

Employers Take Note: EEOC Begins Enforcing The Pregnant Workers Fairness Act

Article By:

Henry Morris, Jr.

Enacted last year, the Pregnant Workers Fairness Act (PWFA) went into effect on June 27, 2023. The Equal Employment Opportunity Commission (EEOC) began accepting PWFA charges on that date.

EEOC Chair Charlotte Burrows applauded this development, stating, “I am honored to lead the EEOC as we enforce a new civil rights law. For workers and job applicants, the PWFA will help ensure economic security at a critical time in their lives.”

“The EEOC stands ready,” she continued, “to support employers as they carry out the PWFA’s directives and to support workers in receiving the accommodations they are entitled to under the PWFA.”

The PWFA requires employers with at least 15 employees to provide reasonable accommodations to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodations would cause the employer an undue hardship.

“Reasonable accommodations” are changes to the work environment or customary workplace practices. Examples include allowing employees 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
- be excused from strenuous activities and/or activities that involve exposure to compounds not

safe for pregnancy

Such accommodations are required unless they would cause the employer an “undue hardship,” significant difficulty, or expense.

In addition to mandating reasonable accommodations, the PWFA contains several significant prohibitions. Under it, covered employers may not:

- require an employee to accept an accommodation without engaging in an interactive process
- deny a job or other employment opportunity to a qualified employee or applicant based on the individual’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 investigation or other proceeding
- interfere with any individual’s PWFA rights

Employers that violate the PWFA are subject to the same enforcement powers, procedures, and remedies as those who violate Title VII.

The PWFA does not supplant federal laws that prohibit discrimination based on pregnancy, childbirth, or related medical conditions. Nor does it replace more protective federal, state, or local laws.

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National Law Review, Volume XIII, Number 181

Source URL: <https://natlawreview.com/article/employers-take-note-eeoc-begins-enforcing-pregnant-workers-fairness-act>