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EMPLOYERS' QUESTION BOX

By: Myrna Galligano of MG Services LLC

What is the law regarding pregnant job applicants and employees?

Law: The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination, including harassment, on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII, which covers private employers with 15 or more employees, including federal, state and local governments; employment agencies; and labor organizations. Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Hiring: An employer cannot refuse to hire a pregnant woman because of her pregnancy, because of a pregnancy-related condition or because of the prejudices of co-workers, clients, or customers.

Myrna Galligano of MG Services LLC is a Florida licensed attorney and counsels employers regarding employment law matters. She also provides training to managers on employment law & workplace harassment training to non-managerial employees. She can be reached at mgalligano@cfl.rr.com.

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Pregnancy and Maternity Leave

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other employee who is temporarily unable to work. For example, if the employer allows employees who are temporarily unable to work to modify tasks, perform alternative assignments or take medical leave or leave without pay, the employer also must allow an employee who is temporarily unable to work due to pregnancy to do the same.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer also may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

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Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on other types of sick or medical leave.

For more information about pregnancy discrimination, go to www.eeoc.gov.

DISCLAIMER

Information contained in this question and answer section is for the general education and knowledge of our readers. This information is from various court decisions, laws and administrative and enforcement agencies guidance material. Nothing in this section should be construed or relied upon as legal advice. All readers are advised to consult legal counsel regarding specific legal issues and situations.



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Reductions In Force (RIF)

Layoffs or reductions-in-force are a challenging fact of life for businesses today, as the economy and the fortunes of businesses rise and fall, the need to conduct a reduction-in-force often comes as a natural result of the business cycle. The focus of Brevard Job Link's reduction-in-force services are to assist organizations with a smooth transition by offering a customized approach to helping the dislocated employees as well as those who are being retained. We recognize this as a very sensitive topic that includes psycho-social implications for employees, and often competitive implications for the business. This is why we have a firm **confidentiality** policy that means any inquiries we might receive on the subject are always referred directly back to the company.

Generally, our goal is to assist a business to achieve results that will help them maintain productivity, reduce disgruntled reactions by affected employees, create a better public relations position, develop an environment where recall efforts are more efficient and help reduce Unemployment Compensation taxes by accelerating re-employment. These goals are achieved through a combination of service offerings including assistance in planning, workshops and employee placement. Brevard Job Link also has a wide array of resources such as: the mobile Brevard Job Link *Express*, Virtual Video Interview practice sessions and resource libraries, for starters. For further details on Reduction In Force, please visit <http://www.brevardjoblink.org/home/pages/EmployersReductionInForcePage.cfm> or call (321) 394-0704.



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Sam Gutierrez

Customer Recognition

EMPLOYER

Space Gateway Support (SGS)/Samuel O. Gutierrez

Space Gateway Support is a tremendous advocate for Brevard Workforce Development Board and Brevard Job Link. SGS has actively engaged many workforce services including Rapid Response-Reduction in Force and posting jobs through Employ Florida Marketplace. Most recently, SGS worked closely with Brevard Job Link Business Services staff to close out their base operations support contract and assist with the transitioning workforce. SGS has also held a position on the Aerospace Career Development Council (ACDC) as a contributing member providing countless hours of support, counsel and expert industry advice.

As Sam explained, “Brevard Job Link provided much needed support during a stressful time as we had to reduce our operations and that meant reducing our workforce by a few hundred employees. Thanks to BJL for their expertise in making a difficult situation easier, we were able to use a variety of services including use of the Brevard Job Link Express bus which came on-site at KSC, educational workshops, resume’ writing, interview skills preparation and placement assistance. This was vitally important to obtaining the best possible outcomes for our team members.”





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Brevard Job Link Stats

Brevard Job Link Statistics - October 2008

| | |
|--|--------|
| Total Job Seeker Walk-In Traffic (Palm Bay, Cocoa, Titusville) | 13,085 |
| Total for October 2007 | 11,286 |
| Brevard County Unemployment Rate for October 2008 | 7.6% |
| Brevard County Unemployment Rate for October 2007 | 4.6% |
| Percent Change | +3.0% |
| State of Florida October 2008 Unemployment Rate | 7.0% |
| State of Florida Unemployment Rate October 2007 | 4.4% |
| Percent Change | +2.6% |

Brevard County Unemployment Numbers

| | |
|---|---------|
| Workforce Totals for Brevard County | 269,508 |
| Total number of Unemployed Brevard County Job Seekers | 20,614 |





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Are YOU ~ *In the Know?*

ADA Amendments Act

President George W. Bush signed new legislative changes to the Americans with Disabilities Act (ADA). The law restores civil rights to Americans with disabilities in the workplace. The legislation also overturns four Supreme Court decisions that have inappropriately narrowed the protections of the ADA. For more information go to: <http://www.ada.gov>

Companies must report all hires to the State of Florida

Employers must report all employees who reside or work in the State of Florida to whom the employer anticipates paying earnings. For more information, go to the Florida New Hire reporting center located at <http://newhire-reporting.com/FL-Newhire/default.aspx>

Florida's minimum wage is going up

Effective January 1, 2009 the minimum wage is increasing to \$7.21; up from \$6.79. Employers of "tipped employees" who meet eligibility requirements for the tip credit under the FLSA may count tips actually received as wages under the FLSA. However; the employer must pay "tipped employees" a direct wage. The direct wage is calculated as equal to the minimum wage (\$7.21) minus the 2003 tip credit (3.02), or a direct hourly wage of \$4.19 as of January 1, 2009. For more information go to <http://www.floridajobs.org/minimumwage/index.htm>

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Identity Theft concerns.....the State of Florida has resources!

For the State of Florida’s resources and response center on issues such as Identity Theft, go to <http://myfloridalegal.com/identitytheft>

New Updates to the Family and Medical Leave Act. (FMLA)

A final rule becomes effective on January 16, 2009 updating the FMLA regulations to implement new military family leave entitlements enacted under the National Defense Authorization Act for FY 2008. For more information go to <http://www.dol.gov/esa/whd/fmla/index.htm>

New USCIS I-9 form

The United States Citizenship and Immigration Services (USCIS) has released a revised I-9 Employment eligibility and Verification Form with an expiration date of June 30, 2009 thus bringing the agency into compliance with a 1995 regulation requiring that all forms have current expiration dates. Please review the changes in acceptable documents and for verification go to http://www.floridajobs.org/PDG/communique/08-15RevEmpEligVerificFormI_9.pdf





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Business Services Calendar of Events

- February 26, 2009 ~ Business Learning Event: **Super-Charge Your Business** ~ In Partnership with the Melbourne/Palm Bay Chamber of Commerce. The event will cover strategies to build more profitable employees.
- End of February 2009 ~ **Brevard Virtual Job Fair Event** ~ **Booth fees WAIVED** for local businesses participating in this event! *Stay tuned for further details.*
- March 2009 ~ Business Learning Event: **Reductions In Force**
- April 2009
 - ✓ Business Learning Event: **Strengths Based Management** - Introductions to the Gallup Strengths Management System and structure for Brevard businesses and management staff.
 - ✓ **Regional Healthcare Virtual Job Fair** ~ High Skill/High Demand Virtual Job Fair for Nursing, Therapy, Radiology, Administration and other high demand career fields.

Please visit <http://www.brevardjoblink.org/home/pages/NewsHome.cfm> to obtain further information as soon as it becomes available or call (321) 394-0704.