



## Commission on Human Rights

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### **NYC COMMISSION ON HUMAN RIGHTS ISSUES NEW REPORT ON PREGNANCY AND CAREGIVING DISCRIMINATION IN THE WORKPLACE**

*The report, which summarizes over three hours of testimony from workers, medical professionals, and community members, outlines current protections, the state of pregnancy and caregiving in the workplace, and stakeholders' recommendations to protect low-wage, domestic, and immigrant employees.*

**NEW YORK**—The NYC Commission on Human Rights issued today [a new report based on testimony from medical experts, workers, and advocates on the issue of pregnancy and caregiver discrimination in the workplace](#). The report, which summarizes over three hours of testimony, and 17 written submissions, outlines current protections on the federal, state, and city level and includes stakeholders' recommendations as to how local laws and Commission enforcement can better protect its pregnant and caregiving workers.

“Whether you are pregnant, a new parent, or caring for your own parents, everyone deserves to meet their caregiving obligations without fear of reprisal at work,” said Carmelyn P. Malalis, Chair and Commissioner of the New York City Commission on Human Rights. “No one should have to choose between their job and their family. We will continue to fight for the rights of workers across all sectors who are pregnant, breastfeeding, or caring for a loved one until everyone is protected.”

The Commission held its first-ever hearing on pregnancy and caregiver discrimination in January of 2019 amidst an increase in local and national news stories detailing incidents of discrimination and retribution against employees requesting accommodations for their pregnancies, need to express breastmilk, or caregiving obligations. The report gathers the input provided in testimony from people across industries, medical professionals, and advocates, all of whom detailed the numerous obstacles for workers who require reasonable accommodations based on pregnancy or caregiving status. It found that low-wage, domestic, and immigrant workers are among the most vulnerable populations when it comes to requesting accommodations from an employer, leaving many to choose between a healthy pregnancy or family and their jobs.

At the public hearing in January, recommendations were provided by medical experts, stakeholders, and advocates, which are reflected in the report. These include expanding the NYC Human Rights Law to apply pregnancy protections to all workers. It further recommends an increase in community outreach and education to inform people of their rights, expansion of NY State Paid Family Leave, and the right to reasonable accommodations for someone caring for minor children or family members with disabilities.

Pregnancy, breastfeeding, and caregiving protections in the workplace have long been a key issue area for the NYC Commission on Human Rights. The NYC Pregnant Workers Fairness Act, the first of its kind in the country, went into effect in 2014. In 2016, the Commission issued a legal enforcement guidance on pregnancy discrimination detailing the specific protections in place for pregnant and breastfeeding employees, and the obligations of employers to accommodate pregnant workers. In 2018, City Council passed Local laws 185 and 186, mandating that employers provide breastfeeding employees lactation accommodations such as a private space to pump and reasonable time to express breastmilk. The Commission published multiple model lactation accommodation policies to address different workplace structures so employers could easily find a policy to fit their needs. Further, the Commission provides an accommodation request form, an employer factsheet, and an extensive FAQ.

Sample of pregnancy and caregiving discrimination resolutions at NYC Commission on Human Rights in 2018 and 2019:

**Adorable Pillows Pays Full Back Pay, Emotional Distress Damages, Civil Penalties, Two Years of Monitoring, Training and NYCHRL Postings to Settle a Pregnancy Discrimination Case**

A pregnant employee at a Brooklyn Pillow Factory was illegally terminated after suffering a seconds-long dizzy spell at work. In settling the case, her employer agreed to pay the employee her full back pay of about \$8,300, emotional distress damages of \$7,500, and civil penalties of \$7,500. The employer will also train all employees and principals on pregnancy discrimination and an employer's obligations under the City Human Rights Law; will post notices to employees in English and Spanish of their rights under the Human Rights Law; revise its anti-discrimination and reasonable accommodation policies; and consent to two years of monitoring by the Commission of their handling of requests for reasonable accommodations.

**The Commission Settles Pregnancy Discrimination Case with Cegin Food Corporation**

A cashier filed a complaint against Cegin Food Corporation d/b/a California Fruit Market and its owner alleging pregnancy discrimination. Shortly after disclosing her pregnancy, her employer reduced her scheduled hours, began treating her in a hostile manner, and ultimately terminated her employment. The Commission investigated the allegations and found that the employee was subject to adverse employment actions on the basis of her pregnancy. The employer settled the case by agreeing to pay the employee \$17,000 in emotional distress damages, \$5,500 in back pay, and \$5,500 to the City in civil penalties. Respondents also agreed to attend a training on the New York City Human Rights Law and place the Commission's notice of rights and notice concerning pregnancy, childbirth, or related medical conditions in a conspicuous workplace location.

**The Atlantic Group LLC Settles Pregnancy Discrimination Claim by Former Employee; Pays \$40,000 in Damages and \$10,000 in Civil Penalty, and Agrees to Modify Mandatory Arbitration Clause to Exclude All City Claims, Among Other Affirmative Relief**

The employee, represented by The Legal Aid Society, filed a complaint of disability and gender discrimination due to pregnancy against her former employer, The Atlantic Group LLC ("Atlantic Group"). After an investigation, the Commission found that supervisors made discriminatory comments to the employee regarding her pregnancy and appearance, and reduced her schedule in response to her request for periodic changes to her schedule to accommodate her

doctors' appointments. The Commission, the employee, and the employer entered into a conciliation agreement in which Atlantic Group agreed to pay \$40,000 in emotional distress damages to Complainant and \$10,000 in civil penalties; modify its mandatory arbitration clause in its employee handbook to exclude all claims under New York City law, including under the New York City Human Rights Law; conduct training for all of their New York City employees; institute policies subject to Commission approval; and post a notice of rights for pregnant workers.

### **Clothing Company Settles Pregnancy Discrimination Claim for \$34,000, New Policies, Training and Posting**

An employee, represented by the Gender Equality Law Center, filed a pregnancy discrimination claim against Rocket LLC, a small business, and the company's two owners. She alleged her employers mocked her weight and criticized her diet during her pregnancy and terminated her employment. The employee also alleged the company refused to either allow her to work from home for a few weeks or extend her leave until she was cleared to return to work in the office after giving birth. After investigation, the Commission issued a probable cause determination. The Commission and the parties entered into a conciliation agreement requiring the employer to pay the complainant \$34,000 in compensatory damages (back pay, emotional distress, and attorneys' fees), attend training, create new policies and put up postings notifying employees of their rights under the NYC Human Rights Law with respect to pregnancy accommodation and other requirements of the law.

### **Whole Foods Market Group Settles Pregnancy and Disability Accommodation Case for over \$40,000 in Damages and \$25,000 in Civil Penalties**

An employee filed a complaint against Whole Foods after she was refused a shift change as an accommodation for her pregnancy and then fired after she was hospitalized due to pregnancy complications. The complainant's doctor had advised that she work a shorter day because of her high-risk pregnancy. Her employer refused this accommodation and the employee was required to use sick and unexcused leave in order to comply with her doctor's directives. She then suffered pregnancy complications and was hospitalized. Whole Foods terminated her employment for excessive absences. After investigation, the Commission issued a probable cause determination. Whole Foods, the Commission and the employee entered into a conciliation agreement requiring the employer to pay \$17,500 in back pay and \$17,500 in emotional distress damages to the employee, \$5,6437.34 in attorney's fees to her counsel, and \$25,000 in civil penalties. The agreement also requires Whole Foods to change its policies with regard to employee attendance and accommodations to comply with the NYC Human Rights Law and train all human resources employees on the updated policies.

The NYC Commission on Human Rights is the City agency tasked with fighting discrimination and harassment by enforcing the NYC Human Rights Law, one of the strongest anti-discrimination and anti-harassment laws in the nation. The Commission has the authority to fine violators with civil penalties of up to \$250,000 for willful and malicious violations of the NYC Human Rights Law and can award unlimited compensatory damages to victims, including emotional distress damages and other benefits. The Commission can also order trainings on the NYC Human Rights Law, changes to policies, and other relief such as community service and mediated apologies.

If you believe you are the victim of discrimination or harassment under the NYC Human Rights Law, call the Commission's Infoline at 718-722-3131. Reports may also be filed anonymously and reported on the Commission's website. For more information as well as the report, visit the Commission's webpage here.

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