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EEOC'S TOP 5 ENFORCEMENT TRENDS FOR PREGNANCY ACCOMMODATIONS CAN TEACH EMPLOYERS LESSONS

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EEOC's Top 5 Enforcement Trends for Pregnancy Accommodations Can Teach Employers Lessons

The EEOC hasn't been shy about launching litigation against employers that haven't met their accommodation obligations since the Pregnant Workers Fairness Act took full effect. A review of the agency's PWFA enforcement actions since its final rule took effect in June 2024 reveals that the EEOC will not tolerate forced leaves of absence, ignored interactive process obligations, rigid attendance policies, and flatly denied basic accommodations. By familiarizing yourself with the top five enforcement trends we've uncovered through a thorough review of the EEOC's litigation activity, you can shape your PWFA compliance strategy to meet the moment.

General Overview of the PWFA

The Pregnant Worker's Fairness Act (PWFA), which took effect in June 2023, implemented a new requirement for covered employers to provide reasonable accommodations for a qualified employee's known limitations due to pregnancy, childbirth, or related medical conditions, unless such an accommodation would cause the employer undue hardship.

The EEOC released a final rule in June 2024 that sets forth definitions and parameters for the PWFA. For a comprehensive recap, you can read our detailed FAQs about

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the PWFA here or our in-depth discussion of the final rule released by the EEOC in April 2024 here.

NOTE: Final Rule Remains in Effect Despite Controversy

EEOC Commissioner Andrea Lucas has publicly disagreed with the rule's requirement that employers accommodate applicants and workers who need time off or other workplace modifications for an abortion procedure. That left many to predict that a portion of or the entire rule would immediately be rescinded when the EEOC gained a quorum. But while the EEOC has had a quorum since October 2025, the final rule remains in effect as of the date of this publication. At least one court has decided not to wait for the EEOC and taken the position on its own that the EEOC overstepped its authority by requiring employers to accommodate elective abortions that are not medically necessary. Regardless of whether other courts join this view or even if the EEOC strikes down portions of or the entire rule, the PWFA itself will remain in effect, and employers will want to check with their FP counsel to determine the extent of their obligations.

The EEOC's Top 5 PWFA Enforcement Efforts and What They Demonstrate

Here is a review of the top five enforcement positions taken by the EEOC with respect to pregnancy accommodations, along with guidance for employers to ensure compliance.

1. Leaves of Absence or Light Duty Cannot be Forced When Other Reasonable Accommodations Exist

The EEOC has taken action against several employers who have allegedly forced leaves of absence on employees who could have otherwise been provided another reasonable accommodation which would have allowed the employee to continue to work. For example, In *EEOC v. Urologic Specialists of Oklahoma, Inc.*, the agency negotiated a $90,000 settlement with an employer that it alleged denied reasonable accommodations to a medical assistant at its Tulsa facility during the final trimester of her high-risk pregnancy. Rather than allow her to sit, take short breaks, or work part-time, as recommended by her doctor to protect her health and safety, the EEOC alleged that the medical

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practice forced her to take unpaid leave in violation of the PWFA.

The EEOC has also taken issue with employers placing pregnant employees on light duty or in positions wherein their earning potential could be reduced. In December 2025, the EEOC sued a Minnesota employer that purportedly removed a pregnant individual from the workplace, placed her on an involuntary leave of absence, and ultimately placed her in a light duty job that reduced her earning potential when she could have continued to work in her position with reasonable accommodations. That lawsuit is pending.

However, situations where an employee *requests* light duty but is denied that accommodation are also on the EEOC's radar. The EEOC recently sued an employer that allegedly failed to accommodate a pregnant employee's 20-pound lifting restriction, for example.

2. The Interactive Process Continues to Play an Important Role

Employers should not assume that they can just grant any accommodation they prefer for qualified employees. The EEOC has brought action against employers who have forced a plaintiff to accept an accommodation without first engaging in the interactive process. For example, in *EEOC v. Wabash Nat'l Corp.*, the EEOC sued a Kentucky employer that allegedly denied a pregnant employee's accommodation request to transfer to a role that did not require lying on her stomach.

3. Strict Attendance Policies Present Risk Under the PWFA

In one of its most recent actions, the EEOC just sued Florida employer BestBet Jacksonville, Inc., for enforcing a strict attendance policy against a pregnant employee. The March 31 lawsuit alleges the employer advised the company that she had a high-risk pregnancy and related medical conditions that required her to take some time off work. The employer allegedly responded by telling her that she could not return to work because the company had a strict policy: "if an employee misses more than two weeks and they do not qualify for leave under the Family Medical Leave Act, they must resign." The EEOC indicated in its complaint that this employer allegedly had a practice of denying all accommodation requests brought by qualified employees

unless those individuals qualified for leave under the FMLA. The EEOC interpreted this approach as the employer "maintaining a blanket policy prohibiting reasonable accommodations under the PWFA."

This is not the only action the EEOC has brought against employers who have enforced attendance policies against employees who had allegedly known limitations of pregnancy or related conditions. Last year, the EEOC settled a case against an Alabama employer for $55,000 after the agency alleged it enforced attendance points against an employee who needed time off for pregnancy-related medical appointments and conditions.

4. Reasonable Accommodations for Qualified Employees Remain High Priority

The EEOC's enforcement efforts demonstrate that it will take action against employers that fail to reasonably accommodate employees. This includes employers that don't provide employees with a suitable space to pump breastmilk, don't provide ready access to water, and don't provide pregnant employees the ability to sit, take breaks, work light duty, or work part-time.

- Just last month, the agency filed suit against a Wisconsin grocery chain after it allegedly fired a nursing mother for requesting an accommodation at her workstation to maintain her breast milk supply, According to the suit, the employee asked to keep a water bottle at her workstation to maintain her milk supply, but management refused the accommodation and ultimately fired her rather than allow it.

- And as noted above, the agency negotiated a $90,000 settlement in *EEOC v. Urologic Specialists of Oklahoma, Inc.*, after an employer allegedly denied a pregnant employee the ability to sit, take short breaks, or work part-time as reasonable during the final trimester of her high-risk pregnancy.

While these types of accommodations are explicitly listed in the EEOC's final rule, the agency has also pursued action against employers for denying accommodations that are not specifically enumerated there. In September 2025, for example, the EEOC filed suit against an employer after a pregnant employee's provider recommended that she limit her driving time to address pain she was experiencing in her

back and legs. She requested either shorter commutes and/or transitioning to virtual admissions for the remainder of her pregnancy. Although assignments were available within the requested radius, the employer allegedly failed to reasonably accommodate the employee and she was forced to resign.

5. Leave As An Accommodation May Be Appropriate In Some Situations

In September 2024, the EEOC brought an action against a Florida-based employer after it allegedly terminated a worker after she had a stillbirth and requested a six-week leave of absence. The EEOC argued that the employer intentionally discriminated against her pregnancy-related medical condition in violation of the PWFA, and ultimately settled the case.

Key Takeaways for Employers

- **Start with the Basics.** The EEOC has largely focused on the basic accommodations listed within its final rule. Ensure you have updated relevant policies and training to allow qualified employees the ability to sit, take short breaks, drink water as well as breastfeed or pump as needed.
- **Don't Default to Leave or Light Duty: Engage in the Interactive Process.** Under the PWFA, you should discuss leave and light duty as part of an interactive process with the employee and you should make all efforts to provide reasonable accommodations that allow the employee to continue working.
- **Train Managers on Enforcing Attendance Policies.** Be sure that your management and human resources teams appreciate that strict attendance policies, even when applied equally to all, can present risk if an employee is qualified under the PWFA and requests time off from work as a reasonable accommodation.
- **Consider Leave as an Accommodation.** When employees are dealing with symptoms that may be pregnancy or childbirth related, consider leave as an accommodation under the PWFA.

Conclusion

We will monitor developments related this law, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney or the authors of this Insight.