

**EEOC ISSUES NEW GUIDANCE ON  
PREGNANCY DISCRIMINATION**

The Equal Employment Opportunity Commission (EEOC) on July 14, 2014 issued new guidance for employers on the requirements of the Pregnancy Discrimination Act (PDA), Title I of the Americans with Disability Act (ADA) and other related laws regarding pregnant workers. Both the PDA and the ADA apply to employers with 15 or more employees. The guidance does not contain new regulations, but it provides a convenient tool for employers to use when facing decisions and issues relating to pregnant employees.

The EEOC guidance includes a summary, a question and answer document, and a fact sheet for small business (see links below). The guidance covers a broad range of topics, and highlights points that employers might not always consider when making employment decisions. Some examples:

1. The PDA prohibits discrimination based on not only current pregnancy, but past pregnancy, potential pregnancy, or a pregnancy-related medical condition.
2. The PDA prohibits harassment based on pregnancy, childbirth, or a related medical condition.
3. Pregnancy-related impairments may qualify as disabilities under the ADA even though they are *temporary* (e.g. gestational diabetes and preeclampsia).
4. Employers may need to provide reasonable accommodation to and may not discriminate against employees with any perceived pregnancy-related disabilities.
5. Title VII of the Civil Rights Act of 1964 (Title VII) and the ADA prohibit discrimination against workers with caregiving responsibilities if the discrimination is based on gender or the family member's disability.
6. Employers must provide women affected by pregnancy, childbirth or related medical conditions the same employment benefits they provide to other employees who have similar ability or inability to work. This may include light duty work, leaves of absence, and medical benefits.
7. The Family and Medical Leave Act (FMLA) provides eligible employees of employers with more than 50 or more employees with up to 12 weeks of leave for the birth of a newborn child and for the employee's own serious health condition.
8. The Fair Labor Standards Act (FLSA) requires employers to provide "reasonable break time" for hourly em-

ployees to express breast milk until the child's first birthday. Employers must provide employees with a "place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public" to express breast milk. Employers with fewer than 50 employees are not subject to this requirement if it would impose an undue hardship.

The EEOC's questions and answer section of the new guidance addresses specific workplace examples of how these laws apply to pregnant workers and is a very helpful tool for employers. For more information, visit the following websites:

[http://www.eeoc.gov/eeoc/publications/pregnancy\\_factsheet.cfm](http://www.eeoc.gov/eeoc/publications/pregnancy_factsheet.cfm)  
[http://www.eeoc.gov/laws/guidance/pregnancy\\_guidance.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm)  
[http://www.eeoc.gov/laws/guidance/pregnancy\\_qa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm)

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