



HR INSIGHTS

A MORETON & COMPANY HR ADVISORY SERVICES NEWSLETTER

EEOC's FAQs on the Pregnant Workers Fairness Act

To help employers prepare for changes under the Pregnant Workers Fairness Act (PWFA)¹, the Equal Employment Opportunity Commission (EEOC) has issued frequently asked questions and answers (FAQs)² on its new protections for pregnant and nursing workers.

The PWFA, which went into effect on June 27, 2023, amends the Americans with Disabilities Act (ADA) to require reasonable accommodations for a qualified individual's limitations related to pregnancy, childbirth or related medical conditions.

The EEOC's FAQs, which are part of its "What You Should Know" series of guidance, include a general overview of the PWFA and notes that the EEOC will issue proposed regulations to implement the new requirements.

This compliance overview provides the EEOC's FAQs explaining what You Should Know About the PWFA

What is the PWFA?

The PWFA is a new law that requires covered employers 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."

The PWFA applies only to accommodations. Existing laws that the EEOC enforces make it illegal to fire or otherwise discriminate against workers on the basis of pregnancy, childbirth or related medical conditions.

The PWFA does not replace federal, state, or local laws that are more protective of workers affected by pregnancy, childbirth, or related medical conditions. More than 30 states and cities have laws that provide accommodations for pregnant workers.

When does the PWFA go into effect, and will the public have input on any regulations?

The PWFA went into effect on June 27, 2023. The EEOC is required to issue regulations to carry out the law. The EEOC will issue a proposed version of the PWFA regulations so the public can give their input and offer comments before the regulations become final.

Is the EEOC accepting charges under the PWFA?

The EEOC began accepting charges under the PWFA on June 27, 2023. For the PWFA to apply, the situation complained about in the charge must have happened on June 27, 2023, or later.

In some situations, workers affected by pregnancy, childbirth or a related medical condition may be able to get an accommodation under Title VII of the Civil Rights Act (Title VII) or the ADA. Therefore, as of June 27, 2023, the EEOC will continue to accept and process Title VII or ADA charges involving a lack of accommodation regarding pregnancy, childbirth or related medical conditions.





Since June 27, 2023, the EEOC analyzes charges regarding accommodations for workers affected by pregnancy, childbirth or related medical conditions under the PWFA (if the violation occurred after June 27, 2023) and, where applicable, under the ADA or Title VII.

Who does the PWFA protect?

The PWFA protects employees and applicants who work for a covered employer and have known limitations related to pregnancy, childbirth or related medical conditions. Covered employers include private and public sector employers with at least 15 employees. They also include Congress, federal agencies, employment agencies and labor organizations.

What are some examples of reasonable accommodations for pregnant workers?

“Reasonable accommodations” are changes to the work environment or the way things are usually done at work.

The [House Committee on Education and Labor's Report on the PWFA³](#) provides several examples of possible reasonable accommodations, including the ability to:

- Sit or drink water;
- Receive closer parking;
- Have flexible hours;
- Receive appropriately sized uniforms and safety apparel;
- Receive additional break time to use the bathroom, eat and rest;
- Take leave or time off to recover from childbirth; and
- Be excused from strenuous activities or activities that involve exposure to compounds not safe for pregnancy.

Employers are required to provide reasonable accommodations unless they would cause an “undue hardship” on the employer’s operations. An undue hardship is a significant difficulty or expense for the employer.

What else does the PWFA prohibit?

Covered employers cannot:

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





What other federal laws may apply to pregnant workers?

Other laws that apply to workers affected by pregnancy, childbirth or related medical conditions include:

- Title VII (enforced by the EEOC), which:
 - Protects an employee from discrimination based on [pregnancy](#)⁴, childbirth or related medical conditions; and
 - Requires covered employers to treat a worker affected by pregnancy, childbirth or related medical conditions the same as other workers similar in their ability or inability to work;
- The ADA (enforced by the EEOC), which:
 - Protects an employee from discrimination based on [disability](#)⁵ (while pregnancy is not a disability under the ADA, some pregnancy-related conditions may be disabilities under the law); and
 - Requires covered employers to provide reasonable accommodations to a person with a disability if the reasonable accommodation would not cause an undue hardship for the employer;
- The [Family and Medical Leave Act of 1993](#)⁶ (enforced by the U.S. Department of Labor), which provides covered employees with unpaid, job-protected leave for certain family and medical reasons; and
- The [Providing Urgent Maternal Protections for Nursing Mothers Act \(PUMP Act\)](#)⁷ (enforced by the U.S. Department of Labor), which broadens workplace protections for employees to express breast milk at work.



Source: *Equal Employment Opportunity Commission (EEOC)*

1. <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>
2. <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>
3. <https://www.congress.gov/congressional-report/117th-congress/house-report/27/1?overview=closed>
4. <https://www.eeoc.gov/pregnancy-discrimination>
5. <https://www.eeoc.gov/pregnancy-discrimination>
6. <https://www.dol.gov/agencies/whd/fmla>
7. <https://www.dol.gov/agencies/whd/pump-at-work>

For more information about Moreton & Company's HR Advisory Services please contact Kevin Mansfield at kmansfield@moreton.com.

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