

4112-5-05 Sex discrimination.

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(G) Pregnancy, and childbirth, and related medical conditions.

(1) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy, childbirth or related medical conditions is a prima facie violation of the prohibitions against sex discrimination contained in Chapter 4112. of the Revised Code.

(2) An employee affected by pregnancy, childbirth or a related medical condition shall be treated the same for all employment-related purposes, including eligibility for light duty positions and participation in modified work programs, accrual of seniority, receipt of benefits under fringe benefits programs, and all other benefits and privileges of employment, as other employees not so affected but similar in their ability or inability to work, and regardless of whether she is otherwise similarly situated in all respects.

(3) Distinctions based upon length of service, the nature of the medical condition, or whether the medical condition is related to an on-the-job injury, shall not constitute a legitimate, nondiscriminatory reason for treating an employee affected by pregnancy, childbirth or a related medical condition less favorably than other persons not so affected but similar in their ability or inability to work.

~~(2)(4)~~ Where an adverse employment action taken against termination of employment of an employee who is temporarily disabled limited, in part or in whole, in her ability to work due to pregnancy, childbirth or a related medical condition is based upon caused by an employment policy or practice under which less than twelve weeks of paid or unpaid pregnancy, childbirth or insufficient or no maternity leave is available when medically recommended, such termination shall constitute unlawful sex discrimination policy shall be presumed to have a disparate impact on women and constitutes unlawful sex discrimination unless justified by business necessity.

~~(3)(5)~~ Written and unwritten employment policies and practices involving commencement and duration of pregnancy, childbirth or maternity leave shall be so construed as to provide for individual capacities and the medical status of the woman involved.

(6) No employer shall be permitted to place an employee affected by pregnancy, childbirth or a related medical condition on mandatory leave, or otherwise limit or alter her job duties, in the absence of an objective, verifiable safety justification and only when the pregnancy or related medical condition interferes with her ability to safely perform her position.

~~(4)~~ Employment policies involving accrual of seniority and all other benefits and privileges of employment, including company-sponsored sickness and accident insurance plans, shall be applied to disability due to pregnancy and childbirth on the same terms and conditions as they are applied to other temporary leaves of absence of the same classification under such employment policies.

~~(5) Women shall not be penalized in their conditions of employment because they require time away from work on account of childbearing. When, under the employer's leave policy the female employee would qualify for leave, then childbearing must be considered by the employer to be a justification for leave of absence for female employees for a reasonable period of time. For example, if the female meets the equally applied minimum length of service requirements for leave time, she must be granted a reasonable leave on account of childbearing. Conditions applicable to her leave (other than its length) and to her return to employment shall be in accordance with the employer's leave policy.~~

~~(6)(7) In accordance with paragraphs (G)(1) to (G)(6) of this rule, Notwithstanding paragraphs (G)(1) to (G)(5) of this rule, if the employer has no leave policy, childbearing must be considered by the employer to be a justification for leave of absence for a female employee for a reasonable period of time. Following childbirth, and upon signifying her intent to return to employment within a reasonable time, such an female employee who was temporarily limited, in part or in whole, in her ability to work due to pregnancy, childbirth or a related medical condition shall be reinstated to her original position or to a position of like status and pay, without loss of service credits or other benefits.~~