

Takes effect January 1, 2019



STATE OF DELAWARE DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS

4425 N. MARKET STREET, 3RD FLOOR
WILMINGTON, DE 19802
(302) 761-8200

BLUE HEN CORPORATE CENTER
655 S. BAY ROAD, SUITE 2H
DOVER, DE 19901
(302) 422-1134

8 GEORGETOWN PLAZA, SUITE 2
GEORGETOWN, DE 19947
(302) 422-1134

Employers must distribute this information sheet to new employees at the commencement of employment and to existing employees by July 1, 2019

Download this Notice at www.dol.delaware.gov

DELAWARE SEXUAL HARASSMENT NOTICE

The Delaware Discrimination in Employment Act

The Delaware Discrimination in Employment Act protects all individuals against discrimination in the workplace based on gender. Sexual harassment is a form of gender discrimination. A new law against sexual harassment passed in 2018 extends protections to all individuals, in all workplaces, including employees, applicants, apprentices, staffing agency workers, independent contractors, elected officials and their staff, agricultural workers, domestic workers, and unpaid interns.

Sexual Harassment and the Law

Sexual harassment of an employee is unlawful when the employee is subjected to conduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment; (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an employee; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Some Examples of Sexual Harassment

- unwelcome or inappropriate touching
- threatening or engaging in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors

- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

Retaliation Is Prohibited Under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The Delaware Discrimination in Employment Act prohibits employers from retaliating or discriminating against any person because that person opposed an unlawful discriminatory practice. Retaliation can occur through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The Delaware Discrimination in Employment Act protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

Report sexual harassment to the Delaware Department of Labor Office of Anti-Discrimination. Call 302-761-8200 or 302-424-1134 or visit

<https://dia.delawareworks.com/discrimination/>

to learn how to file a complaint or report discrimination. The Department can investigate or mediate your complaint and may be able to help you collect lost wages and other damages.



State of Delaware

PREGNANT WORKERS FAIRNESS ACT GUIDELINES

PURPOSE This policy sets forth the State of Delaware’s policy regarding workplace protections afforded to pregnant employees and applicants for employment, who have a pregnancy-related condition, including but not limited to child birth and lactation, under the Pregnant Workers Fairness Act (Senate Bill 212, enacted September 9, 2014).

DEFINITIONS The following definitions are for the purposes of this policy:

Pregnancy – Includes pregnancy, childbirth or a related condition, including, but not limited to, lactation.

Reasonable Accommodation – Making reasonable changes in the workplace, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to assist in operating equipment, making reasonable changes in the schedules or duties of the job, temporary transfers, time off to recover from childbirth, or break time and appropriate facilities for expressing breast milk, provided that the accommodations do not impose an undue hardship on agency operations.

Undue Hardship – An accommodation which would require significant difficulty or expense to the agency.

GENERAL PROVISIONS

1. It shall be an unlawful employment practice for an employer to fail, refuse to hire, discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, condition or privileges of employment because of such individual’s sex (including pregnancy status).
2. Agencies are required to make reasonable accommodations for the known limitations of pregnant employees, as long as the accommodation does not constitute an undue hardship for the employer.
3. Reasonable accommodations must be made for employees whose ability to work is limited by pregnancy, childbirth, lactation and related conditions.

OMB.HRM 11.2014

These guidelines are not intended to provide additional compensation for accommodations beyond current practices nor create any individual right or cause of action not already existing and recognized under State or Federal law.

4. Accommodations for pregnant employees must be the same as those that are available to those employees with other injuries or disabilities.
5. Accommodations may include providing periodic rest, light-duty assignments, temporary transfer to an alternative position, modified work schedule or job responsibilities, and providing more frequent or longer breaks. Agencies are not required to compensate for additional or longer breaks; however, employees taking longer or more frequent breaks for a pregnancy-related condition (including expressing milk) must be compensated consistent with the agencies existing policy regarding compensation for break periods.
6. Guidelines Specific to Nursing Mothers:
 - a. Agencies shall designate a location, other than a bathroom, for nursing mother to express milk, that is shielded from view and free from intrusion from co-workers and the public.
 - b. Agencies shall provide reasonable break time for an employee to express breast milk for up to one (1) year after the birth of a child.
 - c. The employee must be completely relieved from duty or the time must be compensated as work time.
 - d. Break for expressing breast milk shall not be considered FMLA leave.
7. Agencies are not permitted to require an employee to take leave (paid or unpaid) under any leave law or policy if another reasonable accommodation can be provided.
8. Medical documentation may be requested in order to determine the employee's restrictions or limitations for purposes of providing a reasonable accommodation.

EMPLOYEE RESPONSIBILITIES

1. Employees must notify their supervisor in writing of the need for accommodation, including the need for breaks or facilities to express breast milk. Notification should include the frequency and duration of breaks, when feasible.
2. Employees shall meet with their supervisor and human resources to obtain and complete the appropriate forms regarding their accommodation request.

AGENCY RESPONSIBILITIES

1. Agencies shall provide employees with written or verbal notification of their rights under this law within ten (10) days of notification of the employee's pregnancy.
2. Agencies shall provide notice of this policy in writing to new employees at the commencement of employment.

WAGE PAYMENT NOTIFICATION FORM

Rate or rates of pay:

Overtime rate or rates of pay:

Paid by/on:

Pay Frequency:

Place of Payment:

Position/Title:

Regularly scheduled pay day(s)/dates(s):

Regular work schedule:

I, the employee, acknowledge that I have received a copy of this notice:

Employee name:

Employee signature:

Date:
