

# PREGNANT WORKERS FAIRNESS ACT



Mandated Notice to Employees

April 1, 2018

## *Town of Mansfield*

### Overview

Effective April 1, 2018, Massachusetts has amended current state law against discrimination in employment. M.G.L. c. 151B, §4, which forbids discrimination against employees due to pregnancy or conditions related to pregnancy in addition the law requires employers to provide reasonable accommodations to an employee who is pregnant or who has a condition related to pregnancy. This includes but not limited to, lactation or the need to express breast milk for a nursing child.

The Act prohibits an employer from:

- A. Taking an adverse action against an employee requesting or using a reasonable accommodation, including but not limited to failing to reinstate to an equivalent position with equivalent compensation, benefits and seniority when accommodation for pregnancy or a pregnancy-related condition is no longer needed;
- B. Denying an employee an employment opportunity

due to the need for reasonable accommodation of pregnancy or a pregnancy-related condition;

- C. Requiring a pregnant employee or an employee with a pregnancy-related condition to accept an accommodation that the employee chooses not to accept, if such accommodation is not necessary for the employee to perform essential job functions;
- D. Requiring a pregnant employee or an employee with a pregnancy-related condition to take a leave if another reasonable accommodation may be provided, without undue hardship on the employer's program, enterprise or business; and
- E. Refusing to hire a candidate for employment because of the candidate's pregnancy or pregnancy-related condition, provided that the candidate is capable of performing essential job functions with or without reasonable accommodation not imposing an undue hardship on the employer's program, enterprise or business.

### What is a "reasonable accommodation"?

A reasonable accommodation is a modification or adjustment that allows an employee to perform the "essential functions" of the employee's position. Some examples of reasonable accommodations are:

1. More frequent or longer breaks
2. Time Off
3. Providing equipment or seating
4. A temporary transfer to a less strenuous or hazardous job
5. Job Restructuring
6. Light Duty
7. Private space for expressing breast milk
8. Assistance with manual labor
9. Modified work schedule.

An employee must notify the employer of a need for a reasonable accommodation due to pregnancy or a pregnancy-related condition. The request can be either verbal or in writing. The employer must then engage in a timely, good faith, interactive process to determine what reasonable accommodation may be made for the employee,

absent undue hardship for the employer. This process must include discussion(s) between employer and employee with respect to the requested accommodation and the employer can require documentation from a healthcare professional that explains what accommodation the employee needs. It is up to the employee and employer to discuss how the accommodation relates to essential functions of the job.

#### Why am I receiving this notice?

Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

Employers must also provide written notice of employees rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

### Need Help or Have More Questions?:

Kevin J. Dumas, Town Manager: [kdumas@mansfieldma.com](mailto:kdumas@mansfieldma.com)

MA Commission Against Discrimination: [www.mass.gov/mcad](http://www.mass.gov/mcad) (774) 510-5801

Equal Employment Opportunity Commission: [www.eeoc.gov](http://www.eeoc.gov) (800) 669-4000



MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

**MCAD Guidance  
PREGNANT WORKERS FAIRNESS ACT**

**Issued 1/23/2018**

The Pregnant Workers Fairness Act (“the Act”) amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, effective on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers’ obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

**Under the Act:**

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an “interactive process,” and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. “Undue hardship” means that providing the accommodation would cause the employer significant difficulty or expense.
- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee’s request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court’s website here:

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54>.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

[www.mass.gov/mcad](http://www.mass.gov/mcad)

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**Worcester:** 484 Main Street, Room 320, Worcester, MA 01608 | (508) 453-9630

**New Bedford:** 128 Union Street, Suite 206 New Bedford, MA 02740 | (774) 510-5801