



TOWN OF ARLINGTON MASSACHUSETTS

MUNICIPAL AND SCHOOL EMPLOYEES

Town of Arlington/ Arlington Public Schools Pregnant Workers Fairness Act

Distribution to all Town and School Department employees March 29, 2018

Effective April 1, 2018, Massachusetts has amended M.G.L. c. 151B section 4 (unlawful discrimination in employment practices) to prohibit discrimination in employment against employees due to pregnancy or pregnancy related conditions. In addition, the law requires employers to provide reasonable accommodation to an employee who is pregnant or has a pregnancy related condition, including but not limited to morning sickness, lactation, or the need to express breast milk. A reasonable accommodation is a requested accommodation which does not impose an undue hardship on the employer's program, enterprise or business.

Specifically the **law prohibits** an employer from:

(a) Taking any adverse action against an employee requesting or using a reasonable accommodation, including but not limited to failing to reinstate to an equivalent position with equivalent compensation, benefits, and seniority when accommodation for pregnancy or a pregnancy-related condition is no longer needed; and retaliating against an employee for requesting or using a reasonable accommodation;

(b) Denying an employee an employment opportunity due to the need for reasonable accommodation of pregnancy or a pregnancy-related condition;

(c) Requiring a pregnant employee or an employee with a pregnancy-related condition to accept an accommodation that the employee chooses not to accept, if such accommodation is not necessary to perform the essential job functions;

(d) Requiring a pregnant employee or an employee with a pregnancy-related condition to take a leave if another different accommodation may be provided, which does not impose undue hardship on the employer's program, enterprise or business, and;

(e) Refusing to hire a candidate for employment because of the candidate's pregnancy or pregnancy-related condition, provided that the candidate is capable of performing essential job functions with or without reasonable accommodation not imposing an undue hardship on the employer's program, enterprise or business.

The law requires written notice to all employees by April 1, 2018 and notice to new employees prior to or on the first day of employment; and additional notice to any employee within ten (10) days after the employee provides notice of pregnancy or a pregnancy-related condition.

Additionally, the law requires that the employer must engage in a timely, good faith, interactive discussion with the employee to determine what reasonable accommodations may be made, without causing undue hardship to the employer. Reasonable accommodations include, but are not limited to:

- more frequent and/or longer breaks;
- time off;
- providing equipment or seating;

- temporary transfer to a less strenuous or hazardous job;
- job restructuring;
- light duty;
- private space for expressing breast milk, specifically excluding bathrooms;
- assistance with manual labor;
- and/or a modified work schedule, provided it would not require the employer to discharge or transfer an employee with more seniority or to promote an employee who is not able to perform the essential functions of a job with or without reasonable accommodation.
- A restriction on lifting more than twenty (20) pounds.

The employer may request documentation to support a requested reasonable accommodation, but cannot request documentation for an accommodation involving more frequent or longer breaks, seating, private space for expressing breast milk, or a restriction on lifting more than twenty (20) pounds.

Employees are encouraged to discuss any related questions or issues with Caryn Malloy, Director of Human Resources at cmalloy@town.arlington.ma.us: 781-316-3120 or Robert Spiegel, School Human Resources Officer at rspiegel@arlington.k12.ma.us: 781-316-3496.

Additional information including an MCAD-prepared FAQ is also available upon request of the Human Resource offices. Complaints may be filed at the Massachusetts Commission Against Discrimination (MCAD) which adjudicates all claims of discrimination, including claims of pregnancy discrimination. MCAD, One Ashburton Place, Boston, MA 02108, 617-994-6000.