

Baby on Board: Pregnancy Discrimination in the Workplace

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The number of women claiming they have been discriminated against on the job because they are pregnant is soaring. In fact, the federal equal opportunity commission has witnessed a 39 percent increase in the number of pregnancy discrimination claims filed since 1992. The surge in pregnancy complaints makes pregnancy discrimination one of the fastest-growing types of employment discrimination charges filed with the EEOC, even outpacing sexual harassment and sex discrimination cases.

Pregnancy-related charges are arising from a range of women varying from those in entry-level positions as well as executives. The most common claims are asserted by women who allege that they were demoted or incurred a pay reduction as a result of their pregnancy announcement or maternity leave. It is abundantly clear that pregnancy discrimination cases are costing employers.

The Pregnancy Discrimination Act ("PDA") is an amendment to Title VII of the Civil Rights Act of 1964. The PDA makes discrimination on the basis of pregnancy, childbirth, or related medical conditions unlawful sex discrimination. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations, which means:

- An employee cannot be fired simply because she is, or may become, pregnant.
- An employer cannot refuse to hire an employee simply because she is, or may become, pregnant.
- An employee cannot be denied a promotion or be demoted simply because she is, or may become, pregnant.
- An employer cannot force an employee to stop working and take pregnancy leave if the employee is still willing and capable of working.
- An employer must treat pregnancy the same way that it treats any other temporary illness or medical condition.

Given that the number of pregnancy discrimination cases are rising, employers are well-advised to take proactive steps to prevent such claims. Recommendations include:

- Consistently apply company policies regarding leave, restrictions, accommodations, and modified-duty positions;
- Thoroughly document all employment decisions;
- Adequately train all employees regarding the PDA requirements, particularly management employees with hiring or firing authority; and
- Ensure that employees are not subjected to stereotypes regarding their abilities to do their job because of family and caregiver responsibilities.

Please contact us if you desire more information on the Pregnancy Discrimination Act or want to determine whether your business is in compliance with the PDA.

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