



State of Delaware

PREGNANT WORKERS FAIRNESS ACT GUIDELINES

PURPOSE This policy sets forth the State of Delaware’s policy regarding workplace protections afforded to pregnant employees and applicants for employment, who have a pregnancy-related condition, including but not limited to child birth and lactation, under the Pregnant Workers Fairness Act (Senate Bill 212, enacted September 9, 2014).

DEFINITIONS The following definitions are for the purposes of this policy:

Pregnancy – Includes pregnancy, childbirth or a related condition, including, but not limited to, lactation.

Reasonable Accommodation – Making reasonable changes in the workplace, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to assist in operating equipment, making reasonable changes in the schedules or duties of the job, temporary transfers, time off to recover from childbirth, or break time and appropriate facilities for expressing breast milk, provided that the accommodations do not impose an undue hardship on agency operations.

Undue Hardship – An accommodation which would require significant difficulty or expense to the agency.

GENERAL PROVISIONS

1. It shall be an unlawful employment practice for an employer to fail, refuse to hire, discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, condition or privileges of employment because of such individual’s sex (including pregnancy status).
2. Agencies are required to make reasonable accommodations for the known limitations of pregnant employees, as long as the accommodation does not constitute an undue hardship for the employer.
3. Reasonable accommodations must be made for employees whose ability to work is limited by pregnancy, childbirth, lactation and related conditions.

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These guidelines are not intended to provide additional compensation for accommodations beyond current practices nor create any individual right or cause of action not already existing and recognized under State or Federal law.

4. Accommodations for pregnant employees must be the same as those that are available to those employees with other injuries or disabilities.
5. Accommodations may include providing periodic rest, light-duty assignments, temporary transfer to an alternative position, modified work schedule or job responsibilities, and providing more frequent or longer breaks. Agencies are not required to compensate for additional or longer breaks; however, employees taking longer or more frequent breaks for a pregnancy-related condition (including expressing milk) must be compensated consistent with the agencies existing policy regarding compensation for break periods.
6. Guidelines Specific to Nursing Mothers:
 - a. Agencies shall designate a location, other than a bathroom, for nursing mother to express milk, that is shielded from view and free from intrusion from co-workers and the public.
 - b. Agencies shall provide reasonable break time for an employee to express breast milk for up to one (1) year after the birth of a child.
 - c. The employee must be completely relieved from duty or the time must be compensated as work time.
 - d. Break for expressing breast milk shall not be considered FMLA leave.
7. Agencies are not permitted to require an employee to take leave (paid or unpaid) under any leave law or policy if another reasonable accommodation can be provided.
8. Medical documentation may be requested in order to determine the employee's restrictions or limitations for purposes of providing a reasonable accommodation.

EMPLOYEE RESPONSIBILITIES

1. Employees must notify their supervisor in writing of the need for accommodation, including the need for breaks or facilities to express breast milk. Notification should include the frequency and duration of breaks, when feasible.
2. Employees shall meet with their supervisor and human resources to obtain and complete the appropriate forms regarding their accommodation request.

AGENCY RESPONSIBILITIES

1. Agencies shall provide employees with written or verbal notification of their rights under this law within ten (10) days of notification of the employee's pregnancy.
2. Agencies shall provide notice of this policy in writing to new employees at the commencement of employment.