



Checklist helps departments avoid pregnant firefighter discrimination suits

by Alisa Arnoff in Mutual Aid

Jan. 29, 2013
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In my last blog, I discussed the claims the U.S. Department of Justice made against the Davie (Fla.) Fire Rescue Department and the manner in which those claims were resolved. In this entry, we'll discuss what this means for your department.

The Consent Decree does not apply to any department other than Davie. However, that does not mean that you should ignore what the decree outlines. Consider it a free (except for Davie) guide to what governmental agencies will be looking for in regards to pregnancy discrimination complaints in determining whether to take the case or not.

What should departments be doing? Here is a checklist to get you started.

1. Does your department have a policy promising that employment-related decisions will not be made on the basis of sex, pregnancy, race, religion or any other impermissible basis? If not, get thee to a lawyer.
2. Do you “walk the walk” and “talk the talk,” trying to ensure that your equal employment opportunity policy is given more than lip service? If not, prepare for the possibility of being sued.
3. If so, does the policy mandate that pregnant firefighters be treated in a blanket fashion, without an individualized inquiry? For example, are firefighters forced to a desk job once you learn they are pregnant? Are they required to go on a leave of absence when they start the second trimester? If you have any requirement that is hard and fast, without looking at the firefighter’s individual circumstances, you are likely to be violating the law. Think of it in terms of accommodations under the Americans with Disabilities Act — one size does not fit all, regardless of whether people suffer from the same condition — individualized assessments are required, each time.
4. Do your policies specify how a complaint of pregnancy discrimination is to be made? To whom? And when?
5. Does anything in your personnel policies or procedures provide better treatment or more

What's Mutual Aid?

Mutual Aid is a blog of news and views from FIRE CHIEF staff and industry experts -- a virtual conversation about the issues important to you.

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options to firefighters with non-work related health conditions, than are provided to pregnant firefighters? If so, you need to modify your policies or procedures, as it is likely you are violating the law.

6. Have you explored what options might be available to keep a pregnant firefighter gainfully employed when she reaches a point when it may not be appropriate for her to engage in fire suppression duties?
7. Do people have access to your policies, so they know what their rights and responsibilities are when addressing pregnancy issues?
8. Have you disseminated your policies in such a way that people have signed or e-mailed you an acknowledgment that they have actually read and understood the policy? If so, you have a good defense if someone later claims she never complained about pregnancy discrimination because she did not know how to do so.
9. Have you trained, and do you provided refresher training, for all supervisory personnel involved in making employment-related decisions on the laws regarding discrimination and retaliation, including the rights of pregnant firefighters?

I invite your input on what other things departments could, or should be doing, to promote a “pregnancy-friendly” environment (I.e., ensuring the availability of appropriate apparel for pregnant firefighters). Please e-mail me your suggestions at aba@sacounsel.com. I will share your thoughts, as well as some of my own, in a future post.

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