

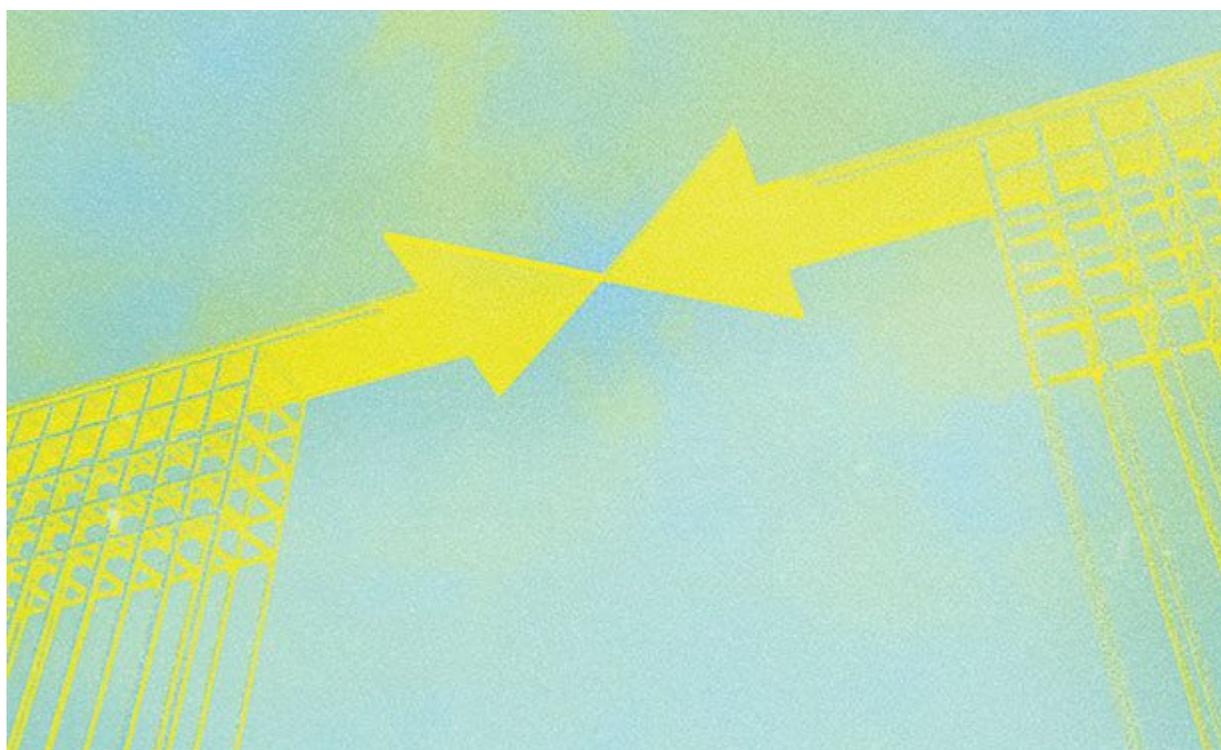
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Expecting mothers and corporate expectations

How companies can avoid some common pitfalls when working with a pregnant employee.

By **Hilary Dinkelspiel Dona** | December 03, 2019



One of the most valuable HR practices is establishing a culture of open communication and demonstrating your commitment to supporting it.

Employers continue to stumble in addressing the needs of employees who are expecting (<https://www.benefitspro.com/sites/benefitspro/2019/07/23/how-can-policies-culture-prevent-pregnancy-from-harming-womens-careers/>). As we have seen in recent cases brought against companies such as Nike, Verizon, Netflix and Kroger, employers are facing claims of pregnancy discrimination for failing to accommodate an employee's needs.

From denying a request to sit more frequently while performing her job to preventing a pregnant employee an opportunity to work on a project, employers are falling short of expectations. These cases make it critical for employers to review their policies and educate their workforce to curb discrimination, whether inadvertent or not, against expecting employees.

Related: Pregnancy accommodation missteps to avoid

(<https://www.benefitspro.com/sites/benefitspro/2019/07/15/pregnancy-accommodation-missteps-to-avoid/>)

What does this mean for my business

Following national movements like #MeToo

(<https://www.benefitspro.com/sites/benefitspro/2019/10/31/two-years-on-the-impact-of-metoo/>), the increased media attention devoted to women's issues such as equal pay, and the relatively low unemployment rate, potential candidates are far more attune to a company's culture. Prospective employees often scrutinize a potential employer's policies and benefits, including those related to employees with a family or interested in starting a family.

How can we, as employers, make sure we're doing all we can to support expecting employees? What are the best practices for accommodating requests and minimizing (or eliminating) exposure to claims?

Maintain open communication with employees

One of the most valuable HR practices is establishing a culture of open communication and demonstrating your commitment to supporting it. This starts with the leaders of the company.

Fostering an ongoing dialogue with your employees on their needs, their concerns, and how your company can address them is critical. In addition, educating your workforce on identifying and preventing pregnancy discrimination may help in preventing issues from arising.

Insurance implications and the grey legal landscape

Employers should consider investing in Employment Practices Liability Insurance to make sure they are covered in the event of an employee claim. Even when you think you are supporting a great culture and communicating well, employee complaints can and will emerge.

In addition, consult with local counsel regularly. They can assist with updating and maintaining policies and keeping your business on top of the ever-changing laws and regulations in this area.

Do the right thing in business

When pregnancy discrimination hinders a women's compensation and advancement, or impairs meeting diversity and inclusion or retention goals, it is easy to recognize its impact.

Discrimination may manifest in many different forms, some of which are obvious. But pregnancy discrimination may be more subtle, inadvertent or unconscious. For example, assuming a pregnant employee would not be interested in an evening

work event at local bar or excluding a pregnant employee from a long term project are forms of pregnancy discrimination, even if discrimination was not intended. The consequence is still the same in that the pregnant employee was denied an opportunity solely because she was pregnant.

Regardless of whether you believe pregnancy discrimination is an issue at your organization, it is important to revisit your organization's approach and determine if refinements are needed. Many companies simply don't realize that inadvertent or unconscious discrimination is occurring.

While updating your company's anti-discrimination policy is a first step, consider taking additional action to demonstrate to your workforce that your company is committed to addressing and preventing pregnancy discrimination. Engage in dialogues with employees about this issue, encourage open communication, and educate all of your employees as they are the first line of defense in preventing issues from the outset. Communication is key, and proactively communicating with employees and utilizing their perspectives can make all the difference.

What you can do now

Pregnancy discrimination is likely to remain a challenge for many companies. But within these challenges there are opportunities. While taking care of your people and protecting your company requires sustained diligence and discipline, there are several steps you can take right away to generate positive momentum.

- Review your HR policies to determine if they align with both the culture you want to foster and the law.
- Engage proactively with employees to determine whether requests from pregnant employees can be reasonably accommodated.
- Review your Employment Practices Liability Insurance (or purchase a policy if you don't have one) and make sure coverage provides the appropriate level of protection.

Most of all, communicate with all of your employees. Let them know that your organization takes pregnancy discrimination seriously and that your company is committed to preventing it.

Also, don't be afraid to engage with other companies in your community to share ideas and learn about their approach. Organizations working together to address issues often produces better results for everyone involved.

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Read more:

- **Pregnancy discrimination settlement highlights employees' rights to accommodation**
(<https://www.benefitspro.com/sites/benefitspro/2019/11/04/pregnancy-discrimination-settlement-highlights-employees-rights-to-accommodation/>)
- **JPMorgan settles parental leave discrimination suit for record \$5 million**
(<https://www.benefitspro.com/sites/benefitspro/2019/05/31/jpmorgan-settles-parental-leave-discrimination-suit-for-record-5-million/>)
- **Employer in court over FMLA, maternity leave misunderstanding**
(<https://www.benefitspro.com/sites/benefitspro/2017/08/14/employer-in-court-over-fmla-maternity-leave-misunderstanding/>)

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