

When pregnant worker's doctor's note collides with company policy

THE PROBLEM: Company policy clearly states that employees are mandated to work overtime during busy periods. An employee did so willingly, until she became pregnant. During the busiest period of the year, she shows up with a doctor's note explaining that she can no longer work overtime.

What would you do?

The Answer: It might be tempting to refer her to the appropriate policy and tell her no overtime, no job. It could also be illegal. The Pregnancy Discrimination Act (PDA) of 1978 provides that women affected by pregnancy, childbirth, or related medical conditions must be treated the same way as other individuals with temporary disabilities.

If you refuse to accept the terms and conditions of the doctor's note presented by the employee, you had better be prepared to turn down a similar request from every other employee with a temporary disability.

Here are some pregnancy-related issues to keep in mind.

- You must accommodate an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as you treat other employees with temporary disabilities, whether by providing modified tasks, alternative assignments, disability leave, leave without pay, etc. If you have made any previous exceptions to your overtime policy ever, this employee's termination could be found discriminatory.
- An employee must be permitted to work at all times during pregnancy when she is able to perform her job. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, you can't require her to remain on leave until after her baby is born, for example.
- If other employees who take disability leave are entitled to get their jobs back when they are able to work again, so are women who have been unable to work because of pregnancy. If employees who are sick or injured are excused from overtime requirements, pregnant employees must be given the same consideration.