

## KNOW YOUR RIGHTS

# Pregnant Workers Fairness Act

In December 2022, President Biden signed the Pregnant Workers Fairness Act (PWFA) into law. This federal law provides workers with the right to reasonable workplace accommodations to address temporary limitations due to pregnancy, childbirth, or related medical conditions. The PWFA went into effect on June 27, 2023. The U.S. Equal Employment Opportunity Commission (EEOC) also issued legally binding [regulations](#)<sup>1</sup> as well as interpretive guidance providing numerous examples to help workers and employers understand their rights and obligations under the law.

This document provides a general explanation of PWFA. It does not address state laws, which may provide more protection. This document is also not intended as legal advice. If you believe your rights under the PWFA have been violated, the [Legal Network for Gender Equity](#), which is administered by the National Women's Law Center Fund, can help connect you to attorneys. Attorneys in our network will do a first consultation with you for free. See the section below on "How can I find a lawyer?" for links and more information.

Since PWFA was passed, some states and private employers have brought lawsuits challenging the EEOC's regulations. One state—Texas—has challenged the constitutionality of the statute itself, and other employers have since raised similar arguments. **Despite these challenges, the PWFA remains the law and continues to protect workers' rights to accommodations.** However, these ongoing cases may impact how PWFA applies to certain workers in certain situations. For example, a federal judge ordered that the EEOC could not enforce sections of the PWFA regulations pertaining to abortion- or infertility-related accommodations against members of the Catholic Benefits Association, an association that includes thousands of employers. In February 2024, a judge held that the EEOC could not enforce PWFA against the State of Texas, which impacts the ability of Texas state employees to enforce their rights under PWFA. If you are unsure whether or how PWFA applies to your situation, you should consult with an attorney.

## What is the Pregnant Workers Fairness Act?

The PWFA is a federal law that requires employers to make reasonable accommodations for employees who have a known limitation due to pregnancy, childbirth, or related medical conditions, unless the accommodation poses an undue hardship to the employer.

## Am I covered by this law?

The PWFA covers all employees who work for an employer with more than 15 employees, including both public and private employers. It covers people who need accommodations because they are pregnant or have just given birth, or who need accommodations because of medical conditions related to pregnancy.

## What is a medical condition related to pregnancy or childbirth?

The PWFA requires employers to accommodate employees who have limitations related to “pregnancy, childbirth, or related medical conditions.”<sup>2</sup> “Related medical conditions” include illnesses, complications, and symptoms that an employee is experiencing related to pregnancy or childbirth. Some examples of “related medical conditions” include:

- Morning sickness
- Gestational diabetes
- Pregnancy-induced hypertension
- Pregnancy-related carpal tunnel syndrome
- Sciatica
- Lactation or the need to express breast milk
- Termination of pregnancy, including via miscarriage, stillbirth, or abortion
- Physical injuries from childbirth
- Postpartum depression

## How do I ask for a workplace accommodation?

You can communicate with your supervisor, your manager, someone in Human Resources, or any other person who directs your work, about your need for a workplace accommodation. You can also ask another person—such as a health care provider, union representative, friend, or family member—to help you tell your employer.

Telling your employer that you are pregnant or need an accommodation may be stressful. It can be helpful to have a plan for what you will say and how you will say it.

The law does not require that you say any “magic

words,” make a written request, or have a doctor’s note stating that you need an accommodation. To request an accommodation, you only need to let your employer know that you have a pregnancy-related limitation and need an adjustment at work. For example, if you tell your supervisor, “I’m having trouble getting to work at my scheduled starting time because of morning sickness,” you have requested an accommodation.

It is helpful to state clearly that you need an accommodation and tell your employer you are willing to work with them to figure out an accommodation that works for you and the business. You can ask for the specific accommodation you need—like not lifting more than 25 pounds, time off, or telecommuting for a few weeks because your doctor has told you to stay on bedrest—or you can offer several options for what might work for you. Your employer might suggest other ways to accommodate your needs. This conversation is sometimes called an “interactive process.”

Your employer might have guidance on the process for seeking accommodations in its employee handbook or antidiscrimination policy. You can also ask a supervisor or someone in Human Resources (if your employer has an HR department) if there are relevant policies or procedures.

**Your employer cannot discriminate or retaliate against you because you asked for an accommodation**, even if in the end your employer determines that the accommodation you asked for is not reasonable.

## Do I need to prove I have a disability to be eligible for an accommodation?

No, you do not need to have a disability in order to be eligible for an accommodation under the PWFA. The PWFA guarantees workers experiencing pregnancy, childbirth, or related medical conditions the right to reasonable workplace accommodations for “known limitations.” A “known limitation” is a physical or mental condition that is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions. The physical or mental condition does not need to be severe. If you need to seek health care, or you have a problem related to maintaining your health or the health of your pregnancy, this is also a limitation that must be accommodated under the PWFA.

The law specifically states that a “known limitation” does not have to meet the definition of disability under the Americans

with Disabilities Act. The PWFA applies to any pregnant or postpartum worker who needs an accommodation, even pregnant workers with uncomplicated pregnancies.

## What kinds of accommodations can I ask for?

Accommodations are personalized changes to your job that allow you to meet your health needs without risking your job. The [Job Accommodation Network](#) can help you brainstorm what kinds of accommodations you might ask for. The [EEOC](#) has also published examples of situations where the PWFA would apply, including examples of accommodations. Some examples of accommodations include:

- Modifying a no-food-or-drink policy for a pregnant employee who experiences painful or potentially dangerous uterine contractions when she does not regularly drink water.
- Providing a stool to a pregnant cashier who is experiencing leg pain and swelling from standing for long periods of time.
- Reassigning heavy lifting duties to other employees for some portion of an employee's pregnancy.
- Providing an available light duty position to a pregnant police officer who is temporarily unable to go on patrol because no bulletproof vest would fit her.
- Allowing an employee to use an empty office as a lactation room.
- Modifying an employee's schedule to allow time to attend a doctor's appointment related to pregnancy or childbirth—for example, to address postpartum depression, to undergo in vitro fertilization (IVF) treatments, or to have an abortion.
- Allowing an employee to take time off to physically recover from childbirth, even if she is not eligible for leave under the Family and Medical Leave Act.

## Does my employer need to give me an accommodation?

The Pregnant Workers Fairness Act requires your employer to provide you with a reasonable accommodation unless the accommodation would cause the business an “undue hardship.” Generally, undue hardship means that providing

the accommodation would create a significant expense or difficulty for your employer.

The Equal Employment Opportunity Commission (EEOC) has explained that the following four straightforward accommodations are virtually always reasonable and will almost never pose an “undue hardship” to employers:

- Allowing you to carry or keep water near your workstation;
- Providing additional restroom breaks;
- Allowing you to sit or stand, as needed;
- Providing additional breaks to eat or drink.

Although your employer is required to provide an accommodation if it does not pose an “undue hardship,” your employer is not required to give you the exact accommodation you asked for, so long as the accommodation provided effectively addresses your limitation. Your employer should discuss your needs with you and can suggest alternative accommodations in what's called an “interactive process,” a conversation between you and your employer where you work together to find the best outcome. Your employer cannot force you to accept an accommodation that wasn't arrived at through the interactive process.

Your employer should provide a reasonable accommodation in a timely manner. In some circumstances, an unnecessary delay in providing an accommodation can violate the PWFA, even if your employer ultimately provides the accommodation.

If your employer is a religious institution, it may be able to deny you an accommodation—but only in limited circumstances. Religious institutions can prefer someone of the same religion in making accommodations. For example, if a church was choosing between making a job answering questions from prospective congregants available to a pregnant worker as a light duty assignment, or hiring someone who is a member of the church's denomination to fill that role, it could choose to hire someone new rather than provide the accommodation, without violating the PWFA. Your employer, however, should continue to work with you through the interactive process to try to find another reasonable accommodation.

## Does my employer need to give me an accommodation even if I cannot perform all parts of my job?

Yes—even if you are temporarily unable to perform one or more of the essential functions of your job, your employer is still required to provide you with an accommodation as long as the accommodation is temporary; you could resume your duties “in the near future” (defined as “within generally forty weeks”); and your employer can reasonably accommodate you.

For example, a carpenter returns to work after having a Cesarean-section. Their doctor advises them to avoid lifting more than 10 pounds. The carpenter’s job, however, normally involves lifting heavy wood. The carpenter might request a change in their job duties for 8 weeks to avoid lifting more than 10 pounds. Her employer could assign this worker administrative duties during that time. Because the worker’s inability to perform an essential function of their job is temporary and can be reasonably accommodated, her employer must provide an accommodation.

## Can my employer force me to take leave because I need a pregnancy accommodation?

No. Your employer cannot require you to take leave if there is a reasonable accommodation the employer can provide that would let you keep working.

## Can my employer require me to provide documentation to show I need an accommodation?

Your employer can only ask you to provide documentation in certain situations. Your employer **cannot** ask you to provide documentation if:

- Your pregnancy-related condition and the change you need at work are obvious;
- Your employer already has enough information to determine that an accommodation is necessary;
- You are asking for one of the four straightforward accommodations listed above (carrying/keeping water near your workstation, additional restroom breaks, sitting or standing as needed, or additional breaks to eat or drink);

- You are asking for an accommodation related to pumping and/or nursing at work; or
- Your employer would not require documentation from other workers seeking the same type of accommodation for reasons not related to pregnancy, childbirth, or a related medical condition.

In other situations, your employer can ask you to provide documentation from a healthcare provider. Healthcare provider is defined broadly and can include, but is not limited to, a doctor, midwife, nurse, physical therapist, lactation consultant, doula, occupational therapist, vocational rehabilitation specialist, therapist, licensed mental health professional, psychologist, or psychiatrist.

Your employer can only ask for a simple statement to confirm your pregnancy-related condition and/or describe the change you need at work. Your employer cannot require you to provide any other details or medical information, and they cannot require you to provide documentation using a specific form. For example, an email from your healthcare provider stating that you need three months of bed rest to recover from a pregnancy-related back injury would be sufficient to confirm the condition and the accommodation you need. Your employer must provide you with a reasonable amount of time to provide any documentation.

Consistent with the requirements of the Americans with Disabilities Act, employers must keep all medical information you provide confidential, with [limited exceptions](#).

## My employer is refusing to give me an accommodation. What should I do?

If your employer refuses to give you an accommodation, be sure to document what happened. It is a good idea to keep notes, any email correspondence, and a timeline about your request for an accommodation and your employer’s response. Check to see if your employer has an accommodations or anti-discrimination policy. This may be on the employer’s website or in an employee handbook.

You can also ask a supervisor or someone in Human Resources (if your employer has an HR department) whether there are relevant policies if you do not already have them. Ask for a copy.

Because the PWFA is new, your employer might not be aware of their obligations under this law. If your employer

hasn't heard of the PWFA, you can share guidance about the law and its accompanying regulations from the Equal Employment Opportunity Commission (EEOC): "[What You Should Know About the Pregnant Workers Fairness Act](#)"; "[Summary of Key Provisions of EEOC's Final Rule Implementing the Pregnant Workers Fairness Act](#)."

If you believe your employer is violating the PWFA, you can go to the EEOC, which is the federal agency in charge of enforcing the PWFA. If you want to talk to a lawyer about your rights and options under the PWFA, you can contact the Legal Network for Gender Equity by filling out an [intake form online](#).

### **Can my employer punish me for asking for a reasonable accommodation, or for bringing a complaint under the PWFA?**

No—this is retaliation. Retaliation is illegal. You may have been retaliated against if, after letting your employer know you need an accommodation or seeking to enforce your rights under the PWFA, you have experienced termination; demotion; discipline or threats; reduced hours and thus reduced pay; increased scrutiny or lower performance evaluations; transfer to a less desirable position; verbal or physical abuse; being reported or threatened with being reported to immigration authorities; or less desirable work assignments.

If you are worried that your employer is retaliating or discriminating against you because you asked for an accommodation or tried to enforce your rights, it is a good idea to write down dates, times, and descriptions of anything that could be retaliation and keep any relevant emails, letters, disciplinary documents, or other written records.

If you are experiencing retaliation or other behavior that may constitute pregnancy discrimination and your employer has a workplace nondiscrimination policy, follow the steps in the policy to report the retaliation and discrimination. If there is no policy, talk with a supervisor, a human resources representative, or someone else in a position of power at the organization whom you trust and who may be able to help. Explain what is happening and ask for that person's help in getting the behavior to stop.

You can consider bringing a coworker or union representative with you to speak with a supervisor or HR. It can help to have someone you trust with you when going into a meeting.

If your employer has no policy and there is no one at your organization who you can talk with without being retaliated against (for instance, you work at a company with 15 employees and the person harassing you is the CEO), you can reach out to a lawyer by contacting the [Legal Network for Gender Equity](#).

### **If my employer has violated my rights under the Pregnant Workers Fairness Act, what can I do?**

If you want to bring a legal claim against your employer, you must file a charge of discrimination with the EEOC. Normally (unless you work for the federal government, in which case special requirements, described below, apply), you must file a charge of discrimination within 180 days of the unlawful act. The 180-day filing deadline may be extended to 300 days if the claim also is covered by a state or local anti-discrimination law, but it is best not to wait to file a charge. While an attorney can be helpful in this process, you do not need an attorney to file a charge of discrimination with the EEOC.

To file a charge with the EEOC, you can submit a complaint using their online portal—[publicportal.eeoc.gov](#)—or by going to an EEOC office in person. To find your nearest EEOC office location, visit [www.eeoc.gov/field-office](#). When you file a charge, you will be asked some questions about yourself, your work and your job history, and about the discrimination that took place. The EEOC may also reach out to your employer to get more information about what happened. After you file a charge, the EEOC may investigate what happened. They will send a copy of the charge to your employer and they may also reach out to them as part of the investigation.

If the EEOC cannot determine that discrimination took place, it will end its investigation and provide you a "right to sue" letter. The "right to sue" letter allows you to file a lawsuit in court. Once you receive the "right to sue" letter, you only have 90 days to start a lawsuit in court.

If the EEOC determines that discrimination likely took place, it will work with you and your employer to settle your claim. You may also choose to participate in a mediation. If your employer agrees to mediation, this process may take place before or during the investigation. If a settlement is not reached, either the EEOC will bring a lawsuit against your employer or it will issue you a "right to sue" letter. If you do not wish to continue with the EEOC's investigation process



and prefer to bring a lawsuit, at any time after 180 days have passed since you filed your charge you can ask for and obtain a “right to sue” letter from the EEOC.

To contact the nearest EEOC office in your area by phone, call 1-866-408-8075. The system will automatically recognize your area code and connect you to the office that corresponds with the area code associated with your phone number. You can ask your local EEOC office how to contact any state or local agencies in your area. Many states and localities have Fair Employment Practices Agencies where you can file a charge that will automatically be “dual filed” with the EEOC.

### IF YOU ARE AN EMPLOYEE OF A FEDERAL GOVERNMENT AGENCY

You must first contact the agency’s Equal Employment Opportunity (EEO) counselor within 45 days of the date the discrimination occurred. The EEO counselor will try to resolve the issue and if it fails to do so will give you notice about how to file a formal complaint.

If you decide to file a formal complaint, you must do so with the agency’s EEO office within 15 days from the day you receive notice. When the agency completes its investigation, it will issue a notice allowing you to either request a hearing before an EEOC Administrative Judge, or to request that the agency decide whether discrimination occurred. If the agency finds no discrimination occurred, or if you disagree with the decision, you can appeal the decision to the EEOC or file a lawsuit in federal court.

### Do I have any other rights to accommodation under state or federal law?

Maybe. To learn more about the different protections for pregnant and postpartum workers under the Pregnancy Discrimination Act, the Americans with Disabilities Act, and the Family and Medical Leave Act, please refer to NWLC’s fact sheet: [Pregnant At Work? Know Your Rights](#). In addition, many states have their own pregnancy accommodation laws that may cover more employees or provide more protections than the federal law. You can refer to NWLC’s fact sheet on [Pregnancy Accommodations in the States](#) to find out more about whether your state has such a law.

To learn more, visit our website at [www.nwlc.org](http://www.nwlc.org).

## HOW CAN I FIND A LAWYER?

One option for finding a lawyer is to contact the Legal Network for Gender Equity at the National Women’s Law Center Fund. The Legal Network is made up of attorneys who litigate sex discrimination matters, including pregnancy discrimination. Eligible individuals who contact the Legal Network are connected with attorneys who agree to provide them with a free consultation. Some lawyers in the Legal Network may offer lower rates or free assistance, and others may work on a contingency basis (meaning they will only get paid if you win), but others will require payment after the initial consultation.

To contact the Legal Network for Gender Equity, fill out an online intake form here: [nwlc.org/legal-assistance](http://nwlc.org/legal-assistance), or call us at 202-319-3053.

You can also check the National Employment Lawyers Association attorney database here: <https://exchange.nela.org/memberdirectory/findalawyer>.

You may also find legal help through the American Bar Association Directory: [https://www.americanbar.org/groups/legal\\_services/flh-home/flh-bar-directories-and-lawyer-finders/](https://www.americanbar.org/groups/legal_services/flh-home/flh-bar-directories-and-lawyer-finders/).

### DISCLAIMER

This factsheet does not constitute legal advice; individuals and organizations considering legal action should consult with their own legal counsel before deciding on a course of action.

### FOOTNOTES

- 1 The PWFA required the EEOC to issue rules to implement the law. 42 U.S.C. 2000gg-3. The EEOC’s final rule includes its interpretation of the PWFA’s key terms, as well as helpful examples to ensure that employers translate the law’s protections into practice. 29 C.F.R. 1636.
- 2 The phrase “related medical conditions” is the same language used in the Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k), which the EEOC and the courts have been interpreting for over forty years.