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Staff Matters: Supporting Employees After a Maternity Leave

Jodi Schafer SPHR, SHRM-SCP

HRM Services, jodischafer@workwithhrm.com

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By Jodi Schafer, SPHR, SHRM-SCP
HRM Services

Supporting Employees After a Maternity Leave

Question: We recently had two of our staff go out on leave for pregnancy. They will both be coming back to work soon. There was a lot of planning and paperwork completed before they left, but now that they're getting ready to return, I'm wondering if I should be preparing in other ways? What requirements are there, if any, for breaks or special accommodations after a maternity leave?

Answer: You are right to be thinking proactively about how to best support these staff as they come back from leave. The transition back to work can be challenging for new parents as they try to balance both work and home demands.

First off, the law is clear about an employer's obligation to employees who are new mothers. The Fair Labor Standards Act requires most employers to provide a reasonable amount of break time and a clean, private space for lactating workers to express milk for up to one year following the birth of the employee's child. The pumping space cannot be a bathroom. These protections apply regardless of the employee's gender but focus specifically on nonexempt (hourly) employees.

Recently, a new law was passed that made several enhancements to the FLSA requirements. The Providing Urgent Maternal Protections for Nursing Mothers Act expanded these break time protections to cover most exempt employees too. This new legislation also allows employees to bring lawsuits against employers who do not comply with the act (after a mandatory 10-day notice period) and clarifies that pumping time counts as time worked if an employee is not completely relieved from their work duties during the pumping break. Deductions in pay for nonexempt employees should not be made either, as it is a violation of wage and hour rules under the Fair Labor Standards Act.

In addition to the PUMP Act, the Pregnant Workers Fairness Act was also recently passed and was sched-

uled to go into effect at the end of June 2023. This law requires covered employers (public and private employers with at least 15 employees) to provide "reasonable accommodations" to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an "undue hardship." This basically extends AwDA (Americans with Disabilities Act) protections and access to the accommodation process for pregnancy, childbirth, or related medical conditions.

Some things to consider as you comply with laws and work to support your returning team members:

1. Make sure your employee handbook is up to date, with policies that align with these requirements related to break time and requests for reasonable accommodation.
2. The law requires "reasonable" amounts of break time for expressing milk, which can be subjective. Talk with your employees before they return to ask if they need breaks for pumping or need other accommodations, so you can prepare space, schedules, and accommodations as needed.
3. Determine the best location at your practice for employees to pump. It can be an existing office or perhaps the break room, so long as the space is private with a door that locks, is obstructed from view, and is available when the employee needs it. If you have multiple employees who need the space, be sure to help them coordinate scheduling to meet everyone's needs. You do not want to make the employee who is pumping feel guilty for using the space. The coordination should be done in a welcoming and supportive manner.
4. Consider providing additional support to employees, such as flexible scheduling, a part-time schedule, etc. Flexibility, when possible, to support an employee's life circumstances makes for happier employees and higher retention rates. Just be sure to apply these policies consistently for similarly situated employees. ●

Send questions for publication to Journal Managing Editor Dave Foe at dfoe@michigandental.org.