



# Legal Rights of Pregnant Workers under Federal Law

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**Summary:** This document summarizes rights and responsibilities under the Pregnancy Discrimination Act (PDA) with respect to pregnancy, childbirth, or related medical conditions, as well as how Title I of the ADA applies to individuals with pregnancy-related impairments

**Citation:** Title VII, 29 CFR Part 1604

**Document Applicant:** Employees, Employers, Applicants, HR Practitioners

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The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to

provide clarity to the public regarding existing requirements under the law or agency policies.

If you are pregnant, have been pregnant, or may become pregnant, and if your employer has 15 or more employees, you are protected against pregnancy-based **discrimination** and **harassment** at work under federal law. You may also have a legal right to **work adjustments** that will allow you to do your job without jeopardizing your health. This fact sheet briefly explains these rights, which are provided by the Pregnancy Discrimination Act (PDA) and the Americans with Disabilities Act (ADA). You may also have additional rights under other laws, such as the Family and Medical Leave Act (FMLA), state and local laws, and various medical insurance laws, not discussed here.

**1. If my employer knows that I am pregnant or may become pregnant, could I get fired?**

Under the PDA, employers are not allowed to discriminate against you based on the fact that-

- you are pregnant;
- you were pregnant;
- you could become pregnant, or intend to become pregnant;
- you have a medical condition that is related to pregnancy; or
- you had an abortion, or are considering having an abortion.

In general, this means that you cannot be fired, rejected for a job or promotion, given lesser assignments, or forced to take leave for any of these reasons. An employer does not have to keep you in a job that you are unable to do or in which you would pose a significant safety risk for others in the workplace. However, your employer cannot remove you from your job or place you on leave because it believes that work would pose a risk to you or your pregnancy.

**2. What if I am being harassed because of pregnancy or a pregnancy-related medical condition?**

**Harassment** based on pregnancy or a pregnancy-related medical condition is not allowed under the PDA and ADA. You should tell your employer about any harassment if you want the employer to stop the problem. Follow your employer's reporting procedures if there are any. If you report the harassment, your employer is legally required to take action to prevent it from occurring in the future.

### 3. **What if I am having difficulty doing my job because of pregnancy or a medical condition related to my pregnancy?**

You may be able to get an accommodation from the employer that will allow you to do your regular job safely." Examples include **altered break and work schedules** (e.g., breaks to rest or use the restroom), **permission to sit or stand, ergonomic office furniture, shift changes, elimination of marginal job functions,** and **permission to work from home.**

You may be able to get an accommodation under the **PDA** if your employer gives accommodations to employees who have limitations that are similar to yours, but were not caused by pregnancy.

You may be able to get an accommodation under the **ADA** if you have a pregnancy-related medical condition such as cervical insufficiency, anemia, sciatica, preeclampsia, gestational diabetes, or depression, that meets the ADA definition of "disability." A condition meets the definition if it would, when left untreated, "substantially limit" one or more major life activities (e.g., lifting, standing, sitting, walking, reaching, bending, eating, sleeping, or concentrating) or major bodily functions (e.g., digestive, genitourinary, bowel, bladder, neurological, circulatory, or cardiovascular functions). **A condition does not have to be permanent or severe, or result in a high degree of functional limitation, to be "substantially limiting."** It may qualify by, for example, making activities more difficult, uncomfortable, or time-consuming to perform compared to the way that most people perform them. If your symptoms come and go, what matters is how limiting they would be when present.

You don't need to have a particular accommodation in mind before you ask for one, though you can ask for something specific. However, you should know that the ADA doesn't require your employer to make changes that involve significant difficulty or expense. Also, if more than one

accommodation would work, the employer can choose which one to give you.

**4. What if there's no way that I can do my regular job, even with an accommodation?**

First, if you are being told by a health care provider that you can't do your job safely and, for example, need light duty or can't do your job because of a limitation or restriction, you may want to make sure that it's really true. Your health care provider may not have considered the possibility that an **accommodation** would allow you to do your regular job safely. (See Question 3 above.) Things like reduced workloads and temporary reassignments often come with reduced pay, but your employer is not allowed to reduce your pay because you need an accommodation to do your regular job.

If you really can't do your regular job safely, even with an accommodation, you might be able to get altered job duties under the PDA. Depending on how your employer treats non-pregnant employees with similar limitations, the PDA might require your employer to reduce your workload, remove an essential function of your job, or temporarily assign you to a different position if the employer does those things for non-pregnant employees with limitations similar to yours.

**5. What if I can't work at all because of my pregnancy?**

If you can't work at all and you have no paid leave, you still may be entitled to unpaid leave as an accommodation. You may also qualify for leave under the Family and Medical Leave Act, which is enforced by the United States Department of Labor. More information about this law can be found at [www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla) (<http://www.dol.gov/whd/fmla>). Some states and localities have passed laws that provide additional protections

**6. What should I do if I need an accommodation, light duty, or leave because of my pregnancy?**

Start by telling a supervisor, HR manager, or other appropriate person that you need a change at work due to pregnancy. You should inform your employer if the source of your problem at work is a pregnancy-related medical condition, because you might be able to get an accommodation

under the ADA. An employer cannot legally fire you, or refuse to hire or promote you, because you asked for an accommodation, or because you need one. The employer also cannot charge you for the costs of an accommodation. Because employers do not have to excuse poor job performance, even if it was caused by a pregnancy-related medical condition, it may be better to ask for an accommodation *before* any problems occur or become worse.

Under the ADA, your employer may ask you to submit a letter from your health care provider documenting that you have a pregnancy-related medical condition, and that you need an accommodation because of it. Your health care provider might also be asked whether particular accommodations would meet your needs. You can help your health care provider understand the law of reasonable accommodation by bringing a copy of the EEOC publication **Helping Patients Deal with Pregnancy-Related Limitations and Restrictions at Work** (<https://www.eeoc.gov/laws/guidance/helping-patients-deal-pregnancy-related-limitations-and-restrictions-work>) to your appointment.

## **7. What should I do if I think that my rights have been violated?**

The Equal Employment Opportunity Commission (EEOC) will help you to decide what to do next, and conduct an investigation if you decide to file a charge of discrimination. Because you must file a charge within 180 days of the alleged violation in order to take further legal action (or 300 days if the employer is also covered by a state or local employment discrimination law), it is best to begin the process early. **It is illegal for your employer to retaliate against you for contacting the EEOC or filing a charge.** For more information, visit <https://www.eeoc.gov> (<https://www.eeoc.gov>), call 800-669-4000 (voice) or 800-669-6820 (TTY), or visit your local EEOC office (see <https://www.eeoc.gov/field/index.cfm> (<https://www.eeoc.gov/field>) for contact information).