



# **TOWN OF BELLINGHAM**

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## **Town of Bellingham PREGNANT WORKERS FAIRNESS ACT Policy and Procedure**

### **Introduction:**

The Pregnant Workers Fairness Act ("the Act") amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, which goes into effect on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers' obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

### **Employer Responsibilities and Employee Rights:**

- The Town of Bellingham must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. "Undue hardship" means that providing the accommodation would cause the Town of Bellingham significant difficulty or expense.
- Once an employee requests an accommodation, the Town of Bellingham has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an "interactive process," and it must be done in good faith. A reasonable accommodation is one that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the Town of Bellingham.
- The Town of Bellingham cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship on the Town of Bellingham.

- The Town of Bellingham cannot refuse to hire a pregnant applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- The Town of Bellingham cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- The Town of Bellingham cannot require medical documentation about the need for an accommodation if the accommodation request is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk.
- The Town of Bellingham must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.
- The Town of Bellingham must also provide written notice of employee's right under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the Town of Bellingham of a pregnancy or pregnancy – related condition, no more than 10 days after such notification.

#### Complaint Procedure

- a. Any employee who believes he or she has been subjected to employment discrimination on the basis of pregnancy and/or pregnancy related conditions has the right to file a complaint with the town. This may be done verbally; however, the town may require that a verbal complaint be submitted in writing with the assistance of the Harassment Grievance Officer or her designee. If you would like to file a complaint you may do so by contacting Beth Cornell-Smith, Human Resources Director/Harassment Grievance Officer at 508-966-2967 [bsmith@bellinghamma.org](mailto:bsmith@bellinghamma.org) or Denis Fraine, Town Administrator – 508-657-2801 [dfraine@bellinghamma.org](mailto:dfraine@bellinghamma.org)
- b. Any supervisor, manager or other employee who becomes aware of employment discrimination prohibited by this policy must report it immediately to the Harassment Grievance Officer or other person designated by the town.
- c. If an employee prefers to discuss a possible discrimination problem with his or her supervisor, the employee may always do so; but employees do not have to go through the regular chain of supervision when reporting possible discrimination prohibited by this policy and may go directly to the Grievance Officer.
- d. Prompt reporting of harassment is in the best interest of our organization and is essential to a fair, timely and thorough investigation. Complaints should be filed as soon as possible following the incident.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Opportunity Commission if the conduct violated the Pregnancy Discrimination Act, which amended Title VII of the Civil Right Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.