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Employment Law 101 OALA - Fall Conference 2026

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1



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H. Devon Collins is a Shareholder with the international law firm Ogletree Deakins and is based in Columbus.

Devon specializes in advising and defending employers of all sizes in a wide range of labor and employment matters. His representation includes litigation in state and federal courts under a myriad of laws applicable to the workplace as well as disputes involving restrictive covenant and trade secret misappropriation.

Outside of the courtroom, Devon collaborates closely with employers to prevent issues from escalating into litigation by advising on best practices for managing workplace risk and providing training. Devon received his bachelor's degree *magna cum laude* with Distinction from Otterbein University and his J.D. *cum laude* from The Ohio State University and served as the Editor-in-Chief of the *Ohio State Journal of Criminal Law*.

Devon is also proud to serve on the OALA Leadership Council.

2

Agenda

- The ADA: What It Requires and How to Apply It
- The Pregnant Workers Fairness Act (PWFA)
- Disability Accommodations in Practice
- The Family and Medical Leave Act (FMLA)
- Religious Accommodations
- Discrimination
- Harassment
- Key Takeaways and Questions

3



4

What Is the ADA?

- The Americans with Disabilities Act (ADA) makes it illegal to discriminate against an employee because of a disability.
- It became law in 1990, and the workplace rules took effect in 1992.
- Today the harder question usually is not "is this person disabled," it is "did we handle this the right way."
- Applies to employers with 15 or more employees. Enforced by the EEOC, the Equal Employment Opportunity Commission, the federal agency that investigates discrimination complaints.

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5

Who Is Protected?

- Someone with a physical or mental condition that seriously limits a major daily activity, like walking, lifting, or concentrating;
- Someone with a history of such a condition; or
- Someone the employer treats as if they have such a condition, whether or not they actually do.
- The ADA only protects someone who can actually do the job, with or without some help. The law calls this being "qualified."

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6

The ADA Roadmap: Six Questions to Ask

- Does the person meet the basic requirements for the job (education, experience, license, etc.)?
- Does the person have a disability under the ADA?
- Can the person do the core parts of the job?
- If not, could some kind of help or adjustment let them do the core parts of the job?
- Would that help or adjustment be too difficult or costly for the company to provide?
- Would having this person in the role create a serious safety risk to themselves or others?

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7

Essential Functions

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What Are Essential Functions?

- Essential functions are the core duties of a job: the main reasons the position exists, not side tasks.
- To decide whether something is a core duty, look at:
 - What the employer and the written job description say about the role
 - How much time is spent on that task
 - What would happen if the employee didn't have to do it
 - What similar employees in the same role actually do

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Essential Functions in Direct Care Roles

- For many assisted living roles, helping residents move, lifting, and assisting with mobility are core duties, not optional ones.
- Giving medication and responding to emergencies (like helping residents evacuate) are often core duties for nursing and care staff.
- Accurate, up-to-date job descriptions matter. They are usually the first thing reviewed if an accommodation request turns into a dispute. However, a good job description alone is not enough if it does not accurately reflect the daily tasks of a role.

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Direct Threat: When Safety Is a Factor

- An employee is not considered "qualified" if having them in the role would create a serious safety risk that can't be fixed with an accommodation.
- This has to be based on real facts and evidence, not assumptions or stereotypes about a medical condition. Consider:
 - How serious the risk is
 - How long the risk would last
 - The likelihood of harm to occur

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11

Reasonable Accommodations: What They Can Look Like

- Changing how a job is structured, or adjusting a workplace policy
- Moving the employee into an open position they can do
- Part-time or adjusted schedules
- Equipment or technology that helps someone do the job
- Changing the physical workspace
- A set period of time off, with a known end date

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12

What Is Not a Reasonable Accommodation

- Removing a core duty of the job entirely
- Lowering a standard that applies to everyone else in that role
- Having other employees take over someone's core duties, or hiring someone else to do them
- An accommodation that would not actually solve the problem

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13

Undue Hardship: When Is an Accommodation Too Much?

- An employer does not have to provide an accommodation if it would be an undue hardship, meaning too difficult or too costly.
- This isn't only about money. It also covers anything that would be too disruptive, or that would fundamentally change how the business runs.
- Factors include the cost of the accommodation, the company's overall size and resources, the type of business, and the impact on the facility and other employees' ability to do their jobs.

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14

Interactive Process

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Talking Through an Accommodation Request

- The law calls this back-and-forth conversation the "interactive process." It just means working through a request together instead of denying it outright.
- Meet with the employee who asked for help, or who you suspect may need it.
- Ask about the condition and what specifically is making the job difficult.
- Ask the employee what accommodation they think would help.
- Show that you have genuinely considered the request, even if you cannot grant it exactly as asked.
- If the employee's preferred option is too difficult, talk through other options together.

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16

Who Has to Start the Conversation?

- It is the employer's job to start this conversation once it is aware a need might exist, even if the employee never actually uses the words "accommodation" or "disability."
- A request can come from the employee, a family member, or a doctor, and it doesn't have to be in writing.
- Train supervisors to recognize these situations and send them to HR instead of trying to handle them informally.

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17

Writing It Down Matters

- If a request ever turns into a legal dispute, what matters most is whether the employer actually talked through the specific condition and the options available.
- Employers who skip straight to putting someone on leave, without first discussing whether other options exist, have been found not to have done enough under the law.
- Keep a written record of each step: the request, what you learned, the options discussed, and the outcome.
- Strong form documents help ensure consistency and a record of the employer and employee's efforts to address leave requests. If used appropriately, this documentation is critical in defending claims by employees for failure to accommodate or disability discrimination.

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18

Scenario: The CNA Who Can No Longer Lift

- A certified nursing assistant re-injures her back outside of work and is placed on a lifting restriction by her doctor.
- Her supervisor is out for the rest of the week, so no one has discussed whether other work is available.
- What should HR do while waiting for the supervisor to return?
 - A. Place her on leave as an accommodation until the supervisor can assess alternative work
 - B. Temporarily place her in a known open position that does not require lifting
 - C. Both A and B may be appropriate, depending on what's available

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19

Scenario: What Should HR Do?

- Start the conversation immediately rather than waiting for the supervisor's return.
- Look for any known open position that does not require lifting (dietary, front desk, administrative support) as a temporary accommodation.
- If no other work is available, a brief period of leave can itself be a reasonable accommodation while alternative options are explored.
- Confirm how long the restriction is expected to last so the accommodation can be revisited as things change.

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20

Leave as an Accommodation

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21

Is Time Off a Reasonable Accommodation?

- Yes, if the time off is meant to let the employee recover and come back able to do the core parts of the job.
- No, if:
 - There's no evidence the employee is likely to come back;
 - The employee will be unable to do the job again anytime soon; or
 - The time off itself would be too difficult for the business to handle.

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22

How Much Time Off Is Reasonable?

- There's no fixed answer. It depends on how much time is requested, how disruptive it would be, and what courts in this region have said.
- Courts that cover Ohio have held there is no automatic cutoff for how long a reasonable leave can be. In some cases, a six-month period of leave or more has been found reasonable.
- At the same time, those same courts have suggested an employer generally doesn't have to hold a job open for more than a year.

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Open-Ended and Repeat Requests

- Most courts, and the EEOC, agree that open-ended or indefinite leave, where the employee cannot say if or when they will return, does not have to be granted.
- Courts covering Ohio require the employee to give a real, believable return date for more leave to count as a reasonable accommodation.
- When an employee keeps asking for "just a little more time" over and over, courts tend to treat that the same way as an open-ended request.

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24

Showing Up Is Usually a Core Duty Too

- Courts widely agree that showing up reliably and on time is a core part of most jobs, including direct resident care.
- An employer does not have to let an employee miss work or show up late whenever they want, without notice or approval.
- This matters even more in assisted living, where having enough staff on hand directly affects resident care and safety.

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25

Best Practices for Leave Requests

- Remember that a long leave request can trigger ADA obligations even after FMLA time off runs out.
- Assess whether the request is reasonable with a clear return date or open-ended.
- Think about whether the employee will still be able to do the job when they return.
- Talk it through with the employee and weigh the cost and disruption before deciding.
- Loop in HR leadership or legal counsel early for leave taken in small chunks over time, since that raises its own complications.

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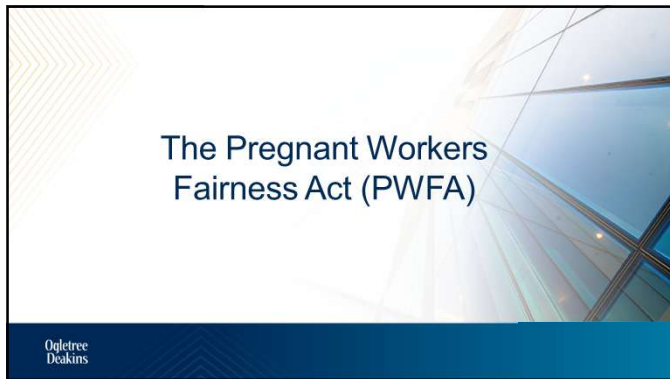
26

In Assisted Living: Common ADA Issues

- Direct care roles (CNAs, nurses, aides) often have physically demanding core duties: helping residents move, lifting, and responding quickly in emergencies.
- Giving medication and following infection-control steps can raise accommodation questions for staff with certain health conditions.
- Accurate, up-to-date job descriptions that reflect what the job really requires are the foundation of a solid ADA decision in this industry.

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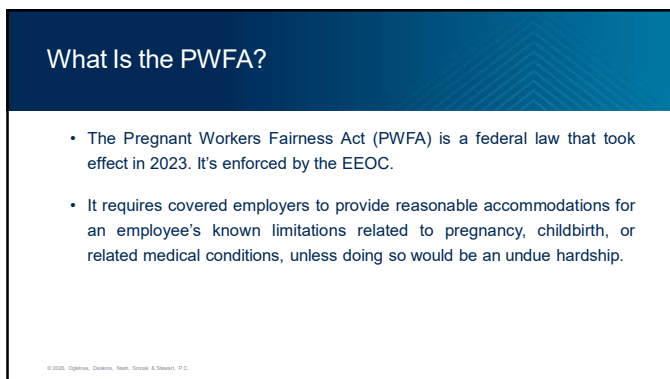
27



28



29



30

Who Does the PWFA Cover?

- Covered employers
 - Private and public employers with at least 15 employees, plus Congress, federal agencies, employment agencies, and labor unions.
- Covered employees
 - The law is meant to cover all kinds of limitations, including minor ones and anything needed to support a healthy pregnancy, even if the pregnancy itself has no complications.
 - Employees are covered no matter how long they have worked for the company.

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31

What Can't Employers Do Under the PWFA?

- Employers cannot:
 - Make an employee accept an accommodation without first talking it through with them.
 - Deny an applicant for a job because they need a reasonable accommodation.
 - Force an employee to take leave if another accommodation would let them keep working.
 - Retaliate against someone for raising concerns about the PWFA or taking part in a PWFA-related complaint.

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32

Undue Hardship Under the PWFA

- Just because an employee received an accommodation before does not mean a new one would be too difficult to provide.
- An employer may be able to show undue hardship if the accommodation would seriously disrupt other employees' ability to do their jobs.
- The possibility that other employees might ask for similar accommodations later cannot be used as a reason to deny a request now.

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Documentation: Keep The Burden Minimal

- Any paperwork requested should be the bare minimum needed to confirm the condition and explain what change is needed.
- A simple written statement is enough. The employee does not need to share a diagnosis.
- For many requests, employers should not require a pregnant worker provide any documentation, e.g., requests to have extra short breaks to hydrate.

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34

Documentation: Who Can Provide It

- Any healthcare provider who knows the employee's situation well enough can provide the documentation. It does not have to come from the employee's primary physician.
- Employers cannot require the employee to be examined by a doctor of the employer's choosing.
- No paperwork should be requested for accommodations that are obvious or expected (see "predictable assessments," next).

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35

TIPS FOR ASKING FOR A REASONABLE ACCOMMODATION
IF YOUR PREGNANCY, CHILDREN OR RELATED MEDICAL CONDITION MAKE IT HARDER FOR YOU TO PERFORM YOUR JOB, YOU CAN ASK FOR A CHANGE CALLED A REASONABLE ACCOMMODATION.

- 1. TALK** - Talk to your supervisor or manager about your situation. Explain how your pregnancy, children or related medical condition makes it harder for you to perform your job. They may be able to help you find a way to make your job easier.
- 2. EXPLAIN** - Explain to your supervisor or manager how your pregnancy, children or related medical condition makes it harder for you to perform your job. They may be able to help you find a way to make your job easier.
- 3. ASK** - Ask your supervisor or manager for a reasonable accommodation. They may be able to help you find a way to make your job easier.
- 4. FOLLOW UP** - Follow up with your supervisor or manager to see if the accommodation is working. If not, you may need to ask for a different accommodation.

REACH OUT for more help. You can call 1-800-368-1090 or visit www.eeoc.gov.

CONTACT US:
1-800-368-1090
www.eeoc.gov

36

How to Approach a PWFA Request

Step 1: Recognize When an Employee Is Asking for a Pregnancy Accommodation

- Employers need to notice when a request relates to pregnancy, childbirth, or a related medical condition, since that is when the PWFA applies.
- A "known limitation" is any physical or mental condition connected to pregnancy, childbirth, or a related medical condition.
- A known limitation may or may not also count as a disability under the ADA.
- Even if the pregnancy would not qualify under the ADA, the PWFA can still apply. Employers should recognize that and respond accordingly.

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37

What if the employee cannot complete all essential duties?

- Yes. An employee or applicant can still be considered qualified even if they can't do one or more core job duties under the PWFA, as long as:
 - The inability is only temporary;
 - They will likely be able to complete those duties again soon (generally within about 40 weeks for a pregnancy); and
 - A reasonable accommodation can cover the gap.
- This may mean temporarily lifting certain core duties from someone's workload.
 - NOTE: This is a key difference from the ADA, which does not require employers to remove essential functions from an employee's position as a reasonable accommodation.

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38

It is the Employer's Job to Recognize This

- It's the company's job to notice when an employee is asking for help because of a known limitation or disability, not the employee's job to use the exact right words.
- Once a request comes in, the employer has to start the conversation.

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39

What Not to Do

- Do not automatically tell an employee an accommodation isn't possible.
- Do not refuse to hire someone because they are pregnant.
- Do not remove or reduce someone's responsibilities unless they have asked for that as an accommodation.
- Do not force a pregnant employee to stop working, or end their employment, because you assume they can't do the job or you are worried about safety. Let the employee and their doctor weigh in.

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40

Step 2: Confirm the Limitation

- Gather information to confirm the limitation, if needed. Not every situation requires this.
- A good starting point:
 - Send a letter or email explaining that the company will work through this together to see if a reasonable accommodation is possible.
 - Decide whether medical documentation is actually needed.
 - A few states limit when employers can require documentation for pregnancy accommodations. Ohio has not passed a law like this, so the PFWA's federal rules apply: only ask for documentation when the need for an accommodation is not obvious.

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41

Predictable Assessments: Skip the Paperwork

- For some requests, called "predictable assessments," employers should not ask for any medical documentation at all. Examples:
 - Letting an employee keep water nearby and drink at their work area
 - Extra restroom breaks
 - Sitting instead of standing, or standing instead of sitting, for jobs that normally require the other
 - Breaks to eat or drink as needed
 - Accommodations related to when and where an employee pumps breast milk

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42

Do Not Ask about the Specific Condition

- Employers should **not ask** what the employee's specific diagnosis or medical condition is.
- Instead, just ask whether the employee has a limitation connected to pregnancy, childbirth, or a related medical condition.

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43

Step 3: Figure Out What Accommodation Is Needed

- General rule: using what the employee, and possibly their healthcare provider, has shared about the scope and length of the limitation, figure out accommodations that would let the employee do the core parts of their job.

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44

Choosing the Right Accommodation

- The accommodation does not have to be the employee's first choice, unless it is a predictable assessment (see earlier slide).
- You cannot force an employee to go on leave if another accommodation would work instead. The PWFA may require temporarily lifting certain core duties.

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45

Common Accommodations

- Increased breaks
- Change in job duties
- Change in workplace requirements
- Specific equipment
- Unpaid leave of absence
- Reduced, restricted, or flexible work schedule
- Remote work
- Light duty

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46

Step 4: Decide Whether the Accommodation Is Reasonable

- For each accommodation being considered, decide whether it is reasonable. An accommodation is reasonable if providing it would not be an undue hardship.
- This is a fact-specific, case-by-case decision, not a blanket rule.
 - Generally: it is a significant difficulty or expense for an employer in providing a reasonable accommodation for pregnancy, childbirth, or related medical conditions
- Consider the employee's job description and how important the role is to the organization.

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47

Weighing Cost and Workplace Impact

- Cost and practicality:
 - The actual cost
 - The company's financial resources
 - Time and effort to put it in place
 - If equipment is involved, whether it is available and works with what you already have
- Effect on the workplace and other employees:
 - Whether someone else has to take on extra responsibilities
 - Effect on workplace safety

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Weighing the Effect on Day-to-Day Operations

- Resident service
- Projects already underway
- Planned future projects
- Effect on the supervisor and other employees, including their hours

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49

Step 5: Discuss the Proposed Accommodation with the Employee OR Explain Denial of Accommodation

- Begin by explaining that the purpose of the discussion is to discuss the employee's request for a workplace accommodation.

Accommodation Approval

- Communicate approval of the accommodation.
- If you identify an alternative accommodation that you believe is appropriate, present the proposed accommodation to the employee and ask for the employee's feedback.
- Listen to and consider any employee feedback

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50

Explaining a Denial

- If you deny a request, tell the employee the reason in writing.
- Talk to HR leadership and/or legal counsel before denying a request.

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51

Keep Checking In

- Let supervisors know about the accommodation without sharing private medical details.
- Keep an eye on whether the accommodation is working and write it down. If it is not working, or the employee believes the accommodation is insufficient, go back and discuss other options.

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52

Step 6: Remember Lactation Breaks and Accommodation Requirements

- After having a baby, employees may need to express milk during the workday.
- Federal law requires employers to provide break time and private space for lactating employees, under the PUMP Act. The PWFA regulations have additional requirements for lactation space.

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53

What the Lactation Space Needs

- The space must:
 - Be reasonably close to the employee's usual work area;
 - Be cleaned regularly;
 - Have electricity, a place to sit, and a surface for a breast pump;
 - Be reasonably close to a sink, running water, and a fridge to store milk; and
 - This space cannot be a restroom.

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54



55

Common Accommodation Requests in Assisted Living

- Modified or reduced work schedules
- Temporary light-duty or no-lift assignments
- Moving someone to an open position (dietary, scheduling, concierge, administrative support)
- Equipment that helps with the job, such as mechanical lifts or gait belts
- Remote work for roles that do not require being on the floor (billing, scheduling, administrative work)

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56

Medical Marijuana and the ADA

- The ADA does not protect current illegal drug use.
- Ohio law does not require employers to accommodate medical marijuana use, including as a disability accommodation.
- Because marijuana has been categorized as Schedule I (no recognized medical use) under federal law, employers in Ohio could clearly enforce drug-free workplace policies regardless of disability status as long as they applied them the same way to everyone, to avoid separate discrimination claims.
- On April 22, 2026, U.S. Attorney General Todd Blanche issued an order that immediately placed both FDA-approved marijuana products and state-regulated medical marijuana products in Schedule II of the Controlled Substances Act.
- This rescheduling creates issues for employers that wish to maintain policies prohibiting marijuana use across the board. Litigation on these issues will surely arise in the case of Ohio employees who have medical marijuana licenses under Ohio law and provide medical documentation to their employers seeking an accommodation to employer drug testing policies.
- Even if there are now be circumstances in which Ohio employers may be obligated to accommodate an employee's medical marijuana use limited circumstances, Ohio employers can still legally prohibit:
 - Employee use of marijuana during working hours
 - Working while under the influence of marijuana
 - Recreational marijuana use by employees (even off duty)

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57

Scenario: The Dietary Aide Returning from Surgery

- A dietary aide returns from knee surgery with a doctor's note saying she cannot stand for more than two hours at a time for six weeks.
- Her regular duties require standing through most of her shift.
- Consider: Is there food-prep, plating, or seated work available for those six weeks? What paperwork, if any, can you require to confirm the duration of this restriction?
- This is the same approach used throughout: identify the limitation, talk through accommodations, document the process and the outcome.

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58

FMLA Family Medical Leave Act

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FMLA Basics

- Gives eligible employees up to 12 weeks of unpaid time off per year for certain reasons, and guarantees their job is held for them while they are out.
- Applies to employers with 50 or more employees within a 75-mile radius.
- To be eligible, an employee generally needs at least 12 months of service and 1,250 hours worked in the past year.

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60

What Qualifies for FMLA Leave

- The employee's own serious health condition
- Caring for a spouse, child, or parent with a serious health condition
- The birth, adoption, or foster placement of a child, and bonding time afterward
- Certain needs that come up when a family member is deployed with the military
- Up to 26 weeks to care for a family member seriously injured or who became ill during military service

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61

Doctor's Notes and Leave Taken in Pieces

- Employers can ask for a doctor's note confirming the need for FMLA leave and can ask for updates periodically.
- Leave does not have to be used all at once. It can be taken intermittently or as a reduced schedule when medically necessary, such as for an ongoing condition or treatment.

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62

FMLA, ADA, and PWFA Together

- The same stretch of time off can be governed by the FMLA, as an ADA accommodation, and as a PWFA accommodation, all at the same time.
- Running out of FMLA leave does not end the conversation. The ADA and PWFA may still require more time off as an accommodation or other accommodations upon return to work.
- How an employee returns differs under each statute. FMLA guarantees the employee returns to the same or an equivalent job. Moving someone to a different position under the ADA is usually a last resort, used only after other options are impracticable work.

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63

Scenario: After the 12 Weeks Run Out

- A nurse uses 12 weeks of FMLA leave recovering from surgery and asks for three more weeks, with a firm return date from her doctor.
- FMLA no longer applies here, but that does not end the conversation.
- Use the same leave approach already covered for the ADA: Is the request short with a set return date? Would it be too much for the business to handle? That decides what happens next, not the FMLA 12-week clock.

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64

Religious Accommodations

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The Law on Religious Accommodation

- Title VII, the main federal law against workplace discrimination, requires employers to reasonably accommodate an employee's sincerely held religious belief, practice, or observance, unless doing so would be an undue hardship.
- This covers traditional, organized religions as well as sincerely held beliefs that are less common or not tied to an organized religion.
- Just like with the ADA and PWFA, this starts with a conversation between the employer and the employee.

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66

Recent Change: A Higher Bar for Employers

- In 2023, the U.S. Supreme Court raised the bar for employers who deny a religious accommodation request based on undue burden.
- Prior to 2023, employers could establish undue burden of an accommodation in the case the accommodation would entail almost any added cost or inconvenience.
- The Court updated this standard to bring it in line with the standard for undue burden under the ADA. *Groff v. DeJoy*, U.S. Supreme Court, 2023.

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67

What Counts as a Sincerely Held Belief?

- This is defined broadly and does not have to come from a well-known or organized religion.
- Employers generally should not question whether someone's belief is genuine unless there is a clear, specific reason to doubt it.
- Employers should generally focus the conversation on what accommodation is needed, not on questioning the belief itself.

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68

Common Requests and Assisted Living Considerations

- Schedule changes for a sabbath or religious holy day
- Dress and grooming accommodations (head coverings, modest dress) in resident-facing roles
- Prayer breaks during a shift
- Requests related to vaccination, grooming, or dress policies common in healthcare settings
- Document the conversation the same way you would for an ADA or PWFA request.

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69



70

Protected Categories

- Title VII of the Civil Rights Act of 1964 makes it illegal to discriminate based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), or national origin.
- Other federal and state laws protect additional groups too, including age (40 and older), military service, disability, and genetic information.
- These protections apply to hiring, firing, promotions, pay, and other workplace decisions.

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71

Two Ways Discrimination Can Happen

- Treating someone differently on purpose because of a protected characteristic (the legal term is "disparate treatment").
 - Example: A supervisor passing over a qualified older employee for a day-shift opening based on an assumption about age, despite no performance issues.
- A policy that looks neutral on paper but ends up affecting one protected group more than others (the legal term is "disparate impact"), even without any intent to discriminate.
 - Example: a facility-wide lifting requirement in a pre-employment test that applies evenly on paper but screens out a disproportionate share of women and applicants with disabilities, even for roles that do not have duties requiring lifting.
- Both can lead to legal claims. Look at the real-world effect of a policy, not just the intent behind it.

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72

A Recent Ohio Case Worth Knowing

- A 2025 Supreme Court decision came out of an Ohio state agency, so it is especially relevant here.
- Before this ruling, some courts made it harder for employees in a majority group (for example, heterosexual or white employees) to bring a discrimination claim, by requiring extra proof.
- The Supreme Court said that's wrong: the standard for proving discrimination is the same no matter what group the employee belongs to.
- Practical effect: it is now easier for majority-group employees to bring discrimination claims, including ones connected to diversity-focused decisions. (Source: *Ames v. Ohio Department of Youth Services*, 2025.)

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73

Diversity Programs and the Law

- Federal guidance from March 2025 makes clear there's no special exception to the discrimination laws for actions taken in the name of diversity, equity, and inclusion (DEI), or general business goals.
- Any employment decision based, even partly, on someone's race, sex, or other protected characteristic can be illegal, no matter the stated reason behind it.
- Take a look at hiring, promotions, training opportunities, mentoring programs, and membership in employee groups to make sure none of them are limited based on a protected characteristic.

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74

Harassment

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75

What Counts as Unlawful Harassment?

- Unwanted behavior connected to a protected characteristic that is severe or frequent enough to create a hostile work environment; or
- Behavior where a work benefit is tied to unwanted sexual interactions (sometimes called "quid pro quo" harassment).
- This can come from a supervisor, a coworker, or someone outside the company, like a vendor, visitor, or resident.

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76

When Is the Company Responsible?

- If a supervisor's harassment leads to a tangible employment action for the employee, like being fired, demoted, or denied a raise, the company is automatically responsible.
- If there is no consequence, the company may have a legal defense if it had a strong anti-harassment policy in place and the employee did not use it to report the problem.
- For harassment by coworkers or outside parties, the company is responsible if it knew, or should have known, about the problem and did nothing about it.

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77

A Unique Issue in Assisted Living: Resident Conduct

- A company can be held responsible for harassment of staff by residents, family members, or visitors if management knew, or should have known, and did not take action to address the conduct.
- This means balancing the need to care for residents, including behavior connected to dementia or memory loss, with the duty to protect staff.
- Document every incident, and consider adjusting a resident's care plan, reassigning caregiving duties, or adding other safeguards as needed.

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78

Policy and Response Essentials

- Maintain a written anti-harassment policy with clear, multiple ways to report a problem.
- Investigate every complaint promptly and thoroughly, no matter who raised it, document the steps taken to investigate and address any alleged policy violation.
- Prohibit and watch for retaliation against anyone who reports a problem or takes part in an investigation.
- Apply corrective action consistently and document each step.

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79

Key Takeaways

- Notice the signs that someone may need an accommodation or leave early, even if they never use that word.
- Treat every long leave request as a question that can involve multiple laws: FMLA, ADA, and PWFA can all apply to the same time off.
- Write down each step of the conversation with the employee, whether it is about the ADA, the PWFA, or a religious accommodation.
- Each law has its own test for what counts as too difficult or costly. They are not interchangeable and should be evaluated with counsel based on the specific facts at issue.
- Apply your policies the same way every time, across discrimination, harassment, and accommodation issues, and loop in HR leadership or legal counsel early when a situation is unclear.

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80

Questions?

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81
