



Bradley S. Jacobs

Chairman and Chief Executive Officer
XPO Logistics, Inc.
Five American Lane
Greenwich, CT 06831
Tel: (203) 413-4000
E-mail: brad.jacobs@xpo.com

The Honorable Tammy Baldwin
United States Senate
709 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mazie K. Hirono
United States Senate
730 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Bernard Sanders
United States Senate
332 Dirksen Building
Washington, D.C. 20510

The Honorable Tammy Duckworth
United States Senate
524 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Tina Smith
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Kirsten Gillibrand
United States Senate
478 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Kamala D. Harris
United States Senate
112 Hart Senate Office Building
Washington, D.C. 20510

December 4, 2018

Dear Senators,

On behalf of XPO Logistics, Inc., I am writing to provide our response to your letter regarding workplace policies and conditions.

We welcome this opportunity to communicate our absolute commitment to a safe workplace for all our employees, and in particular, the support we provide to pregnant women.

It was precisely because of this commitment that we were deeply disturbed by the allegations in recent media coverage. We immediately took action to investigate each allegation. These investigations are being conducted by a team of external, independent experts and are described further below. This is in addition to a broad review of our workplace culture in Memphis that we launched this past spring. We are committed to implementing any recommendations that advance our goal of providing a supportive workplace for all our employees.

A Values-Based, “Speak Up” Workplace Culture

Our goal is to continually reinforce a workplace culture based on XPO’s core values: safe, respectful, entrepreneurial, inclusive and innovative. We work hard to reach all of our approximately 100,000 employees across 1,529 locations. We have ongoing training in place to ensure that our employees, at every level, understand our values and know how to put them into practice in their daily work. We actively look for opportunities to improve our workplace at each location and ensure that our policies are properly implemented.

We also strive to foster a culture in which people feel free to speak up. We encourage our employees to voice concerns without any fear of reprisal and to stand up for what is right. We have multiple channels in place that employees can use to raise issues, such as an anonymous ethics reporting hotline, focus groups, morning stand-up meetings and an open door policy. When an employee raises a concern, we immediately investigate and take prompt remedial action where warranted.

An Independent Expert Is Investigating All Memphis Allegations

Continuous improvement based on honest self-reflection is in our DNA, so we always look for opportunities to improve our workplace and ensure that our policies are understood and implemented at every location.

On May 10, 2018, we engaged Tina Tchen and her colleagues at the law firm of Buckley Sandler LLP to conduct a review of our workplace culture and policies. As you may know, Ms. Tchen is former Chief of Staff to First Lady Michelle Obama, Assistant to President Obama and Executive Director of the White House Council on Women and Girls. As an attorney, she has been instrumental in spearheading the TIME’S UP Legal Defense Fund, which provides legal support to women and men who have experienced sexual harassment in the workplace. We retained Ms. Tchen because she is a nationally recognized leader and an advocate in areas where we want to be sure we are as strong as possible, including gender equity and workplace cultural compliance.

Ms. Tchen’s review was initially intended to independently identify areas of potential improvement. When allegations relating to pregnancy accommodation were first raised, we immediately asked her to expand the review and investigate these allegations. Ms. Tchen’s investigation is well underway. She and her team will take the time necessary to be thorough, and when the process is complete, we are committed to implementing any recommended improvements under her broad mandate.

We believe it is important to allow the expert investigation to continue before commenting further on the allegations made in recent media articles. However, we think it is relevant to note that – with the exception of one of the named employees’ allegations – all of the alleged denials of pregnancy accommodations occurred prior to XPO’s acquisition of the facility in 2014. In other words, nearly all of these allegations relate to the alleged working conditions and practices prior to XPO owning this operation.

Even so, the investigation is reviewing each incident completely and we will take any actions required to address the findings.

Our Current Policy Provides for Appropriate Accommodations for Pregnant Employees

Turning to the points of concern in your letter, XPO's Accommodations Policy is explained in our Employee Handbook and specifically addresses accommodations available to pregnant employees. Our policy is applicable to all XPO employees and states that we "...will consider requests for reasonable accommodations for medical conditions relating to pregnancy, childbirth, or lactation where supported by medical documentation and/or as required by applicable federal, state, or local law." For a pregnant employee, this could include reassignment to a job requiring less activity, additional breaks throughout her shift, more convenient work hours or some combination of accommodations that support her health and wellbeing. Our Accommodations Policy is applicable throughout the United States regardless of whether it is required by law. All employees receive this handbook at the time they are hired and are required to acknowledge that they have read and understand the company's policies. When any new policies or modifications are issued, employees are again required to confirm in writing that they have reviewed and understand the content. XPO repeatedly trains its supervisors and human resources staff on all of its policies, including accommodations policies.

We do not have a centralized system in place that allows us to track how many pregnant employees we have, or the specific accommodations granted to them. However, based on medical insurance and disability information, it appears that approximately 200 employees took time off for pregnancy leave in 2018 to date. We are not able to extract the number of material handlers from this data, and a centralized system would not account for informal accommodations that are not documented – such as leaving early, additional breaks when needed or other simple assistance granted on the spot. These accommodations are routinely granted by HR personnel or supervisors on request. As a general rule, our managers are encouraged to use common sense and err on the side of safety and compassion.

In your letter, you asked us to estimate the associated cost of providing pregnancy accommodations to XPO's employees if we did not have a related policy. As noted above, we have already made this commitment to provide appropriate accommodations without regard to cost.

You also requested information regarding disability accommodations more broadly. XPO provides accommodations for workers who require them because of *any* disability, and pregnant women who require an accommodation may seek it under this policy. Each accommodation is addressed on a case-by-case basis to ensure the accommodation is tailored to address the specific needs of the requesting employee.

XPO Is Implementing a New Pregnancy Accommodations Policy and Benefits

On January 1, 2019, we will implement a new Pregnancy Care policy. After many months of deliberation on the part of the senior leadership team, and with the input of Ms. Tchen, we are providing our employees with a set of progressive benefits based on what we believe is a better way to support pregnant women and their families in the workplace.

The new Pregnancy Care policy is grounded in our belief that pregnancy should not be classified as a disability. We chose to develop the policy based on the premise that pregnancy is a natural part of life. Therefore, while disability benefits will *also* be available if needed, our new approach is tailor-made to provide the specific kinds of support pregnant women need without penalizing them for any temporary change in the nature of their work. Furthermore, the policy provides for accommodations matched to each woman's individual needs.

Specifically, under the new policy:

- XPO provides an expectant mother with automatic accommodations while she continues her regular work duties, including extra flexibility with work hours and changes to the frequency of breaks.
- The policy also provides up to 20 days of 100% paid leave for pregnancy-related health and wellness time off, among other options.
- We commit to providing alternate work arrangements, including relocation to a nearby facility if necessary, for any employee who will not be able to safely perform her regular work duties during some or all of her pregnancy.
- XPO guarantees that employees will continue to be paid their regular base wage rate while any accommodations are in effect, and will remain eligible for wage increases during this time.

Expectant mothers are always entitled to these and the additional accommodations specified in the policy, and can request changes in accommodations as their pregnancy progresses.

To effectively launch our new Pregnancy Care policy, we have developed three training modules regarding the policy; these are tailored for employees, managers and HR professionals. Each 30-minute program is led by a senior member of the business, or by a senior member of our legal or HR staff. All employees are required to read the new policy and sign an acknowledgement that they understand it.

As noted above, the new Pregnancy Care policy becomes effective January 1, 2019, and XPO's HR managers will be prepared to work closely with each pregnant employee to ensure that appropriate accommodations are made.

Separately – and in connection with the ordinary course of our calendar-year benefits cycle – XPO is introducing a package of 30 new benefits for women and families in 2019. This benefits package exceeds industry standards and all benefits are offered at *no extra cost to employees*:

- We have instituted a paid leave policy for parental leave, providing up to six weeks of *100% paid* time off for the infant’s primary caregiver parent, male or female, or two weeks of *100% paid* time off for the secondary caregiver parent. This is on top of our current disability policy.
- In addition, we have partnered with a leading healthcare practitioner network that has more than 1,200 highly vetted practitioners across 18 specialties. The network includes mental health providers, fertility experts and nutritionists available 24/7 through video chat and private messaging for consultation on pregnancy planning, safe recovery after giving birth and help with stress, anxiety or post-partum depression. Breastfeeding and pumping advice from lactation experts is also available. Services are available to women with normal or high-risk pregnancies and new parents, as well as those who experience a loss of pregnancy.
- In addition, we provide a range of Employee Assistance Program services, including face-to-face sessions with counselors for challenges an employee is experiencing. These wide-ranging services include assistance with finding adoption specialists and support groups, support for children with special needs and guidance with respect to educational choices, among other benefits.

XPO’s new Pregnancy Care policy and benefits package were developed with input from experts in the field and benchmarked to be best-in-class. We believe our policy sets a new standard of protection for pregnant women in our industry.

XPO Has Zero Tolerance for Discrimination or Harassment

Finally, with respect to the pending EEOC complaints, let me assure you that XPO does not tolerate any form of discrimination or harassment – period. We treat any reports of this nature with the utmost seriousness, thoroughly investigate claims and take decisive action if our policies have been violated or if they need to be improved. Consistent with this commitment, the claims you reference were thoroughly investigated by a third party and written responses were provided to the EEOC.

As part of our onboarding process, all XPO employees undergo training to prevent sexual harassment and discrimination and learn how to report a complaint, and can do so anonymously, if desired, without fear of retaliation. This training is refreshed throughout an employee’s tenure. In May of this year, we conducted mandatory refresher training on workplace harassment prevention and reporting for our more than 3,000 employees and contingent workers in the Memphis market to ensure that all managers, supervisors and employees understand our policies and know how to report a complaint.

If you would like to know more about our longstanding commitment to creating a workplace that is free of discrimination and harassment, we are happy to discuss that with you.

Once again, thank you for the opportunity to share information about our XPO workplace policies and our commitment to continuous improvement. We share your view that “[w]omen should never – while pregnant or at any time during parenthood – be forced to choose between having a child and continuing to work to put food on the table.”

I hope the information contained in this letter demonstrates the seriousness of our commitment to providing a safe workplace and the thoughtful approach we have taken in developing these important new initiatives. We welcome an open dialogue with you and your offices, so that we can hear any suggestions you may have now or in the future.

Respectfully,



Bradley S. Jacobs
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