

# Pregnancy Accommodations Summary



The condition of pregnancy, in and of itself, **is not** covered by the Americans with Disabilities Act. But many pregnancy-related impairments may be determined to be disabilities covered by the ADA.

The Standard's<sup>‡</sup> ADA Accommodation Services assist employers in meeting their compliance obligations under the ADA. The Standard also offers Pregnancy Accommodation Services for the Pregnant Workers Fairness Act and Providing Urgent Maternal Protections, or PUMP, for Nursing Mothers Act.

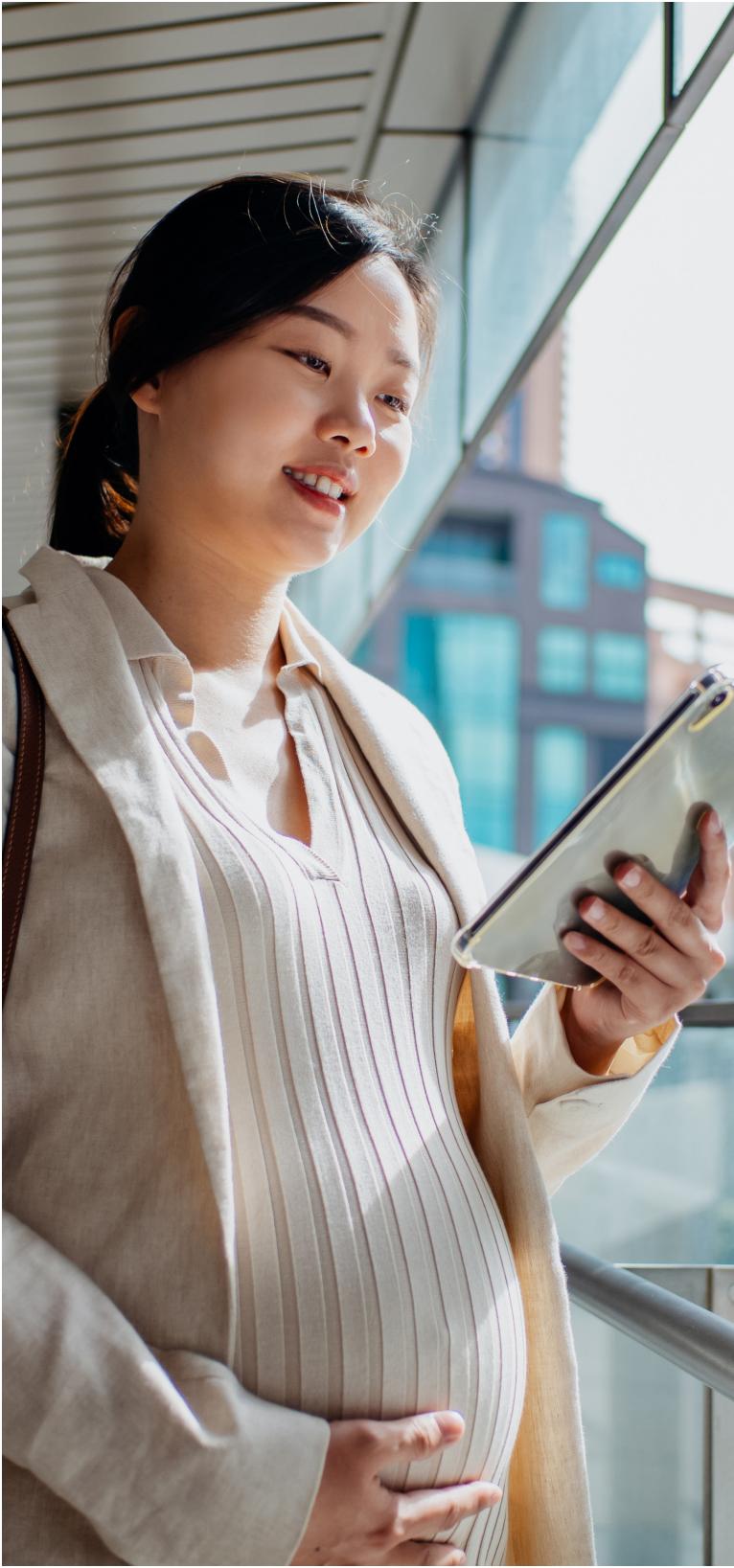
Provided below is a brief description of the most prevalent federal and state laws applicable to pregnancy accommodations followed by illustrative case scenarios. Our illustrative scenarios outline common case types with input towards ideal request handling and best practice.

## Americans with Disabilities Act, or ADA

The ADA is a federal civil rights law that requires covered employers to provide reasonable accommodations to workers with disabilities, so long as doing so does not impose an undue hardship on the employer.

**Pregnancy alone is not an ADA disability**, but many pregnancy-related impairments are ADA disabilities. A pregnancy-related impairment is a disability if it substantially limits one or more major life activities or substantially limited major life activities in the past. For example, pregnancy-related conditions may include anemia, sciatica, gestational diabetes, preeclampsia or mental health conditions.

The Standard would facilitate the interactive process in these cases between the employee, employer and medical provider. Based on the employee's limitations and restrictions and essential job functions, accommodation recommendations are developed for the employer to approve. The Standard provides correspondence to the employee throughout the interactive process.



### **Pregnant Workers Fairness Act, or PWFA**

The PWFA is a federal civil rights law administered and enforced by the Equal Employment Opportunity Commission, or EEOC, that requires covered employers to provide reasonable accommodations for an **employee's known limitations related to, affected by, or arising out of pregnancy, childbirth or related medical conditions**, unless the reasonable accommodation will cause the employer undue hardship. The PWFA is based upon similar concepts found in the ADA, with the two laws sharing the same meaning of the terms “essential function,” “reasonable accommodation” and “undue hardship.” The PWFA also assumes that employers will use the same type of interactive process found in the ADA. The PWFA does not replace federal, state or local laws that are **more protective** of workers (used here to mean job applicants and employees) affected by pregnancy, childbirth or related medical conditions.

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### **Fair Labor Standards Act, or FLSA, and Providing Urgent Maternal Protections, or PUMP, for Nursing Mothers Act**

The FLSA requires employers to provide reasonable break time for an employee to express breast milk for their nursing child for one year after the child’s birth each time the employee has a need to express the milk. Employees are entitled to a place to pump at work, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public. This law includes the PUMP Act, which extends to more nursing employees the rights to receive break time to pump and a private place to work. Break times beyond the one-year period under PUMP may be subject to reasonable accommodations under PWFA.

## Illustrative Case Scenarios

Case Criteria	Ideal Request Handling	Best Practice	Primary Applicable Law
<p>Employee has a known limitation related to pregnancy, childbirth or related medical conditions (employer has been informed).</p> <p>Employee has requested a change to the workplace.</p> <p>Request is to:</p> <ul style="list-style-type: none"> <li>● Carry or keep water near and drink as needed</li> <li>● Have additional restroom breaks as needed</li> <li>● Sit if work requires standing or stand if work requires sitting as needed</li> <li>● Take a break to eat and drink as needed</li> </ul>	<p>Individualized assessment in these situations should be simple and straightforward. In unique circumstances an employer may be able to demonstrate undue hardship.</p>	<p>Document the interaction and accommodation provided.</p>	<ul style="list-style-type: none"> <li>● PWFA</li> <li>● PUMP</li> <li>● Applicable state and local laws</li> </ul>
<p>Employee has a known limitation related to pregnancy, childbirth or related medical conditions.</p> <p>Employee has requested a change to the workplace not as outlined above.</p> <p>Employee can perform the essential functions of their job or employee cannot perform the essential functions of the job for a temporary period (typically within 40 weeks).</p>	<p>Employers must make an individual assessment on a case-by-case basis.</p> <p>Employers may only request documentation when it is reasonable and only reasonable (minimum) documentation sufficient to:</p> <ul style="list-style-type: none"> <li>● Confirm the condition (impediment/problem/health care)</li> <li>● Confirm the condition is “related to, affected by, or arising out of pregnancy, childbirth or related medical condition</li> <li>● Describe the adjustment or change needed due to the limitation</li> </ul> <p>Examples of when documentation is not reasonable:</p> <ul style="list-style-type: none"> <li>● Request is regarding nursing during work hours or pumping at work</li> <li>● The limitation and accommodation are obvious</li> <li>● The limitation and accommodation are already known</li> <li>● Employers’ own policies or practices would not seek supporting documentation from non-pregnant workers</li> </ul> <p>In unique circumstances an employer may be able to demonstrate undue hardship.</p>	<p>Document the interaction and accommodation provided.</p> <p>Leave is an accommodation of last resort.</p> <p>Respond promptly to requests for accommodation.</p>	<ul style="list-style-type: none"> <li>● PWFA</li> <li>● PUMP</li> <li>● Applicable state and local laws</li> </ul>

## Illustrative Case Scenarios Continued

Case Criteria	Ideal Request Handling	Best Practice	Primary Applicable Law
<p>Employee has a pregnancy-related impairment that substantially limits one or more major life activities or substantially limited major life activities in the past. Examples of pregnancy-related impairment include anemia, sciatica, gestational diabetes, preeclampsia or mental health conditions.</p> <p>Employee has requested a change to the workplace.</p> <p>Employee can perform the essential functions of the job with or without accommodation.</p>	<p>Refer employee to The Standard for assistance.</p>	<p>The Standard will initiate the interactive process.</p> <p>Make decisions about accommodation options in a timely manner.</p>	<ul style="list-style-type: none"> <li>● PWFA</li> <li>● ADA</li> <li>● Applicable state and local laws</li> </ul>

For more information about how The Standard can help you support pregnancy accommodations and ADA compliance, please [visit us](#) online or reach out to your local sales and service representative at 800.633.8575.

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The Standard's ADA Accommodations service supports employers' reasonable accommodation decisions under the Americans with Disabilities Act (ADA) by providing assistance with and gathering information for the interactive process, as well as offering reasonable accommodation options to employers. ADA Accommodations is a non-insurance adjunct service to employers' disability coverage and is subject to an additional cost. Employers are recommended to consult with their legal counsel prior to outsourcing this service. Employers may have obligations to accommodate disabled employees under laws separate from the ADA.

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4 of 4

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