



# OFFICE OF INSPECTOR GENERAL

## *Office of Inspector General (OIG) Management Advisory Report - 2024-0001-INVM-P – Architect of the Capitol (AOC) Implementation of the Pregnant Workers Fairness Act (PWFA)*

### **Executive Summary**

This management advisory serves to notify AOC management that the AOC policy pertaining to reasonable accommodations does not include reference to or guidelines for the PWFA that took effect June 27, 2023.

### **Background**

On September 5, 2023, the AOC OIG received a complaint stating that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) neglected to follow the PWFA by requiring an AOC employee to provide medical documentation proving their pregnancy for their reasonable accommodation request to be granted. The employee believed that the DI/DR did not follow the PWFA and delayed the employee’s reasonable accommodation request by unnecessarily requiring medical documentation.

### **Investigation**

The OIG reviewed the legislation<sup>1</sup>, the Office of Congressional Workplace Rights (OCWR) Second Quarter 2023 e-Newsletter<sup>2</sup> and the Equal Employment Opportunity Commission’s (EEOC) proposed rule to implement the PWFA. The OCWR Newsletter specifically stated:

“The PWFA was signed into law on December 29, 2022. The PWFA, which went into effect on June 27, 2023, requires employers to provide “reasonable accommodations” to an employee’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.” The PWFA applies only to accommodations – existing Congressional Accountability Act (CAA) protections already made it illegal to discriminate on the basis of pregnancy, childbirth, or related medical conditions. The PWFA applies to all employing offices in the legislative branch and protects all “covered employees” as defined by the CAA (including applicants), as well as unpaid staff.”

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<sup>1</sup> [The Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/pregnant-workers-fairness-act)

<sup>2</sup> <https://www.ocwr.gov/publications/e-newsletters/e-newsletter-second-quarter-2023-the-pregnant-workers-fairness-act/>



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Further, the EEOC's proposed rule to implement the PWFA, stated under Section G – Supporting Documentation<sup>3</sup> that:

“An employer is not required to seek supporting documentation from a worker who seeks accommodation under the PWFA. If an employer decides to require supporting documentation, it is only permitted to do so under the proposed rule if it is reasonable to require documentation under the circumstances for the employer to determine whether to grant the accommodation.”

## **Conclusion**

The DI/DR's request for supporting documentation from a pregnant employee seeking a reasonable accommodation was within the letter of the PWFA; however, the lack of a current AOC policy taking into consideration the provisions of the PWFA created a misunderstanding of the law by the employee leading to a delay in granting the reasonable accommodation and causing the employee undue stress.

While we acknowledge that the PWFA is new legislation and that neither the EEOC nor the OCWR have yet to issue final guidelines, the law has, nevertheless, taken effect, and AOC has neither updated policy regarding the PWFA nor provided interim guidance, training or communication for employees. We are bringing this matter to your attention for action deemed appropriate, including the below recommendation, to ensure that AOC personnel understand and comply with provisions of the PWFA.

## **OIG Recommendation**

1. The Architect of the Capitol either review and update AOC Order 24-5, Reasonable Accommodation in Employment Policy and Procedures, February 16, 2016, to align with the PWFA and guidance provided by the OCWR, or issue preliminary guidance to AOC employees until such time as the EEOC and/or OCWR has drafted regulations on the PWFA, that can be used to update existing AOC policy.

Please advise within 60 days of the date of this memorandum of any actions the AOC has taken or intends to take regarding this matter.

## **AOC Response**

On February 16, 2024, the AOC provided the following response to the OIG recommendations contained in the management advisory:

*DI/DR issued preliminary guidance to AOC employees regarding the PWFA on June 16,*

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<sup>3</sup> <https://www.eeoc.gov/summary-key-provisions-eeocs-proposed-rule-implement-pregnant-workers-fairness-act-pwfa>



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*2023 through an AOC-wide email that informed all AOC employees of the PWFA and its effective date of June 27, 2023. A report run on February 1, 2024, shows that the June 27 message was opened by 1,742 AOC employees. In addition, DI/DR has developed an infographic for the AOC workforce similar to the one published by the Equal Employment Opportunity Commission (EEOC). It informs AOC staff of the PWFA, how to find additional information on the PWFA, and how to pursue a claim with the AOC or Office of Congressional Workplace Rights (OCWR) if the employee believes they were discriminated against. This infographic was distributed to the workforce through an all-staff email and was posted on Compass, the employee website, on February 7, 2024.*

## **OIG Response**

The AOC's actions appear to be responsive to the recommendations. Therefore, all recommendations are considered resolved and the case is closed.