

The ABCs of Childcare Related Leave

FMLA, PWFA, PUMP and more . . .

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Disability Protections/Gender Protections

ADA and Title VII:

- ADA – reasonable accommodations
 - Pregnancy does not equal a disability; but pregnancy related conditions do
 - Association with an individual with a disability
- Title VII – pregnancy, childbirth, related conditions must be treated the same as other workers with a similar inability to work

NOTE:

- Enforced by the EEOC
- Employers with 15 or more employees
- Both protect the mother
- Father may be protected under association concept

Family and Medical Leave Act (FMLA)

FMLA and Childcare - Overview:

- Care after birth of a child, adoption or foster placement
- Care for child under 18 with a serious health condition
- Care for child of any age, who is incapable of self-care, who has a serious health condition
- 12 weeks/unpaid/job protection

NOTE RE ELIGIBILITY:

- 50 or more employees (75 mile radius)
- Employee has been employed for at least a year
- Worked at least 1250 hours in the last 12-months

Pregnant Workers Fairness Act (PWFA)

PWFA Overview:

- Covered conditions – pregnancy, childbirth and related medical conditions (doesn't have to be a disability)
- Accommodation law (unless undue hardship) – requires interactive process
- Enforced by the EEOC
- Can you require a leave of absence?????

Covered Employers:

- Public or Private Sector
- Employment agencies
- Labor organizations
- Minimum of 15 employees

Providing Urgent Maternal Protections for Nursing Mothers

PUMP Act Overview:

- Amendment to the Fair Labor Standards Act (FLSA)
- Enforced by the Department of Labor
- Protected employees – nursing mothers (both exempt or non-exempt)
- Length of protection – 12 months (note – some states require longer protections)

RULES:

- Reasonable break time or paid time if working and nursing
- Whenever the mother needs to pump
- Not a bathroom
- Shielded from view/free from intrusion

LET'S PLAY . . . THE ABCs of CHILDCARE RELATED LEAVE

The Rules:

How to Score:

- One point for each policy provision you correctly identify.
- One point for correctly identifying the law(s) at issue.
- One point if you correctly handle the situation and avoid liability.