



# PREGNANT WORKERS FAIRNESS ACT (PWFA) POLICY

**Effective Date: June 18, 2024**

<b>Owner</b>	Human Resources
<b>Reviewer(s)</b>	Human Resources
<b>Approver(s)</b>	County Manager
<b>Applicable Policies</b>	None
<b>Applicable Documents</b>	PWFA Reasonable Accommodation Request Form
<b>Storage Location</b>	DCo Services Hub, DocTract
<b>Last Review Date</b>	June 1, 2024
<b>Next Review Date</b>	06/01/2028
<b>Review Cycle</b>	Four Years

## 1. PURPOSE

Durham County provides reasonable accommodation to qualified employees and applicants in compliance with the Pregnant Workers Fairness Act (PWFA).

## 2. POLICY

This policy ensures pregnant workers receive fair treatment in the workplace through the provision of reasonable accommodations for limitations regarding pregnancy, childbirth, and related medical conditions in compliance with the PWFA. The County will provide “reasonable accommodations” to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”

## 3. APPLICABILITY

All qualified full-time and part-time County employees—including those who are probationary, regular, provisional, or trainees—who are covered by the Personnel Ordinance or employed pursuant to a Memorandum of Understanding, and who are undergoing pregnancy, childbirth, and/or related medical conditions and limitations.



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## 4. DEFINITIONS

Applicant – A person who submits a complete Durham County PWFA Reasonable Accommodation Request Form or who requests a reasonable accommodation.

Employee – A person who performs services or labor for the County in return for some form of compensation, and who is treated as an employee for purposes of withholding social security and tax payments in accordance with Internal Revenue Service regulations.

Essential functions – Primary job duties that an employee must be able to perform, with or without an accommodation. Requiring the ability to perform “essential” functions assures that an individual with a disability will not be considered unqualified simply because of an inability to perform marginal or incidental job functions.

Per the PWFA, an employee or applicant unable to fulfill one or more essential job functions shall still be considered qualified if:

- An inability to perform an essential function is for a temporary period;
- The essential function could be performed in the near future; or
- The inability to perform an essential function can be easily accommodated.

Reasonable accommodation – “Reasonable accommodations” are changes to the work environment or the way things are usually done at work.

Examples of reasonable accommodations under the PWFA as per the House Committee on Education and Labor Report on the PWFA include but are not limited to:

- The ability to sit or drink water;
- Additional, longer, or more flexible breaks to drink water, eat, rest, or use the restroom;
- Receiving closer parking;
- Having flexible hours;
- Altering food or drink policies to allow a worker to have a water bottle or food;
- Receiving appropriately sized uniforms and safety apparel;
- Teleworking or receiving a temporary work reassignment;
- Taking leave or time off for medical appointments and leave for childbirth;
- Receiving light duty and/or assistance with lifting or other forms of strenuous manual labor; or



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- Being excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.

Undue hardship – Significant difficulty or expense on the resources and circumstances of the County in relation to the cost or difficulty of providing a specific accommodation. Aside from financial difficulty, this also refers to accommodations that are unduly extensive, substantial or disruptive, or those that would fundamentally alter the nature or operation of the County. An undue hardship is determined on a case-by-case basis.

## 5. PROCEDURES

Each accommodation request will be considered on a case-by-case basis.

### 1. Applicants

- Applicants needing a reasonable accommodation should give advance notice of their request to Human Resources.
- If the individual is qualified to perform essential job functions and their pregnancy and/or related medical conditions prevent them from fulfilling their role, the employer must consider if a reasonable accommodation will better assist the individual.

### 2. Employees

- Employees should complete the PWFA Reasonable Accommodation Request Form to facilitate an accommodation request.
- The employee then submits the PWFA Reasonable Accommodation Request Form, which may include any supporting documentation to assist in the identification of reasonable accommodations, to the ADA/PWFA Coordinator.
- The ADA/PWFA Coordinator will acknowledge receipt of the request form within five (5) working days.
- An interactive discussion with the ADA/PWFA Coordinator from Human Resources, the employee and their supervisor will be scheduled to discuss the accommodation request. The meeting participants may include the requestor, the requestor's supervisor, department head, as well as the ADA/PWFA Coordinator from Human Resources.



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- The employee will receive written notice of the County's decision to grant or deny their request as soon as practicable. Notification will be provided to the employee should an extension be needed.

## 6. MANAGEMENT EXPECTATIONS

- The supervisor is responsible for addressing any observations (i.e., attendance and work performance difficulties that may warrant an accommodation).
- The supervisor must consult with Human Resources on all ADA/PWFA issues.
- Information about a worker's pregnancy and/or related medical conditions will be kept confidential.

## 7. APPEAL PROCESS

- Reasonable accommodation decisions may be appealed to the Human Resources Director. The appeal must be submitted in writing within 30 days from the date of the decision notification. The Human Resources Director will review the matter and notify the individual of a decision within five (5) working days.
- The individual may further appeal to the County Manager by submitting a request in writing within five (5) calendar days from the date of the Human Resources Director's notification. The County Manager's decision is the final internal appeal.

## 8. RESPONSIBILITY

- It is the responsibility of supervisors and managers to uniformly administer, communicate, and ensure compliance.
- It is the responsibility of the Human Resources Department to interpret, monitor, and update the policy content.
- It is all employees' responsibility to comply with policy guidelines.
- Any violation or policy misuse will result in disciplinary action up to and including dismissal.