

### EEOC Issues Updated Enforcement Guidance on Pregnancy Discrimination and Related Issues

*Reprinted from a press release by the U.S. Equal Employment Opportunity Commission, July 14, 2014, <http://www1.eeoc.gov/eeoc/newsroom/release/7-14-14.cfm>.*

The U.S. Equal Employment Opportunity Commission (EEOC) [recently] issued Enforcement Guidance on Pregnancy Discrimination and Related Issues, along with a question and answer document about the guidance and a Fact Sheet for Small Businesses. The Enforcement Guidance, Q&A document, and Fact Sheet will be available on the EEOC's website.

This is the first comprehensive update of the Commission's guidance on the subject of discrimination against pregnant workers since the 1983 publication of a Compliance Manual chapter on the subject. This guidance supersedes that document and incorporates significant developments in the law during the past 30 years.

In addition to addressing the requirements of the Pregnancy Discrimination Act (PDA), the guidance discusses the application of the Americans with Disabilities Act (ADA) as amended in 2008, to individuals who have pregnancy-related disabilities.

"Pregnancy is not a justification for excluding women from jobs that they are qualified to perform, and it cannot be a basis for denying employment or treating women less favorably than co-workers similar in their ability or inability to work," said EEOC Chair Jacqueline A. Berrien. "Despite much progress, we continue to see a significant number of charges alleging pregnancy discrimination, and our investigations have revealed the persistence of overt pregnancy discrimination, as well as the emergence of more subtle discriminatory practices. This guidance will aid employers, job seekers, and workers in complying with the Pregnancy Discrimination Act and Americans with Disabilities Act, and thus advance EEOC's Strategic Enforcement Plan priority of addressing the emerging issue of the interaction between these two anti-discrimination statutes."

Much of the analysis in the enforcement guidance is an update of longstanding EEOC policy. The guidance sets out the fundamental PDA requirements that an employer may not discriminate against an employee on the basis of pregnancy, childbirth, or related medical conditions; and that women affected by pregnancy, childbirth or related medical conditions must be treated the same as other persons similar in their ability or inability to work. The guidance also explains how the ADA's definition of "disability" might apply to workers with impairments related to pregnancy.

Among other issues, the guidance discusses:

- The fact that the PDA covers not only current pregnancy, but discrimination based on past pregnancy and a woman's potential to become pregnant;
- Lactation as a covered pregnancy-related medical condition;
- The circumstances under which employers may have to provide light duty for pregnant workers;
- Issues related to leave for pregnancy and for medical conditions related to pregnancy;
- The PDA's prohibition against requiring pregnant workers who are able to do their jobs to take leave;
- The requirement that parental leave (which is distinct from medical leave associated with childbearing or recovering from childbirth) be provided to similarly situated men and women on the same terms;
- When employers may have to provide reasonable accommodations for workers with pregnancy-related impairments under the ADA and the types of accommodations that may be necessary; and
- Best practices for employers to avoid unlawful discrimination against pregnant workers.

[The Fact Sheet for Small Businesses may be found at [www.eeoc.gov/eeoc/publications/pregnancy\\_factsheet.cfm](http://www.eeoc.gov/eeoc/publications/pregnancy_factsheet.cfm).]

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[Note for Christian schools: The first thing is to realize that there is no exemption for Christian schools for the Pregnancy Discrimination Act or the Americans with Disabilities Act for your employees. It is important to understand the laws regarding both of these laws and how they interact. Christian schools must also know and understand the school's state laws in these areas. The state could have even more stringent laws. However, these laws do not override or negate the school from being able to dismiss a teacher for being pregnant out of wedlock. In that case, the school should deal only with the immorality issues and not the pregnancy. For more information on dealing with pregnancy out of wedlock, contact the Legal Legislative Office at ACSI.]

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