

Notice

Massachusetts Pregnant Workers Fairness Act – Effective April 1, 2018

The Pregnant Workers Fairness Act (“the Act”) amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, and is enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act prohibits discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. The Act describes employers’ obligations to employees that are pregnant or lactating and the protections to which these employees are entitled.

The following is a synopsis of your rights under the Act:

1. **Notice of Rights.** Employers must provide written notice of employees’ rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.
2. **Hiring Discrimination Prohibited.** Employers cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
3. **Retaliation Prohibited.** Employers cannot deny an employment opportunity or take adverse action against an employee because of the employee’s request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
4. **Right to Request an Accommodation.** Upon request for an accommodation, employers have an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition.
 - a. **Right to Accommodations.** Employers must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. However, employers cannot require a pregnant employee (i) to accept a particular accommodation; or (ii) to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
 - i. *Note Regarding Medical Documentation:* Employers cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. Employers may request medical documentation for other accommodations.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964.