

New Legislation Recognizes Rights for Pregnant and Nursing Workers



Judy approached Chief Steward Amy over lunch one day. With a big smile, Judy shared that she had just completed her first trimester of pregnancy, and she and the baby had a clean bill of health from her doctor. Amy congratulated her.

Then Judy said, “Amy, I’m a little worried about telling Bob, our boss. My doctor said there’s a new law that gives me permission to carry a water bottle at work and ask for extra bathroom breaks, but I know Bob doesn’t like to give any extra breaks. Do you know anything about this law? Can the union help me?”

On the other side of the country, Eliana, a department steward, dropped off a meal for her colleague Tisha, who was at home with her 8-week-old newborn. As they chatted on the porch, Eliana asked Tisha if she still planned to come back to work in a few weeks.

“Yes,” Tisha said, “I’m going a little stir-crazy and looking forward to coming back. There’s just one thing I’m worried about...”

“What’s that?” Eliana asked.

“I’ve been breastfeeding the baby, and I feel lucky that’s going really well,” shared Tisha. “I started pumping some breastmilk for when I go back to work. But I don’t think just pumping on my lunch break is going to work for me. Do you know if I can get extra breaks to pump?”

“Yeah, you can,” Eliana said excitedly. “There’s a new law that passed that says the boss has to give you breaks, and a clean space to pump that’s not a bathroom!”

Tisha smiled. “Wow, what a relief. I’m so glad you brought chili *and* good news!”

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UE stewards and leaders should know crucial information about two new federal laws: the Pregnant Workers Fairness Act (PWFA) and the PUMP Act. These laws, which passed in 2022, focus on ensuring improved workplace accommodations for pregnant, postpartum and nursing workers, guaranteeing their rights to a safe and supportive work environment.

It’s essential for stewards to be aware of these changes and to help enforce them in the workplace, as asserted in the UE resolution “The Battle for Equal Women’s Rights.”

PWFA: Reasonable Accommodations for Pregnant Workers

The Pregnant Workers Fairness Act was first endorsed by UE in 2021. It ensures that pregnant workers receive reasonable accommodations to

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enable them to keep working during pregnancy, childbirth, or related medical conditions that may arise. It also prevents discrimination against pregnant workers. The law applies to both public and private employers with at least 15 employees.

Pregnant workers can request accommodations such as sitting, flexible hours, additional breaks, or modified duties. They can request a change in uniform, such as being able to wear maternity pants. They can request not to be exposed to certain chemicals, or, as Judy asked, to be allowed to carry a water bottle.

The law also applies when the worker is ready to return to their job, requiring reasonable accommodations for medical conditions that arose from being pregnant or giving birth. This might include extended lift restrictions for someone recovering from a C-section, or a modified schedule that allows for a weekly therapy appointment to treat postpartum depression.

Employers are required to provide reasonable accommodations unless they would cause an “undue hardship” on the employer’s operations. An “undue hardship” is significant difficulty or expense for the employer.

Importantly, the law states that employers cannot discriminate or retaliate against pregnant workers for requesting accommodations. Workers cannot be punished by being denied job opportunities or being forced to take leave if an alternative accommodation allows them to continue working.

The PWEA is enforced by the federal Equal Employment Opportunities Commission (EEOC). If an employer fails to comply with the new law, a steward might want to remind the boss of this outside enforcement mechanism. The EEOC is drafting additional federal regulations that will provide further clarification on PWEA protections.

If you work for an employer in a state or city with rules that provide *more* protections or rights for pregnant workers, those laws still apply. PWEA sets a base level of protection for other US workplaces.

In order to receive these accommodations, the pregnant or recently-pregnant worker does have to notify their boss that they are requesting a tempo-

Why should union leaders care about breastfeeding?

The healthiest babies are those that are fed adequately, whether that’s through quality formula or breastmilk. However, breastfeeding is recognized to have a number of health benefits for both the baby and the nursing parent. This includes lower risk of many illnesses for both the baby and parent. Keeping a new parent healthy is an important part of helping them continue to work.

Maintaining an adequate breast milk supply is a challenge for many nursing parents. It’s common for them to need to pump three to four times during the day, even if they nurse their infant at home when they are not working. This is why it’s important for them to have time and space to pump during the work day.

rary accommodation related to a physical or mental condition related to their pregnancy, childbirth, or a related medical condition.

Stewards can help pregnant workers write a letter to the boss documenting the requested accommodation, or go with the worker to a meeting with management about their request.

To look at some sample letters to employers or examples of other kinds of accommodations, visit A Better Balance (www.abetterbalance.org/pregnant-postpartum-workers-know-your-rights).

PUMP Act: Supporting Nursing Workers

The Providing Urgent Maternal Protections for Nursing Mothers Act (or PUMP Act) is a federal law that significantly expands the right to time and space at work to pump breast milk. This legislation covers almost all workplaces, regardless of how many workers they employ. (Unfortunately a few groups of nursing parents are excluded from the law. These include airline flight crewmembers, and certain rail carrier and motorcoach workers.)

Employers must provide reasonable break time for nursing workers to express breast milk for up to one year after the child’s birth. Additionally, employers must provide a private space that is not a bathroom, shielded from view and intrusion, where workers can express breast milk.

If the employer provides paid breaks, pumping workers should be compensated for pumping breaks in the same way as other employees are compensated for their regular breaks. If employees

are not relieved from duty while pumping, such as being required to answer phone calls or email, the time used to pump breast milk must be paid.

For example, if a pumping worker is a salaried worker who has the ability to take breaks whenever they want, this law applies to them too. An employer cannot reduce their salary to account for pumping breaks. Or if the pumping worker works an hourly job in a state that has requirements to provide periodic paid breaks for all hourly workers, workers are allowed to use those paid breaks as part of their pumping time.

The worker and their steward may need to advocate with the employer to help them understand what is needed in an adequate pumping space. This includes the ability to lock the door and cover windows for privacy, and an outlet for plugging in the pump.

The PUMP Act is enforced by the Wage and Hour Division (WHD) of the Department of Labor. If the boss won’t comply with their responsibilities, or if they try to retaliate against the worker for asking for pumping accommodations, workers can file complaints with WHD, and they also have the right to file a lawsuit. Stewards should remind management of this if any problems arise.

It’s crucial for union stewards to be aware of these laws and to advocate for their fellow workers. If you encounter any issues or need guidance on these matters, don’t hesitate to reach out to your union representatives. Together, we can ensure that every worker receives the support and respect they deserve in the workplace.