September 6, 2023

Equal Employment Opportunity Commission
Attention: RIN 3046–AB30
131 M Street NE, Suite 4NW08R
Washington, DC 20507

Re: Comment in strong support of RIN 3046–AB30

To Whom It May Concern:

I am writing on behalf of the FFRF Action Fund (FFRF AF) to submit a comment in support of the Commission’s proposed rule to implement the Pregnant Workers Fairness Act (PWFA). FFRF AF is an affiliate of the Freedom From Religion Foundation, a national nonprofit organization with more than 40,000 members across the country, including members in all 50 states and the District of Columbia. We work to ensure that our laws remain secular in order to protect the constitutional separation between state and church.

The FFRF AF strongly supports the proposed rule, which defines “Pregnancy, childbirth, or related medical conditions” in a manner consistent with the use of that phrase in Title VII (42 U.S.C. § 2000e(k)). This consistency is an asset in itself, but specifically the inclusion of medical conditions related to abortions provides essential protections for hundreds of thousands of American workers who receive abortion care every year.

The inclusion of abortion as a medical condition “related” to pregnancy is consistent with the plain meaning of these words. Only through the most acrobatic linguistic contortions could one argue that recovering from a medical procedure terminating a pregnancy is not a pregnancy-related medical condition. The only motivation behind opposition to this plain-language rule stems from fanatical anti-abortion views, closely tied with sectarian religious doctrine as well as Christian nationalist beliefs, not from reason or medical evidence. There is no reason to think Congress intended
anything other than what it said, which is that the PWFA protects all pregnancy-related medical conditions.

Failing to include abortion as a legitimate medical procedure under the PWFA would not only be invidious discrimination, but would have dire and unjust consequences. For example, a pregnant person who requires an emergency, potentially intensive abortion procedure to avoid life-threatening complications would be ineligible for workplace accommodations.

This proposed rule neither promotes abortion nor forces employers to facilitate abortions, as some critics have disingenuously argued. The PWFA only requires employers to provide “reasonable accommodations” for pregnant workers, unless doing so would impose an “undue hardship.” Pregnant employees make their own medical decisions, in consultation with medical professionals. The employer’s role is not to provide medical advice or to facilitate medical care, but merely to refrain from treating pregnant workers unfairly for being pregnant or for related medical conditions.

The passage of the PWFA is a significant step toward protecting workers’ civil rights, and toward achieving women’s equity in the workplace. We applaud the EEOC for proposing a rule that fulfills the statute’s purpose and that rejects attempts to undercut this monumental legislation.

Sincerely,

Ryan D. Jayne
Senior Policy Counsel
FFRF Action Fund