**The Pregnancy Discrimination Act**

The Pregnancy Discrimination Act (PDA) was enacted by Congress in 1978 to extend protections under Title VII of the Civil Rights Act of 1964. The Pregnancy Discrimination Act applies to all employers with at least 15 employees and requires that employers do not discriminate based on current pregnancy, past pregnancy, potential or intended pregnancy or medical conditions related to pregnancy or childbirth.

**Q. My employee has had several absences due to an illness unrelated to her pregnancy. Recently, pregnancy complications kept her out of work an additional two days. Can I discipline or discharge her according to our attendance policy?**

In this case, be sure that you are following the same policy for all employees. Would you typically terminate or discipline at that level of attendance? Also, be sure to think through ADA or FMLA (if applicable) coverage if her illnesses or complications might qualify.

**Q. I have a visibly pregnant applicant applying for one of our busiest jobs. We can't take the risk of her needing to be out to go on maternity leave, so we decide not to offer her the job, even though she is the most qualified. Is this OK?**

No. This would be a direct violation of the PDA.

**Q. Our leave policy provides for four weeks of leave for employees that have worked less than a year. Our employee has only worked with us for 6 months and did not return to work after her four weeks of leave. Are we ok to discharge?**

If you are treating the pregnant employee in accordance with your other leave policies and treat all employees the same, regardless of their medical condition, you should be fine. Again, you may want to ensure that there are no ADA/FMLA implications.

**Q. My pregnant employee has been given a lifting restriction of 25 lbs. Her job requires her to be able to lift up to 50 lbs. We do not allow for light duty other than Workers’ Compensation situations. Do we have to accommodate this employee's light duty request?**

Yes. If you have policies that allow for light duty for employees who are injured on the job (or ADA accommodation) you must treat your pregnant employee with the same accommodations/allowances. In this example because you allow for light duty for WC situations, we would recommend that you allow your pregnant employee to continue with light duty.

An option for employers which have sufficient staffing levels would be to create a few light duty job descriptions which can be allotted to anyone who may need light duty work as a result of a workplace injury or other medical condition/pregnancy. This limits the number of light duty positions offered to staff, while providing options when not an undue hardship.

**Note:** Review state laws for state-specific provisions.

Written by a Catapult Advisor.