

# By the Numbers: Women Continue to Face Pregnancy Discrimination in the Workplace

An Analysis of U.S. Equal Employment Opportunity Commission Charges (Fiscal Years 2011 – 2015)

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Pregnancy discrimination has serious consequences for women and their families. Women who are demoted, not promoted or discharged because they are, or might become, pregnant can lose critical income. If they are discharged or have their hours cut, they may also lose their health insurance and other workplace supports at a time when their families' budgets are already stretched. And pregnant women who are not provided reasonable workplace accommodations they need may have to risk their health or the health of their pregnancies to continue working.

Despite existing legal protections, pregnancy discrimination remains widespread: According to the most recent data available, nearly 31,000 charges of pregnancy discrimination were filed with the U.S. Equal Employment Opportunity Commission (EEOC) and state-level fair employment practice agencies between October 2010 and September 2015 (fiscal years 2011 through 2015), and the number of charges filed remained relatively unchanged from year to year.<sup>1</sup> A detailed analysis of these charges, as well as recent demographic data on women's labor force participation, reveals that women in all industries, across race and ethnicity, and in every state, continue to experience pregnancy discrimination in the workplace. The consequences – for women, families and the country – are serious.

## The Pregnancy Discrimination Act

The Pregnancy Discrimination Act of 1978 (PDA) was the first federal law to explicitly protect pregnant workers. The PDA amended Title VII of the Civil Rights Act of 1964 to make clear that employers cannot deny women job opportunities simply because they are, or might become, pregnant.<sup>2</sup> According to the law, a woman cannot be fired, denied a promotion, demoted or forced to stop working because she is or might become pregnant, and employers cannot refuse to hire someone because she is or might become pregnant. The law also requires employers to treat a pregnant worker the same as any other employee who becomes sick or temporarily disabled, including in the provision of leave and other benefits.

The PDA has helped combat pregnancy discrimination in significant ways, but it has limitations. The PDA applies only to employers with 15 or more employees. Additionally, some courts have ruled that it does not require employers to provide reasonable accommodations to pregnant workers who need to modify their job duties, conditions or

schedules as a result of physical limitations related to their pregnancies. However, the U.S. Supreme Court recently held in *Young v. United Parcel Service* that employers are likely violating the PDA if they accommodate most injured or nonpregnant workers with disabilities while refusing to accommodate most pregnant workers with similar needs.<sup>3</sup> The decision clarified the rights of more pregnant women, but some still face uncertainty and additional legislative action is needed.

## Charges Alleging Pregnancy Discrimination Persist

### RAISING VARIOUS ISSUES

**Being discharged from employment is the most common reason women file charges of pregnancy discrimination.** Nearly one-third of charges (30.6 percent) were filed by women alleging they were discharged for becoming pregnant. The next most common issues raised were discriminatory terms and conditions of employment (12.1 percent), harassment (7.2 percent) and disciplinary action (4.8 percent).<sup>4</sup>

**Women report that they were denied minor job modifications they needed to continue working while pregnant,** such as being allowed to take more frequent bathroom breaks or carry a water bottle. Between October 2014 and September 2015 (fiscal year 2015), women filed more than 650 charges alleging they were not provided the reasonable workplace accommodations they needed.<sup>5</sup>

### ACROSS INDUSTRIES

**Women in every industry report pregnancy discrimination,** including in the industries that employ the most workers and the industries with the highest share of female workers, such as health care and social assistance and educational services.

**Table 1. Industries with the Most Workers and Charges of Pregnancy Discrimination Filed with the EEOC (Fiscal Years 2011 through 2015)<sup>6</sup>**

Industries <sup>7</sup>	Percent of Charges	Percent of U.S. Workers
Health Care and Social Assistance	24.0%	13.5%
Retail Trade	14.4%	11.2%
Manufacturing	7.6%	10.3%
Educational Services	4.1%	9.1%
Accommodation and Food Services	11.1%	7.1%
Professional and Technical Services	5.0%	7.1%

**Table 2. Female-Dominated Industries and Charges of Pregnancy Discrimination Filed with the EEOC (Fiscal Years 2011 through 2015)<sup>8</sup>**

Industries	Percent of Charges	Percent of Workers Who are Women
Health Care and Social Assistance	24.0%	78.5%
Educational Services	4.1%	68.9%
Finance and Insurance	6.2%	55.7%
Accommodation and Food Services	11.1%	52.6%
Other Services	2.4%	51.8%
Management of Companies and Enterprises	1.2%	49.0%

## ACROSS RACE AND ETHNICITY

**Women report pregnancy discrimination across races and ethnicities, but black women are disproportionately affected.** Nearly three in 10 charges of pregnancy discrimination (28.6 percent) were filed by black women, yet black women comprise only 14 percent of women in the workforce ages 16 to 54. Black women are also at a higher risk for pregnancy-related complications like pre-term labor, preeclampsia and hypertensive disorders,<sup>9</sup> which can make a loss of wages and health insurance due to pregnancy discrimination especially challenging.

**Table 3. Charges of Pregnancy Discrimination Filed with the EEOC by Race/Ethnicity (Fiscal Years 2011 through 2015)<sup>10</sup>**

Race/Ethnicity	Percent of Charges	Percent of Race/Ethnicity in Female Labor Force (Ages 16-54) <sup>11</sup>
White	45.8%	71.5%
Black or African American	28.6%	14.3%
Hispanic or Latina	8.1%	16.9%
Asian	2.0%	5.8%
American Indian or Alaska Native	0.9%	0.8%
Native Hawaiian or Other Pacific Islander	0.3%	0.2%

## ACROSS THE COUNTRY

**During the time period analyzed, women in all 50 states and the District of Columbia filed charges of pregnancy discrimination.** The 10 jurisdictions with the highest share of charges relative to the number of women in the workforce<sup>12</sup> are listed below; they span every region of the country:

1. District of Columbia
2. New Mexico
3. Delaware
4. Nevada
5. Alabama
6. Missouri
7. Arkansas
8. Florida
9. Georgia
10. Tennessee

## Conclusion

The PDA was a significant step toward equality for pregnant workers nearly four decades ago, but women in every state, in every industry and across races and ethnicities continue to report that they experience pregnancy discrimination in the workplace.

Stronger protections for pregnant workers, including federal and state laws like the Pregnant Workers Fairness Act, robust enforcement of the PDA and continued education about existing legal rights, are critical to combatting and, ultimately, eliminating pregnancy discrimination in this country.

<sup>1</sup> Individuals who believe they have been discriminated against at work, including on the basis of pregnancy, can file a “charge of discrimination” – herein referred to as a “charge” – with the EEOC and state-level Fair Employment Practice Agencies (FEPAs) alleging discrimination. The National Partnership’s analysis of charges by state included both charges filed with the EEOC as well as with state-level FEPAs. The analyses by issue, industry and race and ethnicity include only charges filed with the EEOC.

<sup>2</sup> Pregnancy Discrimination Act of 1978 § 1, 42 U.S.C. § 2000e(k).

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3 Young v. United Parcel Serv., 135 S. Ct. 1338 (2015).

4 A charge filed with the EEOC can involve multiple issues; for example, discharge and harassment.

5 Consistent charge data for reasonable workplace accommodations is only available for this time period due to how information was previously collected and tracked.

6 National Partnership analysis of detailed breakdowns of pregnancy discrimination charges, by industry, filed under Title VII, as amended by the Pregnancy Discrimination Act, for the period FY2011 to FY2015 from the EEOC Program Planning and Analysis Division. Total number of workers in industries data obtained from U.S. Bureau of Labor Statistics. (2016, February 10). *Table 18. Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity. Labor Force Statistics from the Current Population Survey, 2015.* Retrieved 27 October 2016, from <http://www.bls.gov/cps/cpsaat18.htm>

7 Only industries reported by the EEOC were included in this analysis.

8 National Partnership analysis of detailed breakdowns of pregnancy discrimination charges, by industry, filed under Title VII, as amended by the Pregnancy Discrimination Act, for the period FY2011 to FY2015 from the EEOC Program Planning and Analysis Division. Percentage of workers that are women in industries data obtained from U.S. Bureau of Labor Statistics. (2016, February 10). *Table 18. Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity. Labor Force Statistics from the Current Population Survey, 2015.* Retrieved 27 October 2016, from <http://www.bls.gov/cps/cpsaat18.htm>

9 Creanga, A. A., Bateman, B. T., Kuklina, E. V., & Callaghan, W. M. (2014, May). Racial and ethnic disparities in severe maternal morbidity: a multistate analysis, 2008-2010. *American Journal of Obstetrics & Gynecology, 210*(5), 435.e1-435.e8 (p. 435.e2). Retrieved 27 October 2016, from [http://www.ajog.org/article/S0002-9378\(13\)02153-4/fulltext](http://www.ajog.org/article/S0002-9378(13)02153-4/fulltext)

10 National Partnership analysis of detailed breakdowns of pregnancy discrimination charges, by race and national origin, filed under Title VII, as amended by the Pregnancy Discrimination Act, for the period FY2011 to FY2015 from the EEOC Program Planning and Analysis Division. Percentage and number of women in the workforce, by race data obtained from U.S. Census Bureau. (2015). *American Community Survey 1-Year Estimates 2014, Geographies: United States, Tables B23001, B23002A through B23002E, B23002I: Sex By Age By Employment Status For The Population 16 Years And Over.* Retrieved 27 October 2016, from [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_14\\_1YR\\_B23001&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_1YR_B23001&prodType=table)

11 Total for percent of charges is below 100 percent because of charges filed by women in racial or ethnic groups that fall outside of this analysis. Total for percent of race/ethnicity in the female labor force exceeds 100 percent due to overlap in race and ethnicity.

12 U.S. Census Bureau. (2015). *American Community Survey 5-Year Estimates 2010-2014, Geographies: United States, Table DP03: Selected Economic Characteristics.* Retrieved 27 October 2016, from [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_14\\_5YR\\_DP03&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_5YR_DP03&prodType=table)

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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at [NationalPartnership.org](http://NationalPartnership.org).

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