

Workplace Protections for Pregnant and Parenting Federal Employees

This fact sheet explains the workplace laws that apply to pregnant and parenting workers who are federal employees. Federal employees are not covered by state and local employment protections. Be sure to check your employee handbook and/or collective bargaining agreement to learn what protections you may have beyond what is listed below.

Discrimination Protections

Federal employers are not allowed to fire you, treat you worse, or harass you because of your race, disability, sex, pregnancy, sexual orientation, gender identity, age, national origin, color, or religion. If you believe you have experienced discrimination or harassment, you must contact the Equal Employment Officer (EEO) in your agency **within 45 days of the date of the discrimination.**



Accommodations for Pregnancy, Childbirth, or Related Medical Conditions

Under the Pregnant Workers Fairness Act, you have the right to reasonable accommodations (changes to your job or working conditions) for pregnancy, childbirth, or related medical conditions, as long as the accommodations do not impose an undue hardship on your employer.

- This law went into effect on June 27, 2023.
- Leave for a prenatal appointment, a pregnancy-related health condition, or recovery from childbirth can be a reasonable accommodation.
- Employers may not retaliate against you for asking for or receiving accommodations.
- Employers must keep the information you share in connection with your need for a reasonable accommodation confidential to the extent possible.
- Employers must engage in an interactive process with you and work with you to make adjustments as needed.
- Employers cannot force you to take leave (paid or unpaid) if another reasonable accommodation can be provided.
- If you believe your employer has violated your rights under the Pregnant Workers Fairness Act, contact the Equal Employment Officer in your agency **within 45 days of the date of the violation.**

Job-protected Parental and Caregiving Leave

FAMILY & MEDICAL LEAVE ACT

The Family & Medical Leave Act (FMLA) provides for 12 weeks of unpaid, job-protected leave per year to care for a family member's serious health condition, to care for your own serious health condition, or to bond with your new baby, or newly adopted or foster child. (It also provides for military caregiving and deployment related leave.)

- In order to be eligible for FMLA leave, you must have worked for your employer for at least 12 calendar months, have worked at least 1,250 hours in the past 12 months, and work at a location with 50 or more employees within 75 miles of where you're working.
 - You can take FMLA leave for your pregnancy- or childbirth-related condition. Both parents can take FMLA for bonding leave, regardless of their gender. However, an employee can only take 12 weeks total of job-protected FMLA leave per year. FMLA bonding leave must be taken within 1 year of a child's birth or for adoption or fostering, placement in the home.
 - Your job must continue your health benefits while you are on FMLA leave, and cannot fire you or treat you worse because you took leave.
 - If you believe your employer violated your right to FMLA leave, you have 2 years to file a complaint in court, or 3 years for a willful violation. You can file a complaint with the Wage and Hour Division of the Department of Labor or file in court.
 - Under the Federal Employee Paid Leave Act, federal workers who qualify for FMLA leave will be paid during their leave to bond with a new baby, adopted, or foster child. Postal workers do not qualify for paid leave, but they may qualify for unpaid FMLA leave.
- IMPORTANT: To use paid leave, you must agree in writing, before you start the leave, to work for your employing agency for at least 12 weeks after your leave.
- If you need more than 12 weeks of leave for your own health condition, you may be able to request additional leave as a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Pregnant Workers Fairness Act (PWFA). Likewise, if you don't qualify for FMLA leave, you may be able to request leave as a reasonable accommodation of your disability under the ADA or PWFA.



Lactation Accommodations

A federal government employer is required to provide reasonable break time for lactation. This right is available for 1 year after a child's birth. Your employer must provide a place for you to pump that is shielded from view and free from intrusion by coworkers and the public, and not a bathroom.

Lactation Accommodations (continued)

- Your break time for lactation does not need to be paid, unless you pump during a break that would otherwise be paid. However, the break must actually be a break. If you are not fully relieved from duty while pumping, you must be compensated for the time you spend pumping.
- Employees who telework are eligible to take pump breaks on the same basis as in-person employees.
- If you believe your right to a lactation accommodation has been violated, contact the U.S. Office of Personnel Management. If you work for the U.S. Postal Service or Library of Congress, contact the Department of Labor Wage and Hour Division. A 2-year statute of limitations applies to the recovery of back pay. For willful violations, a 3-year statute of limitations applies.
- An employee can sue their employer, the federal government, for interfering with or denying a lactation accommodation after providing 10 days of notice and the opportunity for their employer to fix it.

Example: Lina

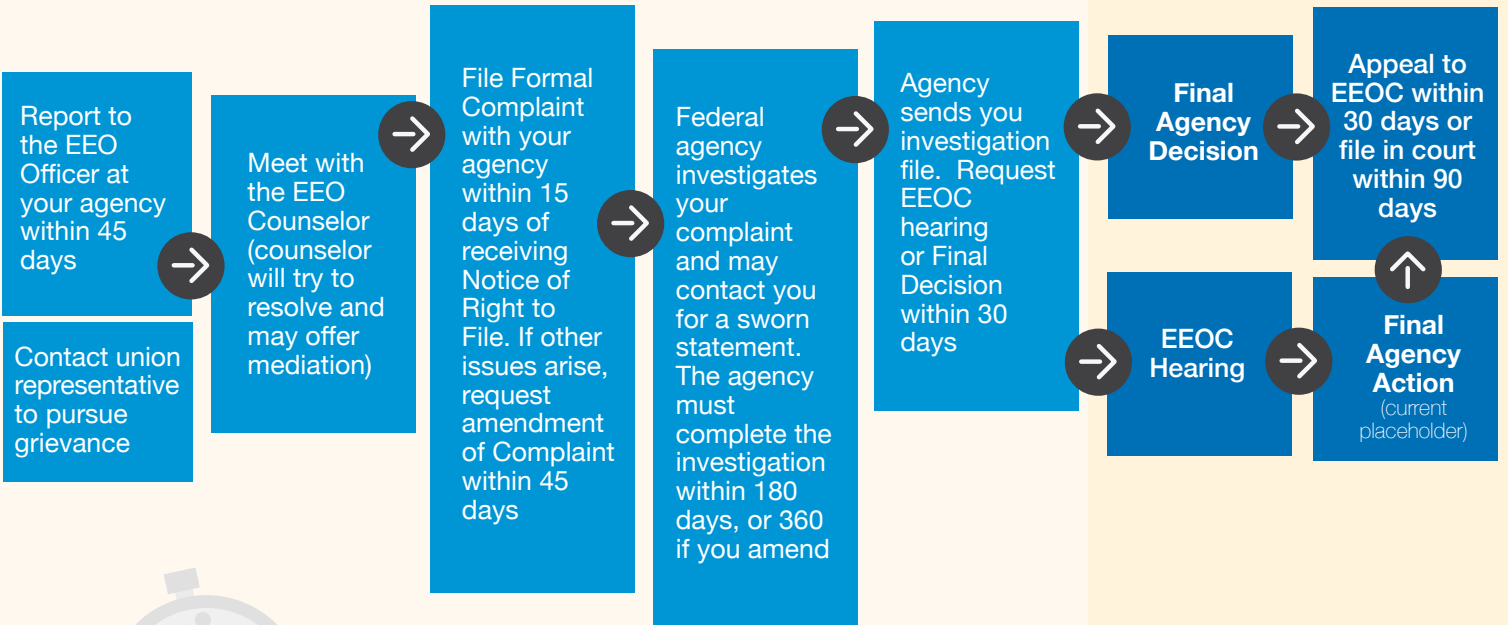
Lina works for the Department of Veterans Affairs and is six months pregnant. Her doctor told her that she should not lift more than 15 pounds and should take two extra breaks throughout the day. She has the right to these accommodations under the Pregnant Workers Fairness Act, unless her employer can show that providing the accommodations would be an undue hardship. Once Lina is unable to work due to her pregnancy, she can begin her 12 weeks of job-protected, paid leave for her own pregnancy-related condition, and then use her remaining time to bond with her baby once they are born. Lina is entitled to 12 weeks of leave total for her pregnancy and for bonding with her new baby. When Lina returns to work after her leave, she will have the right to reasonable break time and a private place to pump. Lina should keep records of her requests, doctor's notes, and her communications with the Department of Veterans Affairs.

If the VA does not allow her to take extra breaks or honor her lifting restriction, Lina must contact the EEO officer for the Department of Veterans Affairs to report pregnancy discrimination within 45 days. If the VA fails to provide job-protected paid leave, Lina must contact the Department of Labor within 2 years of the violation, 3 years if the violation was willful. If the VA does not provide her with the right to reasonable break time and private space to pump milk when she returns to work, she should contact the Office of Personnel Management.

See next page for a flow chart explaining the process for filing a complaint of pregnancy discrimination as a federal employee.



How to file a pregnancy discrimination complaint as a federal employee



NOTE: this chart describes the process for discrimination complaints under Title VII, the Pregnant Workers Fairness Act, and the Americans with Disabilities Act. The process is different for other protections like the FMLA and lactation accommodations.

For free, confidential, multilingual legal advice and information about your rights, contact:

**LEGAL
AID AT
WORK** Legal Aid at Work
Work and Family Helpline
(800) 880-8047

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Disclaimer: Current as October 2023.

The information provided in this resource does not constitute advice. All content is for general informational purposes only. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.