

New Year, New Laws, New Website

Hope your 2018 is off to a great start! We have a robust new website which makes it easier to find us and use our resources. Please take a minute and check it out? www.foleylawpractice.com

Remember those laws we wrote about months ago -- the **Pay Equity Act** and the **Pregnant Workers Fairness Act**? They're finally here. We break it down with action steps below and include, of course, **sexual harassment**.

Massachusetts Pregnant Workers Fairness Act (MPWFA)

This law will require all Massachusetts employers to update handbooks and policies; provide reasonable accommodation to pregnant and breastfeeding employees; and provide written notice to all employees about their right to be free from discrimination under this Act no later than April 1, 2018.

The law amends Massachusetts anti-discrimination laws to specifically prohibit retaliation and discrimination against pregnant employees, creating a new protected class to include: "pregnancy or a condition related to pregnancy, including, but not limited to, lactation, or the need to express breast milk for a nursing child." While Massachusetts and Federal laws already prohibit pregnancy discrimination, the new law creates an obligation for employers to engage in an interactive dialogue, provide accommodations to pregnant and breastfeeding employees and provide new, existing and newly pregnant employees with notice of these new rights. With the creation of a new protected class comes familiar language and obligations: reasonable accommodation, interactive process and undue hardship.

Reasonable accommodation might include more frequent rest breaks; seating or modified equipment; paid or unpaid time off to recover from childbirth; a private space to express breast milk that is not a bathroom; job restructuring; or a

modified work schedule. The interactive process mandate requires employers and employees (or prospective employees) to engage in a timely and good faith interactive process to determine a reasonable accommodation to perform the essential functions of the job. An employer is not required to provide an accommodation that would cause an undue hardship, defined as an accommodation "requiring significant difficulty or expense." Finally, an employee may not be forced to take a leave of absence if a reasonable accommodation could be made to stay on the job.

Next Steps

1. Update handbooks and personnel policies to reflect the increased obligations under the new law, including the adoption of a specific policy outlining and documenting the interactive process;
2. Train human resources personnel and managers regarding the requirements of the Act;
3. Ensure proper measures are in place to provide written notice in all instances required under the Act; and
4. Contact us with any questions and assistance in compliance. **This law is a big deal.**

Pay Equity--It really is on the horizon.

One of the strongest state laws in the country addressing equal pay for comparable work will take effect in Massachusetts on July 1, 2018. The sweeping Act makes many changes including how to determine comparable work, and prohibiting salary and benefit inquiries before hire, to name a few. Employees will not be required to file a claim with MCAD as before but can go directly to court. The silver lining of these new obligations is the Act provides an affirmative defense to employers who perform a good faith evaluation of pay practices. Over the past several months many of our clients have utilized our **Pay Equity Audit** <http://foleylawpractice.com/pay-equity-audit-service-flow-chart/> which creates a rolling affirmative defense for your company. We strongly advise employers to take advantage of this comprehensive and valuable service before July 1, 2018.

A Sexual Harassment Tool Kit

The standard sexual harassment compliance advice has been to implement a

well-written sexual harassment policy and invest in sexual harassment training. Yet many of the workplaces rocked by recent claims-including the Weinstein Company in California, home to the country's strictest anti-harassment laws-had a policy and training in place. **What can be done?** In response to the changes in climate and the new EEOC guidelines, we have developed a **Sexual Harassment Tool Kit**. For a flat fee we will provide:

1. A digital copy of Attorney Angela Snyder's No More #MeToos webinar that can be shared with your entire leadership team, serving as the first level of effective sexual harassment training for leadership and HR;
2. A comprehensive outline for creating a sexual harassment strategy for your organization;
3. A model sexual harassment policy and/or review of your existing sexual harassment policy;
4. Sample Letter from Leadership in Word that sets forth your organization and leadership's commitment to addressing sexual harassment in the workplace that can be modified to meet your specific needs;
5. A sample "pulse" survey to send to employees that will help uncover underlying cultural erosions; and
6. One hour of attorney time to uncover your unique risks based on demographics and culture. During that discussion we will provide a punch list of action items that will help you finalize a customized sexual harassment strategy.

We believe strongly in proactive advice and want to make this service as accessible as possible. We are offering the Tool Kit for a very reasonable flat fee. Please contact us.

We can help! Reach out to us at questions@foleylawpractice.com or (508) 548-4888.