

Pregnancy Discrimination Fact Sheet

Recent statistics show that pregnancy discrimination claims have been rising at a rapid pace – up an alarming 35% in 2010 compared to 1997.¹

Federal Law

The federal Pregnancy Discrimination Act (“PDA”) makes it illegal for employers with 15 or more employees to discriminate against employees or job applicants on the basis of pregnancy, childbirth or related medical conditions.²

The PDA also applies to employees who have an abortion.³

Under the PDA, it is illegal for an employer to terminate a pregnant employee based on a stereotypical belief of how the employee’s pregnancy will affect the employee’s ability to do her job.⁴

Federal law requires that employers must provide the same pregnancy benefits to all employees.⁵

Terminating pregnant workers rather than giving them a leave of absence violates the PDA.⁶

The federal Family and Medical Leave Act (“FMLA”) requires that employers allow an employee to take up to 12 weeks of leave for pregnancy and childbirth.⁷

California Law

California’s Fair Employment and Housing Act (“FEHA”) prohibits employers with more than five employees from discriminating against employees on the basis of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.⁸

Pregnancy discrimination is also a form of sex discrimination, which is illegal under the California Constitution.⁹

Under California law, harassment based on pregnancy, childbirth, or related medical conditions constitutes sexual harassment.¹⁰

It is against the law for an employer of 5 or more employees to refuse to allow a female employee to take at least 4 months of pregnancy leave and return to work afterwards.¹¹

¹ U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PREGNANCY DISCRIMINATION CHARGES EEOC & FEPAS COMBINED: FY 1997 - FY 2010 (2010).

² 42 U.S.C. § 2000e et seq.

³ Turic v. Holland Hospitality, Inc., 85 F.3d 1211, 1215 (6th Cir. 1996) (finding that “an employer who discriminates against a female employee because she has exercised her right to have an abortion violates [the Pregnancy Discrimination Act]”).

⁴ Maldonado v. U.S. Bank, 186 F.3d 759, 761 (7th Cir. 1999) (holding that “an employer cannot discriminate against a pregnant employee simply because it believes pregnancy might prevent the employee from doing her job”).

⁵ Newport News Shipbuilding & Dry Dock v. EEOC, 462 U.S. 669, 682-683 (1983).

⁶ EEOC v. Hacienda Hotel, 881 F.2d 1504, 1512 (9th Cir. 1989).

⁷ 29 U.S.C. § 2612.

⁸ Cal. Gov. Code § 12926.

⁹ Badih v. Myers, 36 Cal. App. 4th 1289, 1295 (Cal. App. 1st Dist. 1995) (concluding that “pregnancy discrimination is a form of sex discrimination under article I, section 8 of the California Constitution”).

¹⁰ Cal. Gov. Code § 12940(f)(1).

¹¹ Cal. Gov. Code § 12945(a).