



# CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

## Careful Evaluation of Accommodation Practices Required Following The U.S. Supreme Court's Decision In Pregnancy Discrimination Case

APRIL 22, 2015

On March 25, 2015 the Supreme Court of the United States issued its decisions in *Young v United Parcel Service*. The Court's decision set out requirements for establishing a claim of discrimination under the Pregnancy Discrimination Act (PDA), based on an employer's failure to accommodate pregnancy-related work restrictions.

In *Young*, UPS provided light duty assignments under the terms of a collective bargaining agreement for employees who were injured on the job and for drivers who lost their DOT certification for specific reasons. UPS also provided employees with accommodations as required by the Americans with Disabilities Act ("ADA"). In 2006, UPS determined that the plaintiff was ineligible for light duty work under its policies because her inability to meet the established lifting requirements for her position was solely due to her pregnancy. The plaintiff sued UPS for discrimination under the PDA for failing to provide her with light duty when it provided light duty to other employees similar to her in their ability or inability to work. UPS argued that its policies were pregnancy neutral and, therefore, in compliance with the PDA because the plaintiff was not treated less favorably than other employees who did not meet requirements for accommodation including light duty.

In its decision, the Court found that although employers are not automatically required to provide pregnant employees with the same accommodations offered to other employees under their policies for varying circumstances, employers must be able to justify decisions to deny such accommodations to pregnant employees because discrimination may be proved under the PDA where the plaintiff can present evidence that the burden placed on pregnant employees outweighs the employer's legitimate, non-discriminatory reasons for its accommodation decisions.

***Client Tip:*** Institutions should review policies concerning light duty assignments and accommodations to ensure that they reflect and support legitimate business needs and that decisions concerning the approval or denial of accommodations and light duty are reviewed and monitored to ensure that the application of these policies do not demonstrate a disparate

*impact on pregnant employees.*