

Life Time Fitness Settlement Reminds Employers and Employees of Pregnancy Protections

By [Joseph E. Abboud](#)

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On Feb. 23, 2017, Life Time Fitness settled a pregnancy discrimination lawsuit filed by the United States Equal Employment Opportunity Commission (EEOC) for \$86,000. The EEOC's complaint alleged that, after giving prospective employee Emily Carpenter two interviews and offering her a job, Life Time Fitness revoked its job offer when Ms. Carpenter informed the company she was 35 weeks pregnant.

Ms. Carpenter's situation is not unique. Despite Title VII's clear prohibition of [pregnancy discrimination](#), the EEOC receives [an average of 3,500 charges of pregnancy discrimination each year](#). It is critical for employees and job applicants to understand the scope of the protections afforded by federal pregnancy discrimination law.

What Is Pregnancy Discrimination?

Since President Lyndon B. Johnson signed Title VII of the Civil Rights Act of 1964 into law, it has been unlawful for covered employers to discriminate against employees (or applicants for employment) "on the basis of sex." In the wake of the passage of Title VII, many pregnant women who faced discrimination in the workplace because they were pregnant sought relief by claiming that discrimination on the basis of pregnancy constituted [discrimination on the basis of sex](#). Defying common sense and undermining Title VII's purpose to guarantee women's equal opportunities in the workplace, several courts – including the U.S. Supreme Court – rejected these claims, holding that discrimination on the basis of pregnancy did not count as discrimination "on the basis of sex" under Title VII.

Recognizing the grave injustice perpetrated by these wrongheaded decisions, Congress passed the Pregnancy Discrimination Act of 1978 (PDA) to amend Title VII to define "on the basis of sex" to include on the basis of "pregnancy, childbirth, or related medical conditions." Under the PDA, covered employers are prohibited from discriminating against pregnant women and must treat pregnant women the same "as other persons not so affected [by pregnancy and related medical conditions] but similar in their ability or inability to work."

Thus, under the PDA a covered employer cannot take any adverse action against an employee (e.g., termination, demotion, failure to hire or promote, and permitting severe or pervasive workplace harassment) because she is affected by pregnancy, childbirth, or any related medical condition, so long as she is able to perform her job. In addition, if the pregnant employee requests a reasonable accommodation – such as a flexible schedule, light duty, or leave – an employer is obligated to accommodate a pregnant employee in the same manner the employer would accommodate a non-pregnant employee who had similar work restrictions for other reasons, such as a workplace injury, illness, or disability.

For instance, if an employer would typically grant requests for a modified work schedule due to an employee's non-pregnancy-related physical limitations, under Title VII the employer must similarly grant the requests of a pregnant employee. In such situations, an employer is entitled to ask for medical documentation of the need for the specific accommodation the employee is requesting. A pregnant woman with any medical complications may also be protected by provisions of the [Americans with Disabilities Act](#) (ADA) and be entitled to a workplace accommodation under that statute.

How to Identify Pregnancy Discrimination

Decisions motivated by pregnancy discrimination are most easily identified when an employer changes its behavior shortly after learning of the employee's pregnancy. For instance, in the Life Time Fitness case, Life Time Fitness was proceeding with the employee's hiring process but abruptly stopped when it learned of her pregnancy. Similarly, when an employer terminates, demotes, or denies a promotion to an employee soon after learning of her pregnancy, the employee will have little doubt that unlawful discrimination is afoot.

Employers' discriminatory decisions also are accompanied often by comments that reflect bias toward pregnant workers. Managers and supervisors frequently signal their stereotyped views of the ability of pregnant women to do their jobs, such as saying the woman "has become too much of a liability," or expressing doubt that a pregnant employee will return to work after taking maternity leave. Employers also sometimes express concerns that their customers or clients will not like dealing with a pregnant employee because she will not present the appropriate image, but employers cannot make discriminatory decisions based on the biases of their customers. Sometimes decisions to transfer a pregnant employee or change her work responsibilities in ways that diminish her opportunities are accompanied by comments that suggest the employer is concerned about her welfare or ability to keep up with her job given her condition, but such comments are evidence of bias even if they seem well-intentioned.

Pregnancy discrimination can often be more difficult to detect than other forms of discrimination. For example, if a pregnant employee asks for maternity leave to give birth to her child and the employer refuses, it is not immediately clear whether the employer has acted illegally. If the employee is not entitled to an extended leave by the [Family and Medical Leave Act](#) (FMLA) or a similar state or local law, the employer is not necessarily required to give the employee maternity leave. If, however, the employer has a policy or practice of providing extended leave to employees for non-pregnancy-related medical reasons, denying an extended leave to the pregnant employee may run afoul of the PDA. Employees in such situations need to be aware of the overlapping protections of the FMLA, the ADA, and Title VII.

Agency Action Reflects Commitment

Although there has been much progress in women's fight for equality in the workplace since Title VII was passed in 1964, cases like Life Time Fitness show that women trying to balance the demands of work and family life still regularly face discrimination from their employers. The EEOC's decision to sue in this case shows the agency's commitment to strong enforcement of Title VII's prohibition of pregnancy discrimination, and its success in settling the case shows that employers can be persuaded to recognize their obligations under Title VII. An understanding of the laws protecting pregnant workers can empower more women to fight back against these injustices and vindicate their rights.