OFLA/FMLA, benefits will continue as described in that policy.
  - c. Leave will be excused for as long as the employee is unable to perform any suitable and available positions due to pregnancy-related medical restrictions.

- d. Leave granted under this policy will not be counted against the employee's attendance record for purposes of discipline or performance evaluations.
5. The position of an employee who has been transferred or is on leave may be filled on a temporary basis or kept vacant until the employee is reinstated.
6. An employee whose medical restrictions change or are lifted must notify the supervisor and submit a copy of the release or revised restrictions to the HR Department by the employee's next scheduled work shift or within three business days, whichever comes first.
7. Metro will reinstate an employee to their regular position prior within ten business days of receiving a medical release indicating that the employee is able to perform all the duties of that position, unless the position has been eliminated or the employee is no longer eligible for the position for reasons unrelated to the pregnancy transfer or leave.
  - a. In the event that the employee's regular position is eliminated, the employee will be subject to layoff consistent with applicable policy and contract provisions.

## **Responsibilities**

### Employees:

- Submit a request for modified duty, transfer or leave to your supervisor or the HR Department along with appropriate medical documentation.
- Fulfill the performance and conduct expectations for a modified duty or transfer assignment. Consult with your supervisor if guidance is needed.
- If your restrictions are lifted or changed, give a copy of the release or new restrictions to your supervisor by your next scheduled work shift or within three business days, whichever comes first.
- If you are unable to return to your regular position at the end of your modified duty assignment, consult Metro policies and/or contact the HR Department to explore any other options you may have for modified duty or a leave of absence.
- Request and code leave time consistent with this policy and regular timekeeping procedures.

### Supervisors and Managers:

- Notify the Department Director and HR Department if an employee requests modified duty, temporary transfer, or a leave of absence due to pregnancy risks.
- Promptly send any medical information received from an employee or another source to the HR Department without keeping copies, except that a copy of the employee's work restrictions may be retained while the restrictions are in effect. Maintain the confidentiality of all medical information.
- Consult with the HR Department before making changes to an employee's work assignment.
- Provide guidance to the employee as to the performance and conduct expectations for the modified duty assignment.
- Direct employees to consult Metro's personnel policies and/or contact the HR Department to explore their options if they are unable to return to their regular assignment at the conclusion of approved modified duty, transfer or leave.

Human Resources Department:

- Maintain all medical information in the employee's confidential medical file in accordance with legal requirements.
- Notify the Department Director upon receipt of a request for modified duty, transfer or leave under this policy.
- Provide advice on options for modified duty, temporary transfer and leave as needed.

**References**

Americans with Disabilities Act Policy

Family and Medical Leave Policy

Leave without Pay policy