

KNOW YOUR RIGHTS

Pregnancy & Childbearing Discrimination

OFCCP Protects You from Pregnancy Discrimination

1. What is pregnancy discrimination?

Pregnancy discrimination generally occurs when an employer treats a woman employee or job applicant unfavorably because of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. This type of discrimination may also occur when an employer has policies or practices that exclude women from particular jobs because they could become pregnant.

2. What are my rights?

The laws enforced by OFCCP¹ make it illegal for a company doing business with the Federal government to discriminate against you in hiring, firing, pay, benefits, job assignments, promotions, layoffs, job training, recruitment, and other personnel activities because of your ability to get pregnant and give birth, or because of medical conditions related to pregnancy and childbirth.

You have certain protections if you become pregnant, give birth, or have a medical condition related to pregnancy or childbirth:

- You are allowed to work as long as you are able to perform your job.
- You are to be treated the same as any other temporarily disabled employee if you become temporarily unable to do your job because of your pregnancy.
- You are entitled to have your employer hold open a job for you when you take a pregnancy-related absence; it must be held open for the same length of time jobs are held open for employees on sick or disability leave.
- You are entitled to pregnancy-related benefits your employer provides, whether or not you are married.
- You are entitled to the same benefits that other workers on leave receive.

¹ Executive Order 11246, as amended and Section 503 of the Rehabilitation Act of 1973, as amended.

- You are entitled to take up to 12 weeks of leave per year for medical reasons (including pregnancy and childbirth) and for childcare if your employer is covered under the Family Medical Leave Act (FMLA) and you qualify for FMLA leave. Both parents can qualify for FMLA leave and violations of FMLA should be reported to the Department of Labor's Wage & Hour Division.

In some areas, state laws provide additional protections related to parental and medical leaves of absence. For example, California's law allows for up to six weeks of paid leave to care for a newborn, newly adopted child, or newly placed foster child. Please remember to check into your local laws for more information

3. Are there specific things that my employer cannot do if I were to become pregnant, give birth, or have a medical condition related to pregnancy or childbirth?

Yes. These are some examples of what your employer cannot do:

- Deny you a job offer because of your pregnancy.
- Use your pregnancy as an excuse to test your ability to work. This includes making you meet special conditions to show that you are ready to return to work if these conditions are not required of other employees.
- Force you to remain on leave until your child's birth if you are absent because of a pregnancy condition and then recover.
- Demand that you provide a doctor's note to show that you are able to work if your employer does not require similar documentation from other employees with short-term disabilities.
- Deny you employment because you have young children, unless your employer has the same policy for male employees.

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- Refuse to cover hospitalization and other medical expenses related to your pregnancy in the same way it would cover these expenses for other medical conditions, if your employer provides employee health insurance benefits.
- Refuse to grant you, as a pregnant woman on leave, the ability to accrue seniority, vacation, pay increases and temporary disability benefits in the same way as those who are on leave for reasons unrelated to pregnancy.

4. Does OFCCP protect all employees?

No. OFCCP enforces laws that protect the rights of job applicants and employees of companies doing business with the Federal government. These companies must not discriminate based on race, color, sex (including pregnancy), religion, national origin, disability, or status as a protected veteran. Approximately 25% of the American workforce is employed by companies that do business with the Federal government. This includes employees at banks, meat packing plants, retail stores, manufacturing plants, accounting firms, and construction companies, among others, working on federal and/or federally-funded projects.

How to file a complaint

5. How do I file a pregnancy or childbearing discrimination complaint?

You may file a discrimination complaint based on pregnancy or childbearing discrimination by:

- Completing and submitting a form online through OFCCP's Web site, you will be asked to sign the form when you are interviewed by an OFCCP investigator; or
- Completing a form in person at the OFCCP office nearest to where you live; or
- Mailing a completed form to the OFCCP regional office nearest to where you live.

The form is available online at <http://www.dol.gov/ofccp> and in hardcopy at all OFCCP offices. To find the office nearest to where you live, visit the online listing at: www.dol.gov/ofccp/contacts/ofnation2.htm.

6. Can I be fired for filing a complaint?

No. Employers cannot retaliate against you for filing a complaint or participating in an investigation.

You are protected from harassment, intimidation, threats, coercion, or discrimination for asserting your rights.

7. Can I file a complaint with OFCCP and Equal Employment Opportunity Commission (EEOC)?

Yes. If you file with both OFCCP and EEOC, your complaint will be investigated by only one of these agencies.

Both OFCCP and EEOC may have the authority to investigate employment discrimination complaints made against companies that do business with the Federal government. To eliminate duplication of effort, OFCCP agrees to send individual complaints alleging employment discrimination based on race, color, religion, sex, or national origin to EEOC to handle.

OFCCP keeps complaints filed on behalf of a group or where there appears to be a pattern of discrimination. OFCCP also keeps complaints alleging discrimination based on a person's status as a veteran and complaints alleging discrimination based on disability when the complaint is filed against an employer that does business with the Federal government.

8. What will happen if there is a finding that I was a victim of pregnancy or childbearing discrimination?

You may be entitled to a remedy that will place you in the position you would have been in if the discrimination had never happened. You may be entitled to hiring, promotion, reinstatement, back pay, a pay raise, or reasonable accommodation, including reassignment.

9. What do I do if I feel am being discriminated against by a company doing business with the Federal government?

If you think you have been discriminated against in employment, or in applying for employment, because of pregnancy or childbearing, please contact us at:

THE U.S. DEPARTMENT OF LABOR
Office of Federal Contract Compliance Programs
 Washington, D.C. 20210
 1-800-397-6251
 OFCCP-Public@dol.gov
www.dol.gov/ofccp

Please note that this fact sheet provides general information, it is not intended to substitute for the actual law and regulations regarding the program described herein.



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