Agency Name: Human Affairs Commission

Statutory Authority: 1-13-70

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House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Judiciary Committee

120 Day Review Expiration Date for Automatic Approval 05/08/2019

Final in State Register Volume and Issue: 43/5

Status: Final

Subject: Guidelines Established

History: 4829

By Date Action Description Jt. Res. No. Expiration Date

- 10/26/2018 Proposed Reg Published in SR

- 01/08/2019 Received by Lt. Gov & Speaker 05/08/2019

H 01/08/2019 Referred to Committee

S 01/08/2019 Referred to Committee

H 04/16/2019 Committee Requested Withdrawal

 120 Day Period Tolled

- 04/16/2019 Withdrawn and Resubmitted 05/08/2019

- 05/08/2019 Approved by: Expiration Date

- 05/24/2019 Effective Date unless otherwise

 provided for in the Regulation

Document No. 4829

**SOUTH CAROLINA HUMAN AFFAIRS COMMISSION**

CHAPTER 65

Statutory Authority: 1976 Code Section 1-13-70

65-30. Guidelines Established.

**Synopsis:**

Regulation 65-30 provides for leave protection for pregnant employees, regardless of marital status.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 28, 2018.

**Instructions:**

Replace Regulation 65-30 as printed below.

**Text:**

65-30. Guidelines Established for accommodations arising from pregnancy, childbirth, and related medical conditions, including but not limited to lactation.

 a. To deny an employee a reasonable accommodation when a medical need arises from pregnancy, childbirth or a related medical condition shall be an unfair discriminatory practice within the meaning of Section 1-13-80(A)(4)(a) of the South Carolina Human Affairs Law, unless the employer can demonstrate that the accommodation would pose an undue hardship on the operation of the business of the employer.

 b. Accommodation requests shall apply to both married and unmarried pregnant employees.

 c. An employer may be found in violation of 1-13-80(A)(4)(e) if it takes adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions. However, in order for the employee to prevail in demonstrating a violation, the evidence must show that it is more likely than not that retaliation has occurred. It is not the employer’s burden to disprove the claim. Evidence of retaliation may include, for example, suspicious timing, verbal or written statements, falsity of the employer’s proffered reason for the adverse action, or any other pieces of evidence which, when viewed together, may permit an inference of retaliatory intent.

 d. Notice of the right to be free from discrimination or retaliation for medical needs arising from pregnancy, childbirth, or related medical conditions, shall be conspicuously posted at the employer’s place of business. If no place of business is located in South Carolina, or if an employee works from home, then the employer shall notify employees of this right in writing.

**Fiscal Impact Statement:**

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-30.

**Statement of Rationale:**

Regulation 65-30, Guidelines Established, currently explains pregnancy discrimination in the context of maternity leave only. With the passage of the Pregnancy Accommodations Act, all accommodations (including leave) arising from pregnancy, childbirth, and related medical conditions, are to be assessed as reasonable accommodation requests under the Human Affairs Law. As such, the former regulatory language is now outdated and it should be updated to be in harmony with the statutory provisions.