

# Pregnancy Discrimination: What it is and how to avoid it

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Women have been giving birth for millions of years and working to feed their families at the same time. But just this month we heard a story about a woman who was in the running for a job but once the employer heard she was pregnant, she was suddenly “not appropriate.” Hmmm. Why? Why is this still a thing, yall? We have literal robots vacuuming our floors, we have the longest life expectancies humans have ever had, we can see a detailed weather report weeks in advance...but a baby bump is a problem? It should not be this way but sadly happens often. Every woman should be aware of the pitfalls to avoid (or deal with if you can't avoid them) when working while pregnant.

## Pregnancy Discrimination and PDA

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In 1978, the Pregnancy Discrimination Act (PDA) became federal law.

Fact: It is illegal to discriminate against employees based on pregnancy, childbirth, or related medical conditions.

Fact: Currently, 250,000 women are denied accommodations related to their pregnancies each year.

That number alone should shake you up. *A quarter of a million* women are discriminated against *every year* because they are bringing life into the world. How screwed up is that?

Bottom line: the PDA has not ended all discrimination against pregnant people.

If you are not aware, pregnancy discrimination occurs during:

- Hiring or moving forward in the hiring process
- Rescinding of job offers
- Rescinding or delaying increased pay, job assignment, or promotion
- Canceling training, benefits, or any other terms of employment
- Firing from a job, reduction of hours, or layoff

Pregnancy discrimination most often manifests as an employer refusing to hire or deciding to fire a pregnant person, disregarding their ability to perform the job, like the story we mentioned earlier. But that's not where evidence of discrimination ends.

Elizabeth Warren has been very open about her experience in 1971 losing her teaching job because she was pregnant. Other women have reported being passed over for promotion or for training that would lead to more responsibility. Some women have been told their jobs

were “downsized” soon after returning from maternity leave. Others have been forced to leave a job because they were not allowed to take extra bathroom breaks or sit down while working.

This quote from a [Refinery29 article](#) makes our blood boil,

“When I disclosed my pregnancy to the leadership, one of the execs told me it’s a bit ‘disappointing’ that I wouldn’t be focusing on my career anymore, but he understood because, ‘That’s what girls do.’ When I said I intend to continue working, I was told that’s what women say, but don’t really mean.”

Seriously?!?!?! Women can absolutely manage home life and career, and we definitely need hiring managers to stop insinuating otherwise.

## Pregnancy Leave

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The United States is the [only industrialized country](#) without a Federal paid maternity leave policy. At the state level, only nine states and the District of Columbia mandate parental leave. That leaves employers responsible for supporting expectant parents as they plan for one of the most important events in their lives.

According to [Zippia](#), in 2021, only about 23% of employees working in the private sector had access to paid maternity leave. The [Wall Street Journal](#) reported in August 2022 that the number of private employers offering paid maternity leave was dropping. The speculation is that companies are trimming their benefits for new parents to [confront inflation](#) and anticipate a recession or maybe they are just looking for excuses to revert to pre-pandemic HR policies after extending more parental benefits during the pandemic. Only time will tell.

## What is FMLA?

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It’s mind-boggling to us that so many workers don’t know that the Family and Medical Leave Act ([FMLA](#)) protects their employment rights when life happens. It’s also infuriating that many companies ignore these federal regulations whenever they can. Let’s be better, shall we?

The FMLA entitles employees to unpaid leave for specified family and medical reasons like pregnancy. If you are eligible, you are guaranteed that your health insurance coverage will continue and that your job is secure. Under FMLA, eligible employees are [entitled to](#):

12 workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth
- recovery from or avoiding pregnancy complications
- the placement and care of a child for adoption or foster care within one year of placement
- care for a spouse, child, or parent who has a serious health condition
- recovery from a serious health condition that makes it impossible to perform the essential functions of the job

You are eligible for FMLA if you have worked for your employer for at least 12 months, at least 1,250 hours over the past 12 months, and your employer has 50 or more employees. If you want to take FMLA, you need to give your employer 30 days' notice.

## When Should I Disclose a Pregnancy?

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There is no perfect time and it may be tempting to wait as long as you can. But telling your boss and discussing your parental leave options should happen sooner rather than later. The more time you give your employer to plan for your absence, the better outcome you will receive. And you really want to make sure your boss hears the news from you and not the office gossip mill.

According to a [2019 article](#) in the New York Times, most women share the news with their bosses around the end of the first trimester, when they may be starting to show, and the risk of miscarriage has decreased.

Certain states, like California, New Jersey, Rhode Island, and New York, have their own maternity leave laws. If you are in those states, study those laws to know what you're entitled to. The Center for WorkLife Law has a handy resource that outlines the [best time to tell your boss](#) and what to say when you tell them based on your state's laws.

While you're working, you may need to adjust your workday. This is another good reason to tell your boss sooner rather than later. The Center for WorkLife Law also has a [list of pregnancy-related conditions](#) and possible workplace accommodations you could ask for. You're protected under the PDA if you need basic accommodations like time off work for doctor visits or more frequent bathroom trips.

## Startups and Parental Leave

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[Parentaly](#) offers a terrific resource that documents known paid leave policies for any company, both startup and established. It's a working document that is consistently updated, so bookmark it for future reference. Here are a few examples from the site:

- At Meta, employees are immediately eligible for 22 weeks of paid pregnant parent leave and 16 weeks of paid other parent leave upon hiring.

- At Salesforce, employees must work 12 months before being eligible for 26 weeks of paid pregnant parent and 12 weeks of paid other parent leave.

Here are some examples from startups we found:

- [Baseton](#), an “MLOps platform for startups,” offers 16 weeks of fully paid leave for all parents, regardless of whether you’re the birth parent, birth partner, adoptive parent, or foster parent, and schedule flexibility when returning to work. In a blog, the CTO said, “it was the right thing to do.” Amen to that.
- [Trustpage](#) is an end-to-end TrustOps platform. Their parental leave includes paid paternity leave, maternity leave, adoption leave, leave for foster care placement, and leave for miscarriage. Trustpage gives primary caregivers up to 16 weeks off and secondary caregivers up to 8 weeks off upon the arrival or loss of a child.

Sallie Krawcheck, Co-Founder & CEO of Ellevest, has been very vocal with her take on paid maternity leave. In 2019 on her [Ask Sallie vlog](#), she said, “It’s the humane thing to do, but very importantly for business, it’s the smart thing to do. It is not an expense — it is an investment. And it’s an investment that, as business people, we should want to be making all day long.”

Sing it sister! We wholeheartedly agree.

## Is Parental Leave Negotiable When Looking for a New Job?

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YES! Well, at least it should be. One of the more positive outcomes of the pandemic is that more employers better understand the importance of offering flexible benefits and schedules to parents. The Baseton example above is the result of a successful negotiation between a job candidate and an employer.

Negotiating parental leave as part of an offer package for a new job takes some education and planning. Do some background research on other companies in the sector to understand what parental benefits are offered. Once in the negotiations, clearly state what you want and explain your reasons. Then sit back and listen. Consider this a starting point for discussion, and keep an open mind regarding your potential employer’s concerns or needs. You may need to be flexible and give up other benefits like vacation time to get what you want.

## What Should I Do if I Face Pregnancy Discrimination?

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If your boss treats you differently after you’ve told them you’re expecting, document and report their discriminatory actions in writing to your HR department immediately. Include details like dates, times, what happened, and any witness names.

If nothing happens or you are not satisfied with the outcome, file a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC). The effort is worth it (not only for yourself but for other parents too). However, it's important to know that proving discrimination in court can be difficult. You will be required to show that a coworker who's not pregnant but needs comparable accommodations got more favorable treatment. That's not easy to do.

If you need help, organizations such as the Center for WorkLife Law can show you how to advocate for yourself, help you document your case and write letters to your employer, and connect you with lawyers. Many states also have women's law centers or a legal aid society that can help you.

## **Our Hot Take**

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Here's our esteemed leader, NAME's opinion on this topic, "Working while pregnant may not be easy, but many women accomplish far more difficult tasks before lunch on most days. There is no reason for employers to use pregnancy as a reason to deny employment, promotion, parental leave, or any other reasonable work accommodation to their workers. While we've come a long way in accepting pregnancy in the workplace, employers still need to be educated or informed about our rights. It's up to each of us to raise our voices to ensure they are available to all pregnant people."

## **TL:DR Version**

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Pregnancy discrimination is illegal yet still happens on a daily basis. There are resources available to fight employers who deny workers jobs, promotions, leave, pay raises or other employment rights based on pregnancy. RECRUITER supports parents of all phases, and we want to work with companies that create inclusive and advanced policies on pregnancy.