

HR COMPLIANCE SNAPSHOT

Pregnant Workers Fairness Act: Overview

As of June 27, 2023, the Pregnant Workers Fairness Act (PWFA) requires employers with 15 or more employees to provide reasonable accommodation for a known limitation of a qualified individual related to pregnancy, childbirth or related conditions unless it would cause undue hardship. It also imposes other new requirements and prohibitions, all of which are aimed at strengthening protections for employees and applicants.

No Severity Required for Accommodation

Under the PWFA, an individual affected by pregnancy or related conditions may be entitled to reasonable accommodation for any need or problem they may have related to their personal health or the health of the pregnancy, regardless of severity. For example, PWFA accommodations may include allowing time off to attend medical appointments during and after pregnancy, even if the condition does not meet the more limited definition of a disability under the Americans with Disabilities Act.

Prohibited Actions

The PWFA prohibits employers from:

- ❌ Requiring an accommodation not determined through an interactive process;
- ❌ Denying opportunities based on the need to provide accommodation;
- ❌ Requiring leave where another reasonable accommodation is possible;
- ❌ Retaliating against an individual for requesting or using a reasonable accommodation, opposing unlawful discrimination or participating in a proceeding under the PWFA; and
- ❌ Interfering with an individual's rights under the law.

Employers are also prohibited from disclosing medical information, including the existence of a pregnancy, they may receive about an individual.

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PWFA Basics

Qualified Individual

Under the PWFA, an individual may be qualified in one of two ways, depending on whether they can perform essential functions or would be able to do so after a temporary suspension of essential functions.

Interactive Process

Employers that receive a request for PWFA accommodation must engage in an informal, interactive conversation or other process with the individual to determine possible adjustments.

Enforcement

Agency Enforcement

The Equal Employment Opportunity Commission enforces the PWFA and may file charges and initiate federal court lawsuits against employers that violate the law.

Federal Court Enforcement

In PWFA lawsuits, courts may award compensatory and punitive damages plus other amounts to individuals who are adversely affected by an employer's violation of the law.