



EEOC Updates Pregnancy Rules

NEWSLETTER • SEPTEMBER 2014

For the first time in 30 years, the federal Equal Employment Opportunity Commission (EEOC) has substantially updated its rules concerning pregnancy discrimination. On July 14, 2014, the EEOC issued a new Enforcement Guidance with rules that relate to the definition of pregnancy related conditions, harassment, pregnancy leave for fathers, and some examples of how to apply the rules. Here are some highlights:

- The EEOC makes it clear that the Pregnancy Discrimination Act applies to discrimination based on 1) current pregnancy, 2) past pregnancy, 3) potential or intended pregnancy, and 4) medical conditions related to pregnancy or childbirth, such as lactation. Actions covered by the Act include hiring, firing, promotions, leave, health insurance benefits, and treatment compared to non-pregnant persons similar in ability or inability to work.
- Women should not be harassed based on pregnancy, childbirth, or related conditions. Harassment includes name calling, unwelcome and offensive jokes, physical assault or threats, and ridicule. The remark need not explicitly reference the pregnancy to be considered pregnancy-related.
- Individuals affected by pregnancy, childbirth, or other related medical conditions should be treated the same as other non-pregnant employees who have a similar ability or inability to work. The EEOC gave the example of an employee with a back injury who can't lift heavy items who would be entitled to reasonable accommodation, absent undue hardship. A pregnant woman with a similar restriction should also receive accommodation.
- A nursing mother must be afforded the same opportunities and accommodations, such as time during the workday to express milk, as co-workers with similarly limiting medical conditions who may also require time to attend to medical needs. The EEOC also notes that the Patient Protection and Affordable Care Act requires employers to provide reasonable break time and a private place for hourly employees who are breastfeeding to express milk.
- The EEOC guidance also addresses men's rights to take time off for paternity leave. Employers who allow maternity leave to extend beyond the period of recuperation from childbirth must grant new fathers the same right to that leave.

It's important that all affected employers reexamine their current policies to make sure that they comply with this EEOC Enforcement Guidance, and if necessary, revise them. The EEOC's rules apply to private employers with 15 or more employees who have worked for the employer for at least twenty calendar weeks in the current or prior year. However, all employers should keep in mind that there may be other laws relating to pregnancy discrimination that may apply to them. Written policies and/or training should be clear, and employers should make sure that there are effective channels for reporting any suspected discrimination.

THIS NEWSLETTER MAY BE CONSIDERED ADVERTISING UNDER MASSACHUSETTS SUPREME JUDICIAL COURT RULES
This newsletter for clients and friends of Laredo & Smith, LLP provides general information about legal developments. It should not be used as a substitute for professional advice on your particular legal situation. © 2014 Laredo & Smith, LLP

In the Field

Mark Smith elected BBA secretary

Partner Mark Smith was elected secretary by the Boston Bar Association membership and will serve on the BBA's executive committee. He will also serve as secretary to the BBA governing council for its 2014-2015 program year, effective September 1. He has been a council member and has served as chair of the education committee and co-chair of the organization's criminal law section.

Agreements important for family businesses

Massachusetts Family Business featured an article by Partner Marc Laredo in its Summer 2014 issue. The piece, titled "The Importance of a Written Agreement Among the Owners of a Family Business," touches on why a carefully crafted agreement that covers issues such as employment, roles of the owners, and death can prevent significant problems. Even though the formality of a written agreement can be initially uncomfortable, Mr. Laredo notes it can actually reduce family strife. See the complete article in the publication section of the website: www.laredosmith.com.

Sierra offers tips for new lawyers

On July 10, Partner José Sierra spoke at the Boston Bar Association's *Strategies for Success: Summer Associates Diversity Luncheon*.

LAREDO & SMITH, LLP

101 Federal Street, Suite 650
Boston, MA 02110

TEL: 617-443-1100

www.laredosmith.com