

Risk Alert

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FAMU

FLORIDA A&M UNIVERSITY
**ENTERPRISE RISK
MANAGEMENT**
DIVISION OF AUDIT

April 19, 2023

Expanded Employment Protections for Pregnant and Nursing Employees

Two newly enacted expansions of rights for pregnant and nursing employees can impact University policies and procedures. The two federal measures that expand these are the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act). Florida Agricultural and Mechanical University (FAMU) will want to review policies and practices relating to pregnancy, accommodations, and nursing employees, to ensure that we comply with these new federal laws and make any necessary updates.

The [Pregnant Workers Fairness Act \(PWFA\)](#) is a federal law that aims to protect the rights of pregnant workers in the workplace. The act becomes effective June 27, 2023, and requires employers to provide reasonable accommodations to pregnant workers, such as temporary job restructuring, modified work schedules, or equipment modifications if these accommodations would enable the employee to continue working during pregnancy.

If a pregnant employee requests a reasonable accommodation, FAMU must engage in an interactive process to determine whether the accommodation can be provided without causing undue hardship to the institution. Examples of reasonable accommodations that may be requested by pregnant employees in higher education institutions include:

- Adjusting the employee's work schedule or hours to accommodate prenatal appointments or medical treatment.
- Allowing the employee to work from home or in a modified capacity if their work involves physical exertion that could be harmful during pregnancy.
- Providing private space for the employee to express breastmilk.
- Modifying job duties or temporarily reassigning tasks that could pose a risk to the health of the employee or the fetus.



Alert Type

Awareness

Watch

Warning



"It is important for FAMU to take actionable steps to ensure that pregnant and nursing employees are not discriminated against or subjected to adverse employment actions due to their pregnancy or need to breastfeed."
– FAMU Chief Risk Officer Deidre Melton

The **Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)** is a federal law that requires employers to provide reasonable break time and private, non-bathroom spaces for employees to express breast milk for their nursing children. These new provisions of the existing law go into effect on April 28, 2023, and applies to all employers covered by the Fair Labor Standards Act (FLSA), including FAMU.

FAMU should make reasonable efforts to accommodate the needs of nursing employees. If a nursing employee requests a reasonable accommodation, the institution must engage in an interactive process to determine whether the accommodation can be provided without causing undue hardship to the institution. Examples of reasonable accommodations that may be requested by breastfeeding employees in higher education institutions include:

- Reasonable break time and private spaces, other than a bathroom, for nursing employees to express breast milk. The private space should be shielded from view and free from intrusion by coworkers or the public.
- Allowing flexible work schedules.
- Providing access to a refrigerator to store expressed breast milk.

To comply with the PUMP Act, the University may need to update its policies and procedures, provide training to supervisors and managers, and communicate with nursing employees about their rights to express breast milk at work. Failure to comply with the PUMP Act can result in legal action and penalties, so it is important for the University to take the necessary steps to ensure compliance.

Risk Mitigation in higher education institutions can take several steps to mitigate the risks associated with the PUMP Act and PWFA, including:

1. **Reviewing and updating policies and procedures:** Policies should clearly outline employees' rights to reasonable accommodations and break time for expressing breast milk or pregnancy-related medical conditions.
2. **Providing training to supervisors and managers:** Training should cover employees' rights, the institution's obligations under the law, and the procedures for responding to requests for reasonable accommodations.
3. **Communicating with employees:** Institutions should communicate with employees about their rights under the PUMP Act and PWFA, including how to request reasonable accommodations and the institution's process for responding to these requests.
4. **Ensuring compliance with recordkeeping requirements:** This may include documenting employees' requests for reasonable accommodations and any accommodations provided.
5. **Consulting with legal counsel:** Institutions should consult with legal counsel to ensure that their policies and procedures comply with the PUMP Act and PWFA, and to address any potential legal issues related to these laws.

FAMU can help ensure compliance with the PUMP Act and PWFA, reduce the risk of legal action or penalties, and support the health and well-being of their employees by implementing the above steps.



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