

Know Your Rights – Pregnancy Discrimination

An employee tells her boss at work that she is pregnant. Her boss fires her, even though she is still able to work.

A pregnant worker at a fast food restaurant asks her boss if she can stop lifting heavy boxes during her pregnancy. The boss says no, even though another employee did not have to lift boxes at work while recovering from surgery. The pregnant worker is forced to quit her job.

During an interview, a job placement agency asks a welfare client how many children she has and if she is planning to get pregnant again. The welfare client says she is four months pregnant. The agency tells her to come back after she has her child and is ready to work.

These are just some examples of pregnancy discrimination, which is illegal.

Many women are unfairly treated on the job or when looking for work because they are pregnant or because an employer thinks they are likely to become pregnant. Maybe this has happened to you. Pregnancy discrimination is a form of sex discrimination, and it is against the law. There are state and federal laws that can protect women workers from this type of discrimination. Ask a lawyer, or contact a legal aid office, about how these laws can help you. In fact, a legal aid office can often provide you with legal services at little or no cost to you if you do not make enough to pay a lawyer.

WHAT IS PREGNANCY DISCRIMINATION?

It is illegal for most employers to discriminate against you because of pregnancy, childbirth, or conditions related to pregnancy or childbirth. The Pregnancy Discrimination Act, which is a federal law, prohibits pregnancy discrimination by employers with 15 or more employees. Many states also prohibit pregnancy discrimination, and provide similar – and in some cases, greater – protections than the federal law.

This means that:

- You cannot be fired just because you are or may become pregnant.
- An employer cannot refuse to hire you simply because you are or may become pregnant.
- You cannot be denied a promotion or get demoted just because you are or may become pregnant.
- Your employer can't force you to stop working and take pregnancy leave if you are still willing and able to work.
- In most cases, an employer cannot refuse to hire or fire you because you have had or are considering an abortion.

The law also says that employers *must treat pregnancy the same way* they treat any other temporary illness or medical condition. Your employer must give you the same level of rights and benefits given to other workers with medical conditions that prevent them from working for a short period of time. For example:

- A co-worker, who breaks a leg while off duty, is given less physically stressful work until he gets better; therefore your employer must also offer you easier duties when you are pregnant.
- Another worker at your job is allowed to miss work with pay (paid sick leave) while she is recovering from knee surgery; then you also have a right to this paid leave if you are unable to work because of your pregnancy.

In addition, the Equal Employment Opportunity Commission has decided that employers who cover prescription drugs for employees through the company health plan must also cover prescription contraceptives. You can consult with a legal aid office about how this rule applies to your case.

You have the right to be free from pregnancy discrimination *on the job or when looking for work*. This right belongs equally to welfare recipients who are employed through certain types of welfare-work programs, such as a workfare program, or who are placed in jobs by a job placement agencies or state welfare offices. You should consult with a legal aid office for help with your particular case.

WHAT CAN YOU DO?

If you think that you are the victim of pregnancy discrimination, here are some things you can do:

- **Write** down what happened. Include when and where it happened, what was said, and who said it.
- **Discuss** the problem with your supervisor or your personnel or human resources department. Ask about your company's policy for people who have **temporary disabilities, like pregnancy, or who become sick for a longer period** of time. If pregnancy is treated differently than other temporary disabilities, this is pregnancy discrimination. If you are a *welfare recipient*, you may want to talk to your caseworker.
- **Talk** to other employees at your job to find out how other pregnant workers have been treated. If there are other women who have been victims of pregnancy discrimination, you may be able to offer each other support and work together to end the problem.
- **File** a formal complaint through your employer or if you are represented by a union, file a complaint through its grievance process. Otherwise, talk to the **personnel or human resources** department at your job. Also, if you are a *welfare recipient*, your welfare program may have its own system for filing discrimination complaints.
- **Act** now, because if you wait too long, you could lose your right to file a charge. You can file a charge with the **Equal Employment Opportunity Commission** or your state's civil rights agency or fair employment office. In most cases, the charge must be filed no more than 180 days after the discrimination happened. You also may be able to file a lawsuit in court. You can talk to a lawyer, or contact a legal aid office, to find out more about your options.

You may have additional rights under a federal law called the *Family and Medical Leave Act*. This law gives you the right to take up to **12 weeks of unpaid leave** from your job to care for a newborn baby, adopted child or foster child. When you return to work, you have a right to the same or equivalent job. The law applies to you only if you meet certain requirements: your employer must have at least 50 employees and you must have worked for your employer for at least 12 months and for 1,250 hours in one year (about 25 hours per week). For more information, contact the U.S. Department of Labor at 1-866-487-2365, 1-866-487-9243, or 1-877-889-5627 (TTY). Also, see the *Guide to the FMLA: Questions and Answers* at the National Partnership for Women & Families' website: www.nationalpartnership.org.

For more help: Contact your local *Equal Employment Opportunity Commission* (EEOC) or local fair employment office. The EEOC's nationwide toll free numbers are 1-800-669-4000 or 1-800-669-6820 (TDD). Your local *fair employment office* is probably listed in the state or local government section of your phone book under "Human Rights" or "Civil Rights." A *legal aid office or community organization* may also be able to help you or help you find someone who can.

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The National Partnership for Women & Families, formerly the Women's Legal Defense Fund, is a nonprofit, nonpartisan organization that promotes fairness in the workplace, quality health care, and policies that help women and men meet the dual demands of work and family. Information about discrimination and other employment barriers women face is available on the National Partnership's web site, www.nationalpartnership.org.