



Updated Guidance on Pregnancy Discrimination

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The U.S. Equal Employment Opportunity Commission (EEOC) issued [guidance](#) this Summer that explains its position with regards to some requirements of the Pregnancy Discrimination Act (PDA) and the application of the Americans with Disabilities Act (ADA), as amended, to individuals who have pregnancy-related disabilities. It is important to note that the guidance is non-binding and federal courts may choose not to follow it. The guidance focuses on the provision in the PDA prohibiting an employer from discriminating against an employee on the basis of pregnancy, childbirth or related medical conditions and directing an employer to treat such women the same as other persons who are similar with regards to their ability or inability to work. One of the more controversial aspects of the guidance is that even though it recognizes that pregnancy itself is not considered a disability under the ADA, it directs employers to provide pregnant employees with light duty opportunities if the pregnant employee has limitations similar to an employee with a disability, regardless of whether the employee is disabled for ADA purposes.

The guidance also addresses: (1) discrimination based on past pregnancy and a woman's potential to become pregnant; (2) lactation as a covered pregnancy-related medical condition; (3) issues related to leave for pregnancy and medical conditions related to pregnancy; (4) the PDA's prohibition against requiring pregnant workers who are able to do their jobs to take leave; (5) the requirement that parental leave (which is distinct from medical leave associated with childbearing or recovering from childbirth) be provided to similarly situated men and women on the same terms; (6) when employers may have to provide reasonable accommodations for workers with pregnancy-related impairments under the ADA and the types of accommodations that may be necessary; and (7) best practices for employers to avoid unlawful discrimination against pregnant workers. For further discussion of this guidance, see a [Client Alert](#) from the law firm Goodwin Procter LLP and a [Legal Alert](#) from the law firm Kilpatrick Townsend.