



January 2016

Fact Sheet: Family Responsibilities Discrimination

Family Responsibilities Discrimination (FRD) is discrimination against people who have or are expected to have family caregiving responsibilities, such as pregnant women, parents of young and/or disabled children, and those who care for their aging parents or sick partners.

Examples of FRD:

- firing pregnant employees because they are pregnant or will take maternity leave;
- giving better assignments to women without children rather than to more qualified mothers;
- harassing and penalizing students or workers taking time off to care for their family members;
- giving parents schedules that they cannot meet for childcare reasons while giving nonparents flexible schedules; and,
- fabricating infractions or performance deficiencies to attempt to justify dismissal or adverse action against those with family responsibilities.

FRD Is Against the Law

Federal and state anti-discrimination laws, such as Title VII of the federal Civil Rights Act, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, and California's Fair Employment and Housing Act, prohibit discrimination based on sex, pregnancy, and/or disability or association with disabled individuals. These statutes make it illegal, for example, for employers or university administrators to treat pregnant workers or students differently from others with short-term medical conditions, deny parenting leave to fathers, refuse to train or promote women based on stereotypical assumptions about their availability or performance once they become mothers, or refuse to hire parents who have disabled children.

For employees, leave laws, such as the federal Family Medical Leave Act, guarantee leave under certain circumstances, prohibit interference with leave, and prohibit discrimination against employees who take leave. These statutes make it illegal, for example, for covered employers to deny a qualified employee's request for time off to take care of an ill parent, require an employee to come back early from leave, or penalize employees who have taken leave by demoting or harassing them, or making them quit. Other statutes can also be used to protect employees with family caregiving responsibilities.

Students who are not employees are still protected by Title IX, which prohibits discrimination on the basis of sex and provides that pregnant women, or those undergoing childbirth, false pregnancy, termination of pregnancy, or recovery, are entitled to leave for as long as medically necessary. Caretaking leave is not mandated by Title IX, however, at minimum, institutions cannot establish policies relating to parental status that treat students differently on the basis of sex. This law prohibits, for example, allowing new mothers to take a year of leave for caretaking, while not providing equal leave for fathers. In addition, taking actions that have an adverse impact on a student's educational opportunities due to stereotypes about how a mother or father acts—or should act—may constitute discrimination based on sex.



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What Institutions Can Do

FRD can arise as a result of formal policies and practices, or through informal day-to-day interactions in classrooms or departments. A prevention program is essential. A good place to start is by reviewing your hiring, attendance, promotion, incentive pay, benefits, and leave policies to ensure that they do not negatively impact employees with family caregiving responsibilities, or apply different standards for caregivers based on sex. Adding “family responsibilities” as a category to your nondiscrimination policy is also a good idea; a free model policy is available from www.worklifelaw.org. Training faculty and other supervisors, HR personnel, and Title IX coordinators about what constitutes FRD is another critical step. These key members of the university community should understand the common stereotyped assumptions about family caregivers, and the common fact patterns that give rise to liability. Finally, treat all complaints of FRD seriously and ensure that those in positions of power know not to retaliate against employees or students who have made complaints.

What Employees and Students Can Do

If you think you have been discriminated against because of your family responsibilities, keep notes about statements and actions that you believe are discriminatory. How other people like you have been treated is usually very important, so ask around. Talk with your supervisor or professor, if appropriate, and tell them that it appears that you have been treated unfairly on the basis of your sex, pregnancy, or association with someone with a disability. You may also consider using your institution’s grievance procedure. The law does not allow your supervisor or other university employees to retaliate against you for making a complaint.

If the situation is not resolved, contact the Center for WorkLife Law (hotline@worklifelaw.org / 415-703-8276) to speak with an attorney. If you are an employee, you may wish to file a complaint with the Equal Employment Opportunity Commission (EEOC); visit www.eeoc.gov or call the EEOC at 1-800-669-EEOC.