

June 8, 2016

Valerie Jarrett
Chair
White House Council on Women and Girls
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

RE: Request for Presidential Action to Ensure the Availability of Pregnancy Accommodations for Federal Employees

Dear Ms. Jarrett:

On behalf of the undersigned organizations dedicated to equality and opportunity in the workplace for women, we write to urge the Administration to provide critical leadership to protect pregnant workers' health and workplace rights—actions that are particularly important in light of the potential threat posed by the Zika virus. Specifically, we request that the President direct all federal agencies to immediately adopt an interim pregnancy accommodations policy to address federal employees' requests in Zika-affected areas, as a first step in developing and adopting comprehensive pregnancy accommodations policies for federal employees that will serve as a model for employers across the country. Such action by the Administration also will help preempt discriminatory actions against pregnant workers, including an employer's imposition of workplace restrictions or conditions based on its unilateral assessment of what is medically necessary or appropriate in that particular circumstance, instead of acting in response to an accommodation request initiated by a pregnant worker with a medical need.

The federal government is the nation's largest employer, and has long been a leader among employers in providing workplace opportunities, supports, and flexibilities to forward equal employment opportunity and address work-life conflict. As you have recognized in speaking out about the need to end pregnancy discrimination, too often, pregnant workers with a medical need for temporary accommodations are still asked to choose between staying employed and staying healthy—a choice no one should have to make. Given recent developments in the law regarding pregnancy accommodations—most importantly, the U.S. Supreme Court's decision last year in *Young v. UPS*, which made clear that a refusal to accommodate pregnancy can violate federal law—as well as the particular risks the Zika virus poses for pregnant women, this is a critical moment for the Administration to strengthen and expand its efforts to accommodate the requests of pregnant federal workers.

First, the Administration should make clear that pregnant federal employees in Zika-affected areas whose employment may pose a risk of occupational exposure, such as significant time out of doors, may receive medically appropriate accommodations including temporary reassignment to indoor work, if requested. This interim guidance also should include guidelines and best practices to help agencies and private employers provide accommodations and avoid discriminatory actions against pregnant workers. We commend the recent Interim Guidance for Protecting Workers from Occupational Exposure to Zika Virus issued by the Centers for Disease Control and the Occupational Safety and Health Administration, which makes it clear that

employers have a critical role to play in Zika response. While that guidance was an important first step, it did not address the full range of potential accommodations that may be medically appropriate and, in many instances, legally required, and we urge the Administration to lead through example in providing such accommodations to pregnant federal employees.

Second, building on this immediate action to ensure accommodations where requested in Zika-affected areas, we ask that the Administration instruct federal agencies to adopt and implement policies making clear that all pregnant federal employees have the right to request and receive reasonable accommodations for limitations and medical needs arising out of pregnancy, childbirth or related conditions, including avoiding exposure to a working condition that pregnancy or a related condition renders hazardous, unless the accommodations would impose an undue hardship on the agency. The guidance should list specific examples of such reasonable accommodations and should make clear that a pregnant worker is not required to demonstrate that the agency similarly accommodated the needs of a non-pregnant co-worker as prerequisite to receiving an accommodation, although such accommodation of non-pregnant employees does show that the agency can provide accommodation without undue hardship.

Pregnancy should not serve as an occasion for pushing women out of work, and pregnant workers with limitations and medical needs arising out of their pregnancies must receive the temporary job modifications that they request to keep working safely and support their families. We strongly urge the Administration to take this opportunity at this critical time to address the needs of pregnant federal employees and to demonstrate that accommodating medical needs arising out of pregnancy serves employers and employees alike.

Sincerely,

9to5, National Association of Working Women
A Better Balance
American Civil Liberties Union (ACLU)
Association of Women's Health, Obstetric and Neonatal Nurses
Center for Reproductive Rights
Center for WorkLife Law
First Shift Justice Project
Gender Justice
Hadassah, The Women's Zionist Organization of America, Inc.
Institute for Science and Human Values
Jewish Women International (JWI)
Legal Aid Society-Employment Law Center
Legal Voice
MomsRising
National Latina Institute for Reproductive Health
National Partnership for Women & Families
National Women's Law Center

Physicians for Reproductive Health
Sargent Shriver National Center on Poverty Law
URGE: Unite for Reproductive & Gender Equity
Women of Reform Judaism
Women's Law Project