

EEOC Issues New Guidance on Pregnancy Discrimination

Working Together

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Clients often call with questions regarding their need to provide accommodations to pregnant women. In fact, I received such a call last week and was working through a particularly complicated issue when the Equal Employment Opportunity Commission issued new guidelines yesterday attempting to clarify how employers must accommodate employees with pregnancy-related disabilities. While pregnancy accommodation laws have been around since at least 1978 (at the federal level), the parameters of such protections are not a model of clarity.

Adopting the new guidelines proved to be a controversial matter for the five EEOC Commissioners. They were adopted by a mere 3-2 vote. Two Commissioners opposed issuing any guidelines while the Supreme Court had yet to decide the case of *Young v. UPS* which is on the Court's docket. The Court's decision in *Young* is not expected until the Court's next term. Other commissioners felt that confusion regarding proper accommodations of pregnant women under federal law persists to such a degree that a clarification was necessary immediately; it could not be delayed until the Supreme Court decided *Young*.

One such clarification is that pregnancy-related conditions must be treated the same as disabilities under the Americans with Disabilities Act -- meaning that a reasonable accommodation must be offered so long as it does not represent an undue hardship for the employer. This what we have been advising our clients for many years, but it is nice to see that the EEOC agrees with us. Additionally, it is now clear that lactation is protected as a medical condition.

The protections under the Pregnancy Discrimination Act are in addition to those provided by Title VII of the 1964 Civil Rights Act, the ADA, the FMLA, and all corresponding state statutes. In Connecticut, for example, it has long been the rule that pregnant employees are entitled to reasonable leave (unpaid unless an employer specifies otherwise) for a disability relating to a pregnancy or postpartum condition. The new EEOC Guidance can be found [here](#).

The takeaway for employers is that medical conditions relating to pregnancy must be accommodated just as any other disability. Now, more than ever, each situation must be analyzed on a case-by-case basis to avoid discrimination claims.

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