



KNOW YOUR RIGHTS:

Workplace Fairness – Pregnancy & Parenthood

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► **YOUR RIGHT** to be treated fairly and equally at work while pregnant or as a parent.

There are several federal laws that provide protections against discrimination and sexual harassment for pregnant women and parents. In addition, there are new provisions to help accommodate breastfeeding mothers.

What does the Pregnancy Discrimination Act (PDA) provide?

The PDA prevents employers from treating an employee differently at work because she is pregnant. Under the PDA, employers are not allowed to discriminate in any aspect of employment, including the following:

- hiring
- firing
- promotions
- job assignments
- pay
- training
- fringe benefits (such as leave or health insurance)

What if I can't do my job because of my pregnancy?

If you have a medical condition related to pregnancy or childbirth that makes you temporarily unable to perform your job, your employer must treat you the same as any other employee with a temporary disability by offering you, for example, a different job assignment that you can perform, disability leave or unpaid leave. If your medical condition is considered a disability under the Americans with Disabilities Act, your employer may have to offer you a reasonable accommodation at work.

What if my boss or coworkers harass me at work?

Title VII of the Civil Rights Act prohibits sexual harassment in the workplace, including harassment because of pregnancy, childbirth, or a related medical condition. Frequent and severe harassment at work and harassment that leads to you losing your job or being demoted is illegal.

In general,

you are covered by the Pregnancy Discrimination Act and Title VII of the Civil Rights Act if you are a current employee, former employee or a job applicant and the employer has 15 or more employees. If you think you were discriminated against under one of these laws, contact the Equal Employment Opportunity Commission at 800-669-4000.

Did you know?

Want to know more?

The NC Justice Center's Workers' Rights Project offers factsheets on a range of workplace rights topics in English and Spanish. Find our factsheets here: tiny.cc/ncworkers



This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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Can my boss treat me differently because of my family responsibilities?

It depends. There is no federal or North Carolina statute that specifically prohibits discrimination based solely on caregiver status; however, sex-based discrimination of caregivers is illegal under Title VII of the Civil Rights Act. This means, for example, that an employer does not violate Title VII if he or she treats working mothers and working fathers in a similarly unfavorable way compared to childless workers. But, if an employer decides to promote a man rather than an equally qualified woman because the employer assumes the woman will be less committed because she is a mother, then that is unlawful discrimination.

In addition, it *may* violate Title VII for an employer to ask job applicants questions about their family responsibilities, such as inquiries about marital status, number of children, spouse's employment situation, whether the applicant is pregnant or planning a pregnancy, and child care arrangements. Although some interview questions are not against the law, the ways employers use the answers *may* be. How can you tell the difference?

- Were you qualified for the job?
- Did the employer treat you differently than other applicants based on your sex, race, religion, color, national origin, age, or disability?
- Did the employer discriminate intentionally?

If the answer is yes to all three, the employer *may* have acted illegally.

What are my rights regarding breastfeeding or pumping at work?

If you are a new mother going back to work and want to keep breastfeeding, a provision in the Patient Protection and Affordable Care Act (ACA) requires many employers to accommodate pumping breast milk during the day (see inset). Section 4207 of the ACA amends the Fair Labor Standards Act (FLSA) to require an employer to allow an employee a place and opportunity to pump for her nursing child for one year after the child's birth.

Under the new law:

- Employers must provide reasonable breaks as frequently as needed by the nursing mother. The frequency of breaks and the duration will vary.
- Employers must provide a functional space for expressing breast milk. A bathroom, even if it is private, is not permissible under the ACA. The space does not have to be dedicated to this use, but it must be available when needed by the nursing mother, and it must be shielded from view and free from intrusion by co-workers or the public.
- Employers are not required to pay nursing mothers for pumping breaks. However, if the employer already provides compensated breaks, a nursing mother who uses this time for pumping must be paid.
- Employers cannot fire you for taking breaks you are entitled to under the law.

In general, if you are covered by the Fair Labor Standards Act's minimum wage and overtime protections, then you are entitled to the right to pump or breastfeed at work under the Affordable Care Act. Some employers with fewer than 50 employees may be exempt.

To find out if you are protected or to make a complaint, call the United States Department of Labor at 1-866-4USWAGE. If you think you have been discriminated against at work because of taking breaks to pump or breastfeed, you can also contact the Equal Employment Opportunity Commission at 1-800-669-4000.

Can my employer punish me for missing work to seek a protective order for myself or my minor child?

Employers are not allowed to fire, discipline, discriminate or otherwise retaliate against an employee who takes reasonable time off from work to seek relief under Chapter 50B of the North Carolina General Statutes (the domestic violence law). However, to be protected from negative treatment by your employer you must follow the employer's usual time-off policy or procedure. If you are fired for missing work as a result of domestic violence, a sexual offense, or stalking you should not be disqualified from receiving unemployment benefits.

In addition, under Article 23 in Chapter 95 of the North Carolina General Statutes, employers can also help protect the safety of their employees by getting a temporary protective order on behalf of an employee who has suffered unlawful conduct, harassment, and stalking at the workplace.