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Employer Notice: Pregnant Workers Gain Added Protections Under Federal Law

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As of June 27, 2023, employers must offer additional protections to employees affected by pregnancy, childbirth, or a related medical condition under a new federal law—the Pregnant Workers Fairness Act (“PWFA”).

The PWFA requires employers with 15 or more employees to provide reasonable accommodations to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship”—*i.e.*, significant difficulty or expense for the employer.

Some examples of such reasonable accommodations include:

- Providing seating and water;
- Providing closer parking;
- Providing flexible hours;
- Providing appropriately sized uniforms and safety apparel;
- Providing additional break time to use the bathroom, eat, and rest;
- Providing leave or time off to recover from childbirth; and
- Excusing the worker from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.

Employers should also be mindful that the PWFA prohibits the following actions:

- Requiring an employee to accept an accommodation without a discussion about the accommodation between the worker and the employer;
- Denying a job or other employment opportunities to a qualified employee or applicant based on the person’s need for a reasonable accommodation;
- Requiring an employee to take leave if another reasonable accommodation can be provided that would let the employee keep working;
- Retaliating against an individual for reporting or opposing unlawful discrimination under the PWFA or participating in a PWFA proceeding (such as an investigation); or
- Interfering with any individual’s rights under the PWFA.

Employers should also must keep in mind that more protective state laws, as well as Title VII, the Americans With Disabilities Act, the Family and Medical Leave Act, and the PUMP (Providing Urgent Maternal Protections for Nursing Mothers) Act may also apply depending on the situation.

To ensure compliance with the PWFA, employers should review and update their existing policies, train supervisors and managers on the requirements of the PWFA, and proactively address ways to provide required accommodations to covered workers. The EEOC is accepting charges of violations of the PWFA as of June 27, 2023, so immediate attention by employers is necessary.

Employers must immediately post the “Know Your Rights: Workplace Discrimination is Illegal” poster, prepared by the EEOC. Failure to post the poster will result in a monetary penalty. Guidance from the EEOC about the PWFA (and the required poster) can be found on the [EEOC’s website](#).

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