

KNOW YOUR RIGHTS

Pregnancy & Childbearing Discrimination

OFCCP Protects You from Pregnancy Discrimination

1. What is pregnancy discrimination?

Pregnancy discrimination generally occurs when an employer treats an employee or job applicant unfavorably because of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. This type of discrimination may also occur when an employer has policies or practices that exclude women from particular jobs because they could become pregnant.

2. What are my rights?

The laws enforced by OFCCP make it illegal for a company doing business with the Federal Government to discriminate against you in hiring, firing, pay, benefits, job assignments, promotions, layoffs, job training, recruitment, and other personnel activities because of your pregnancy, childbirth, related medical conditions or childbearing capacity.

You have certain protections if you become pregnant, give birth, or have a medical condition related to pregnancy or childbirth.

- You are allowed to work as long as you are able to perform your job.
- You are to be treated the same as any other employee with a similar medical condition if you become temporarily unable to do your job because of your pregnancy.
- You are entitled to have your employer hold open a job for you when you take a pregnancy-related absence; it must be held open for the same length of time, and on the same terms, that jobs are held open for employees on sick or other medical leave.
- You are entitled to the same benefits that other workers on leave receive.
- You may be entitled to take up to 12 weeks of unpaid leave per year for medical reasons (including pregnancy and childbirth) and for

childcare under the Family and Medical Leave Act (FMLA). Both parents can qualify for FMLA leave. Violations of FMLA should be reported to the Department of Labor's Wage & Hour Division (<http://www.dol.gov/whd>).

3. Are there specific things that my employer cannot do if I were to become pregnant, give birth, or have a medical condition related to pregnancy or childbirth?

Yes. These are some examples of what your employer cannot do:

- Deny you a job offer because of your pregnancy.
- Use your pregnancy as an excuse to test your ability to work. This includes making you meet special conditions, such as having to provide a doctor's note to show that you are ready to return to work if these conditions are not required of other employees on medical leave.
- Force you to remain on leave until your child's birth if you are absent because of a pregnancy condition and then recover.
- Deny you employment because you have young children, unless your employer has the same policy for male employees.
- Refuse to cover hospitalization and other medical expenses related to your pregnancy in the same way it would cover these expenses for other medical conditions, if your employer provides employee health insurance benefits.
- Refuse to grant you, as a pregnant employee or new parent on leave, the ability to accrue seniority, vacation, pay increases and temporary disability benefits in the same way as those who are on medical or other leave for other reasons.
- Refuses to provide an accommodation for your pregnancy-related medical need when similar accommodations are provided for other medical needs, for example allowing you to sit down or to eat crackers during your shift.



U.S. DEPARTMENT OF LABOR

4. Who does OFCCP protect?

OFCCP protects the rights of employees and job applicants of companies doing business with the Federal Government. This includes employees at banks, information technology firms, meat packing plants, retail stores, manufacturing plants, accounting firms, and construction companies, among others.

5. What do I do if I believe my employer discriminated against me because of pregnancy, childbirth, related medical conditions, or childbearing capacity?

You can file a complaint with OFCCP. You do not need to know with certainty that your employer is a federal contractor or subcontractor in order to file a complaint.

6. How do I file a complaint with OFCCP?

You may file a discrimination complaint by:

- Completing and submitting a form online through OFCCP's Web site;
- Completing a form in person at an OFCCP office; or
- Mailing, e-mailing, or faxing a completed form to the OFCCP regional office that covers the location where the alleged discrimination occurred.

The form is available online at <http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm> and in paper format at all OFCCP offices. To find the office nearest you, visit the online listing of OFCCP offices at <http://www.dol.gov/ofccp/contacts/ofnation2.htm>.

You must remember to sign your completed complaint form. If you fail to do so, OFCCP will still take your complaint but an OFCCP investigator will ask you to sign the form during a follow-up interview. Complaints alleging discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin must be filed within 180 days from the date of the alleged discrimination, unless the time for filing is extended for good cause. The same 180-day time frame applies to complaints alleging discrimination for discussing, disclosing, or inquiring about pay.

7. Can my employer fire, demote, or treat me less favorably because I filed a complaint?

No. It is illegal for your employer to retaliate against you for filing a complaint or participating in an investigation. OFCCP's regulations protect you from harassment, intimidation, threats, coercion, or retaliation for asserting your rights.

8. Can I file a complaint with both OFCCP and the Equal Employment Opportunity Commission (EEOC)?

Yes, if you file with both OFCCP and EEOC, your complaint will be investigated by the appropriate agency. In some instances, OFCCP and EEOC may decide to work together to investigate your complaint.

OFCCP usually refers individual complaints alleging pregnancy discrimination to the EEOC. However, OFCCP generally keeps complaints filed against federal contractors where there appears to be a pattern of discrimination that affects a group of employees or applicants. OFCCP also generally keeps complaints filed against federal contractors that allege discrimination based on a person's sexual orientation or gender identity, disability, or protected veteran status. Generally, OFCCP keeps complaints filed against federal contractors that allege discrimination based on someone asking about, discussing, or disclosing pay.

9. What will happen if there is a finding that I was a victim of employment discrimination?

You may be entitled to a remedy that places you in the position you would have been in if the discrimination had never happened. You may be entitled to be hired, promoted, reinstated, or reassigned. You may also be entitled to receive back pay, front pay, a pay raise or some combination of these remedies. In addition, if OFCCP finds that the federal contractor or subcontractor discriminated, OFCCP could seek to have the company debarred or removed from consideration for future federal contracts or have the company's current contracts or contract modifications cancelled.

For more information:

THE U.S. DEPARTMENT OF LABOR
Office of Federal Contract Compliance Programs
200 Constitution Avenue, NW
Washington, D.C. 20210
1-800-397-6251
TTY: 1-877-889-5627
www.dol.gov/ofccp

Please note that this fact sheet provides general information. It is not intended to substitute for the actual law and regulations regarding the program described herein.

