



PREGNANCY ACCOMMODATION FOR LAW ENFORCEMENT

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Does this scenario sound familiar? A police officer informs you that she is pregnant and her doctor has recommended that she take a light duty assignment. Or how about this scenario? You find out that one of your police officers is expecting a baby, but you have not yet been approached by this pregnant officer and she has made no special requests.

How to handle a pregnant employee's work status can be very challenging and lead to misunderstandings that may result in legal claims. In order to avoid this unnecessary risk, we have compiled some straight-forward guidance for all police departments to follow.

Pregnancy Discrimination & Harassment

It is important to understand that pregnant employees are protected by state and federal laws.¹ They have certain rights in the workplace, including the right not to be discriminated against or harassed simply because they are pregnant, a mother, or breastfeeding a newborn. Managers and supervisors should be trained in recognizing harassment, preventing it before it occurs, and addressing complaints.

Work as Usual or Work Accommodation?

Many Departments look for a sample procedure, or a decision-tree to follow with respect to job-reassignments for pregnant workers. However, pregnancy is not a "condition" for which accommodation is made or a separate policy is needed. Instead, pregnant workers must be treated just like every other worker and issues of accommodation come into play only if the pregnant employee has a qualifying medical issue under the Americans with Disabilities Act (ADA).

Until the pregnant employee makes a request for an accommodation, it is difficult to say what the agency will and

will not have to do. Pregnancy alone does not trigger a "light duty" status; doing so would be discrimination. Instead, the agency must complete an ADA analysis of what reasonable accommodations may be made to enable her to continue working or to take a temporary leave of absence.

As such, there are two important aspects to keep in mind:

- Departments should not have specific policies governing pregnancy.
- Until the pregnant officer makes a request for an accommodation, they should not be treated any differently than any other officer.
- Upon notification of an officer's pregnancy, the Department Head/Supervisor should be supportive and let them know that if an accommodation is needed at any point during the pregnancy, they should notify the Supervisor or the Agency's HR Department.
- If the pregnant officer makes a request for an accommodation, or the Department has a legitimate concern for the officer's ability to do the job in a safe manner, it is the responsibility under federal and state law to provide an accommodation after appropriate dialogue and discussions with your attorney.

For an employee's own limitations related to her pregnancy, childbirth, or related medical conditions, her employer may need to provide such accommodations as:

- Shorter breaks with more frequency
- Longer breaks with less frequency
- Time off to recover from childbirth
- Acquisition of assistive equipment

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- Modification of existing equipment
- Appropriate seating
- Temporary transfer to a less strenuous assignment
- Temporary transfer to a less hazardous assignment
- Job restructuring
- Light duty
- Modified work schedule
- Private space (that is not a bathroom) for expressing breast milk

Handling a Complaint of Discrimination

When a pregnant employee makes a complaint of discrimination, harassment, or requests an accommodation, it is important to touch base with your agency attorney for legal advice.

¹ Title VII of the Civil Rights Act of 1964 (Title VII), The Pregnancy Discrimination Act of 1978 (PDA), The Americans with Disabilities of Act (ADA) and its amendments, and The Kentucky Pregnant Workers Act, and the Kentucky Civil Rights Act KRS 344.030(6)(b).



Questions? KLC is here to help!

Please contact John Clark (jclark@klc.org) or Brian Nunn (bnunn@klc.org) with KLC Loss Control Law Enforcement at 800.876.4552 or visit klc.org for more information.



John Clark



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