



What You Should Know About the Pregnant Workers Fairness Act

Overview

1. What is the Pregnant Workers Fairness Act?

Generally, the Pregnant Workers Fairness Act (PWFA) requires a covered employer to provide a “reasonable accommodation” to a qualified employee’s or applicant’s known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”

The PWFA applies only to accommodations. Other **laws** (<https://www.eeoc.gov/pregnancy-discrimination>) that the EEOC enforces make it illegal to fire or otherwise discriminate against employees or applicants 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 (used here to mean job applicants and employees) affected by pregnancy, childbirth, or related medical conditions. More than 30 **states** (<https://www.dol.gov/agencies/wb/pregnant-nursing-employment-protections>) and cities have laws that require employers to provide accommodations for pregnant workers.

2. When did the PWFA go into effect, and has the EEOC issued a regulation about the law?

The PWFA went into effect on June 27, 2023. On April 15, 2024, the EEOC issued

its **final regulation** (<https://www.federalregister.gov/d/2024-07527>) to carry out the law. The regulation went into effect on June 18, 2024. You can find a summary of the regulation at <https://www.eeoc.gov/summary-key-provisions-eeocs-final-rule-implement-pregnant-workers-fairness-act-pwfa> (<https://www.eeoc.gov/summary-key-provisions-eeocs-final-rule-implement-pregnant-workers-fairness-act-pwfa>).

3. Is the EEOC accepting charges under the PWFA?

Yes, on June 27, 2023, the EEOC began accepting charges alleging violations of the PWFA.

In some situations, workers affected by pregnancy, childbirth, or related medical conditions may also be entitled to receive an accommodation under two other laws the EEOC enforces, Title VII of the Civil Rights Act of 1964 or the Americans with Disabilities Act (ADA). Therefore, the EEOC will continue to accept and process charges involving a lack of accommodation regarding pregnancy, childbirth, or related medical conditions under Title VII and/or the ADA as well as under the PWFA.

4. Which employers does the PWFA apply to?

The PWFA applies to private employers and public sector employers (state and local governments) that have 15 or more employees. It also applies to Congress and Federal agencies, and to employment agencies and labor organizations.

5. Who does the PWFA protect?

The PWFA provides for reasonable accommodations for qualified applicants or employees who have known limitations. Under the PWFA, “limitations” are physical or mental conditions related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.

6. What does the PWFA prohibit?

Covered employers must not:

- Fail to make a reasonable accommodation for the known limitations of an employee or applicant, unless the accommodation would cause an undue hardship;
- Require an employee to accept an accommodation other than a reasonable accommodation arrived at through the interactive process;

- 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;
- Punish or retaliate against an employee or applicant for requesting or using a reasonable accommodation for a known limitation under the PWFA, reporting or opposing unlawful discrimination under the PWFA, or participating in a PWFA proceeding (such as an investigation);
- Coerce individuals who are exercising their rights or helping others exercise their rights under the PWFA.

7. What other federal laws may apply to workers affected by pregnancy, childbirth, or related medical conditions?

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

- Title VII (enforced by the EEOC), which:
 - Protects workers from discrimination based on **pregnancy** (<https://www.eeoc.gov/pregnancy-discrimination>), childbirth, or related medical conditions; and
 - Requires covered employers to treat workers affected by pregnancy, childbirth, or related medical conditions the same as others similar in their ability or inability to work;
- The ADA (enforced by the EEOC), which:
 - Protects workers from discrimination based on **disability** (<https://www.eeoc.gov/eeoc-disability-related-resources>); and
 - Requires covered employers to provide reasonable accommodations to a qualified individual with a disability if the reasonable accommodation would not cause an undue hardship for the employer.
 - Some pregnancy-related conditions may be disabilities under the law, but pregnancy itself is not a disability under the ADA.
- The **FMLA (Family and Medical Leave Act)** (<https://www.dol.gov/agencies/whd/fmla>) (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 **PUMP Act** (<https://www.dol.gov/agencies/whd/nursing-mothers>) (Providing Urgent Maternal Protections for Nursing Mothers Act) (enforced by the U.S. Department of Labor), which broadens workplace protections for employees to express breast milk at work.

Important Terms and Provisions

8. What is a “reasonable accommodation” and what are some examples?

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

Some examples of possible reasonable accommodations under the PWFA include:

- Additional, longer, or more flexible breaks to drink water, eat, rest, or use the restroom;
- Changing food or drink policies to allow for a water bottle or food;
- Changing equipment, devices, or workstations, such as providing a stool to sit on, or a way to do work while standing;
- Changing a uniform or dress code or providing safety equipment that fits;
- Changing a work schedule, such as having shorter hours, part-time work, or a later start time;
- Telework;
- Temporary reassignment;
- Temporary suspension of one or more essential functions of a job;
- Leave for health care appointments;
- Light duty or help with lifting or other manual labor; or
- Leave to recover from childbirth or other medical conditions related to pregnancy or childbirth.

This list just provides some examples; many other reasonable accommodations may exist. Also, a worker may need different accommodations at different times during the pregnancy or after childbirth.

9. Does a covered employer have to provide leave as a reasonable accommodation?

Leave can be a reasonable accommodation that an employee requests under the PWFA. An employer does not have to provide leave (or any other reasonable accommodation) if it causes a undue hardship.

10. What is “undue hardship”?

An employer does not have to provide a reasonable accommodation under the PWFA if it causes the employer an undue hardship. “Undue hardship” means significant difficulty or expense.

11. Who is a “qualified employee” or a “qualified applicant”?

An employee or applicant can be “qualified” under the PWFA in two ways.

First, an employee or applicant who can perform the “essential functions” of the job with or without a reasonable accommodation is qualified. “Essential functions” are the fundamental duties of the job.

Many employees or applicants seeking accommodations will meet this part of the definition because they can perform the job or apply for the position with a reasonable accommodation—for example, the cashier who needs a stool, the production worker who needs bathroom breaks, or the retail worker who needs to carry around a bottle of water.

If an employee cannot perform the essential functions of the job with or without a reasonable accommodation, an employee can be qualified even if they cannot do the essential functions of their job as long as:

- The inability is “temporary;”
- The employee could perform the functions “in the near future;” and
- The inability to perform the essential functions can be reasonably accommodated.

This means that an employee who is temporarily unable to perform one or more essential functions of their job, and who therefore needs light duty or a

change in their work assignments, may be able to get such a change as a reasonable accommodation.

12. The PWFA requires reasonable accommodation for a qualified employee or applicant with a “known limitation.” What is a “known limitation”?

Under the PWFA, “known” means the employee or the employee’s representative (or the applicant or the applicant’s representative) has communicated to the employer about the limitation.

Under the PWFA, “limitation” means “a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.”

A limitation can be an impediment or problem that is minor or modest and can be episodic (such as migraines or morning sickness). It can be that the employee or applicant needs to take actions for their health or the health of their pregnancy—such as not being around certain chemicals; not working in the heat; or limiting or avoiding certain physical tasks, for example lifting, bending, walking, standing, or running. It can be that the employee needs to attend health care appointments for the pregnancy, childbirth, or related medical condition itself.

13. What is included in “pregnancy, childbirth, or related medical conditions”?

Pregnancy, childbirth, or related medical conditions” includes uncomplicated pregnancies, vaginal deliveries or cesarian sections, miscarriage, postpartum depression, edema, placenta previa, and lactation. There are more examples in the regulation at <https://www.federalregister.gov/d/2024-07527> (<https://www.federalregister.gov/d/2024-07527>).

14. How can workers request reasonable accommodations, and how should employers respond?

- The employee or applicant should tell the employer that they have a limitation—a physical or mental condition related to, arising out of, or affected by pregnancy, childbirth, or a related medical condition—and that they need an adjustment or change in their working conditions due to the limitation. For example, the worker can say:
 - “I’m having trouble getting to work at my scheduled starting time because of morning sickness.”

- “I need more bathroom breaks because of my pregnancy.”
- “I need time off from work to attend a medical appointment because of my pregnancy.”
- Once the employer knows, it should engage in the “interactive process” with the employee or applicant. The “interactive process” means simply that the employer and employee communicate, whether by talking or some other way, about the known limitation and the adjustment or change needed at work.
- The employer should respond promptly to accommodation requests. If it does not cause an undue hardship to the employer’s business, the employer generally has to provide a reasonable accommodation—either what the employee or applicant requests or another effective accommodation.

The Commission expects that many PWFA accommodations can be granted after simple exchanges of information between employees or applicants and employers, such as brief conversations or emails.

15. What should employers remember about the PWFA and reasonable accommodation?

- Train supervisors about the PWFA. First level supervisors may be particularly likely to receive accommodation requests and should be trained about how to respond, including how to avoid retaliating against those who request or use a reasonable accommodation.
- Workers do not need to use specific words to request an accommodation to begin the interactive process. Once an employee requests an accommodation, use the interactive process.
- Limitations may be minor and may be associated with an uncomplicated pregnancy and may require accommodations that are easy to make.
- A worker may need different accommodations as the pregnancy progresses, they recover from childbirth, or the related medical condition improves or gets worse.
- For assistance identifying possible reasonable accommodations, consult the Job Accommodation Network (JAN) (<https://askjan.org/>)

(<https://askjan.org/>). JAN is a free, expert, confidential service that helps workers and employers with reasonable accommodations.

16. Can employers require that the employee or applicant provide information from the employee's health care provider about the limitation?

In many instances under the PWFA, a discussion with the applicant or employee may be sufficient and supporting documentation will not be needed.

Employers also should keep in mind that it may be difficult for a worker to obtain information from a health care professional early in pregnancy.

Although an employer is not required to seek medical information from an employee's health care provider, the employer may seek information from the employee's health care provider under limited circumstances. An employer may not require that the employee seeking the accommodation be examined by a health care provider selected by the employer.

First, seeking documentation must be reasonable under the circumstances for the employer. It is not reasonable if:

- The limitation and need for an adjustment or change at work due to the limitation is obvious. For example, an obviously pregnant employee who seeks a bigger uniform because of their pregnancy cannot be required to provide additional information.
- The employer already knows about the limitation and the adjustment or change at work due to the limitation. For example, if the employee has already provided enough information that they have morning sickness due to pregnancy and need a later start time, the employer cannot demand a new doctor's note every time the employee uses the accommodation of coming in later.
- The employee is currently pregnant and needs breaks for the bathroom or to eat or drink, needs to carry water with them to drink, or needs to stand if their job requires sitting or to sit if their job requires standing.
- The employee is lactating and needs modifications to pump at work or nurse during work hours.
- The employer would not ask an employee for documentation in that situation normally. If an employer's policy is that employees only need a note from a health care provider for absences if they are missing 3 or

more days in a row, the employer can't require someone who needs a reasonable accommodation of 1 day off because of pregnancy, childbirth, or a related medical condition to provide information from the health care provider.

If the employer is allowed to get documentation from a health care provider, the employer is limited to documentation that:

- Confirms the physical or mental condition. This means providing a simple statement of the physical or mental condition (e.g., back injury, swollen ankles, need to avoid certain chemicals, lifting restriction, need for rest, vomiting, need to attend health care appointments). This can be a modest or minor impediment or problem and does not need to be a medical diagnosis;
- Confirms that the physical or mental condition is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions. Pregnancy, childbirth, or related medical conditions do not have to be the sole, the original, or a substantial cause of the physical or mental condition. Together, the information set forth in this paragraph and the prior paragraph constitute the employee's "limitation" for purposes of coverage under the PWFA (see definition in Question 12); and
- Describes the adjustment or change at work that is needed due to the limitation (for example, no lifting more than 20 pounds for 3 months, the approximate number and frequency of health care appointments, the estimated time off for recovery, additional safety gear, work functions that should be suspended and for how long, or a later start time).

Under the Americans with Disabilities Act (ADA), employers must keep medical information confidential. That applies to documentation gathered under the PWFA as well.

Resources for Workers



[_ \(https://www.youtube.com/watch?v=Vs7WNE4DNew\)](https://www.youtube.com/watch?v=Vs7WNE4DNew)

Pregnant Workers Fairness Act: (https://www.youtube.com/watch?v=Vs7WNE4DNew)

An Overview for Workers (https://www.youtube.com/watch?v=Vs7WNE4DNew)



<https://www.eeoc.gov/sites/default/files/2023-06/PWFA%20Reasonable%20Steps%20Infographic.pdf>)

Download Infographic: <https://www.eeoc.gov/sites/default/files/2023-06/PWFA%20Reasonable%20Steps%20Infographic.pdf>)

Tips for Asking for Reasonable Accommodation

<https://www.eeoc.gov/sites/default/files/2023-06/PWFA%20Reasonable%20Steps%20Infographic.pdf>)

Under the new Pregnant Workers Fairness Act (PWFA), your workplace must give you an accommodation if you need one, unless it will be a significant burden on them.



([https://www.youtube.com/watch?](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr)

[v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr))

Videos: Pregnancy Playlist from ([https://www.youtube.com/watch?](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr)

[v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr))

EEOC and the Department of Labor ([https://www.youtube.com/watch?](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr)

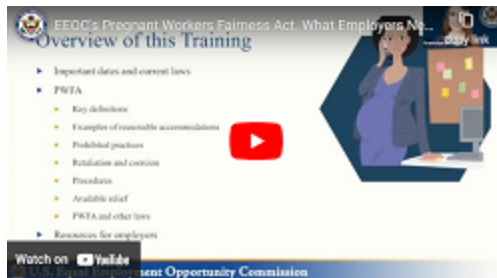
[v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr](https://www.youtube.com/watch?v=5C1wyqLJUF0&list=PL65EFmHB_s4BYvk6Qff0cqCSZFCcINfnr))

Time and Place to Pump at Work: Your Rights (<https://www.eeoc.gov/time-and-place-pump-work-your-rights>)

PWFA Social Media Toolkit (<https://www.eeoc.gov/pregnant-workers-fairness-act-pwfa-social-media-toolkit-april-2024>)

More Resources About the PWFA (<https://www.eeoc.gov/more-resources-about-pwfa>)

For Employers and Healthcare Providers



(<https://www.youtube.com/watch?v=ftxYyTlXetE>)

Pregnant Workers Fairness Act: (<https://www.youtube.com/watch?v=ftxYyTlXetE>)

What Employers Need to Know Webinar (<https://www.youtube.com/watch?v=ftxYyTlXetE>)

PREGNANT WORKERS FAIRNESS ACT (PWFA)

WHAT IS PWFA?
The Pregnant Workers Fairness Act (PWFA) is a federal law that requires covered employers to provide "reasonable accommodations" to a qualified worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an "undue hardship." An undue hardship is defined as causing significant difficulty or expense.

WHAT ARE SOME POSSIBLE ACCOMMODATIONS FOR PREGNANT WORKERS?

- Schedule changes or time off to go to health care appointments
- Extra bathroom breaks
- A chair or stool to sit on while working
- The ability to telework full or part-time
- A private place to pump breast milk
- Leave to recover from childbirth
- Breaks to eat and drink
- Light duty

WHAT OTHER FEDERAL EMPLOYMENT LAWS MAY APPLY TO PREGNANT WORKERS?
Other laws that apply to workers affected by pregnancy, childbirth, or related medical conditions, include:

- Title VII of the Civil Rights Act of 1964 which prohibits employment discrimination based on sex, pregnancy, or other protected categories (enforced by the U.S. Equal Employment Opportunity Commission (EEOC))
- The Americans with Disabilities Act (ADA) which prohibits employment discrimination based on disability (enforced by the EEOC)
- The Family and Medical Leave Act which provides unpaid leave for certain workers for pregnancy and to bond with a new child (enforced by the U.S. Department of Labor)
- The PUMP Act which provides nursing mothers a time and private place to pump at work (enforced by the U.S. Department of Labor)

Learn more at www.eeoc.gov/Pregnancy-Discrimination

(<https://www.eeoc.gov/sites/default/files/2024->)

04/PWFA%20%28Healthcare%20Poster%29-11.pdf-13_508FINAL.pdf)
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(https://www.eeoc.gov/poster)

Download "Know Your Rights: (https://www.eeoc.gov/poster)
Workplace Discrimination is Illegal" poster (https://www.eeoc.gov/poster)



https://www.eeoc.gov/sites/default/files/2023-05/PWFA%20Infographic-1_508%20FINAL.pdf)

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The Pregnant Workers Fairness Act (PWFA)

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More Resources About the PWFA (<https://www.eeoc.gov/more-resources-about-pwfa>)

