

HR Tip of the Week
P•A•S ASSOCIATES
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**“Aren’t You Ever Going to Quit Having Kids?”
and Other Ways to Engage in Pregnancy
Discrimination**

On September 25, a convenience store chain in New Mexico and Texas [agreed to pay \\$950,000](#) to 28 women in order to settle a pregnancy and disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC’s lawsuit charged that company managers and area supervisors subjected pregnant employees to different working conditions because of their pregnancies and pregnancy-related disabilities.

Allegations included negative comments directed toward pregnant employees and assigning them less favorable tasks and shifts. Some examples from the lawsuit:

- “You’re too pregnant to continue working;”
- ”You are a liability;”
- “Had I known of your pregnancy, you would not have been hired;” and
- “Aren’t you ever going to quit having kids?”

In addition, the EEOC alleged that the company denied reasonable accommodations to employees with pregnancy-related disabilities. For example, the EEOC claimed that the company would neither provide extended leave for pregnant employees on bed rest nor modify stocking methods for pregnant employees with lifting restrictions.

The EEOC further alleged that the company:

- Put pregnant employees on involuntary, unpaid leave;
- Had a policy of limiting medical leave; and
- Fired pregnant employees when they ran out of medical leave without considering when they could return to work.

The federal Pregnancy Discrimination Act, which is incorporated into Title VII of the Civil Rights Act of 1964, makes discrimination based on pregnancy a form of sex discrimination. Under the settlement, the company also must offer to rehire the 28 women and provide them with letters of reference. The company is required to implement policies and practices that will provide its employees a workplace free of discrimination; it also must offer training on

preventing pregnancy- and disability-related discrimination, as well as providing accommodation for pregnant employees.

“Pregnancy discrimination is far too common,” said Elizabeth Cadle, district director of the EEOC’s Phoenix District Office, in a statement . “In the 2016 fiscal year alone, 3,486 charges of pregnancy discrimination were filed with the EEOC. The outcome here should remind all employers of their obligations under the law and encourage them to respect the rights of pregnant employees.”

In 2015, the EEOC published [guidance on pregnancy discrimination](#) and pregnancy-related disabilities.

What to Know in California?

In addition to the federal requirements, California’s Fair Employment and Housing Act maintains strong protections against pregnancy discrimination. California employers with five or more employees also must provide up to four months of unpaid pregnancy disability leave. If an employee is disabled longer than the four months of pregnancy disability leave, the employee still may be entitled to an extension of leave as a reasonable accommodation for the pregnancy-related or other disability. California regulations specifically provide that the right to four months of pregnancy disability leave is “separate and distinct” from the right to take a leave of absence as a form of reasonable accommodation for a disability.

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