

PWFA Frequently Asked Questions for Supervisors and Managers

What is the Pregnant Workers Fairness Act (PWFA)?

The PWFA is a federal law that is effective as of June 27, 2023. This law requires that employers, including Duke University, provide reasonable accommodations based on an employee's known limitations due to pregnancy, childbirth, or a related medical condition.

The Disability Management System (DMS) at Duke is responsible for facilitating the interactive process for requesting accommodations under the PWFA. More information about DMS can be found at access.duke.edu and you can contact DMS at DMSOffice@duke.edu.

How is the PWFA different from how we used to respond to accommodation requests for pregnant employees?

Prior to the PWFA, there was no North Carolina or federal law that required the provision of reasonable accommodations based on pregnancy, childbirth, or a related medical condition unless the employee also experienced a disability as defined by the Americans with Disabilities Amendments Act (ADAA). There are other laws that protect pregnant workers from pregnancy-related discrimination or harassment (Title VII of the Civil Rights Act of 1964 and the Pregnancy Discrimination Act). In addition, the Family Medical Leave Act provides job-protected leave to eligible employees for a serious personal health condition or for the birth of a child. All of these laws remain in effect in addition to the new protections provided by the PWFA.

What should I do if an employee discloses that they are pregnant?

Unless the employee also shares that they are experiencing some limitations related to their pregnancy, you do not need to take any immediate action. You are encouraged to share resources with the employee should they wish to look into their options. This can include: contacting DMS about pregnancy-related accommodations, reaching out to Staff and Labor Relations or HR about parental leave or paid leave options, and working with you as a manager to prepare for any time away the employee may request for after the pregnancy ends or prenatal appointments.

What should I do if an employee shares that they are experiencing limitations relating to their pregnancy, childbirth, or related medical condition? Should I ask them to provide me with a doctor's note?

If an employee discusses any limitations they are experiencing, you may discuss potential temporary accommodations (two weeks) that the employee would like to have implemented while the employee goes through the PWFA process to request accommodations (discussed below). You should also refrain from requesting any kind of medical documentation from the employee. If such documentation is needed, it will be managed by DMS as part of the PWFA process.

Even if you and the employee agree on temporary accommodations, the employee should be directed to DMS to formalize any accommodations. The employee can do this by emailing DMSOffice@duke.edu or through the DMS website at access.duke.edu.

If you have questions or concerns that you would like to address before the employee has done this, you should contact DMS directly. DMS will partner with Staff and Labor Relations, HR, and other partners to make sure you have the guidance and assistance you need throughout the process.

What is the process for requesting accommodations stemming from pregnancy, childbirth, or a related medical condition?

Once the employee contacts DMS, DMS will work with the employee to understand any limitations they are experiencing due to pregnancy, childbirth, or a related medical condition. This will include asking the employee to complete an attestation with this information or providing additional clarification if needed. DMS will then try to identify what accommodations may be effective or appropriate based on the limitations shared.

DMS will then contact you and any appropriate partners, including HR and S&LR, to discuss the requested accommodations and how they impact the unit, its operations, and other considerations. Based on this information, DMS will help determine what, if any, reasonable accommodations must be provided to the employee under the PWFA. It is also important to remember that DMS is there to answer your questions and address any concerns you may have regarding potential accommodation arrangements.

Any reasonable accommodations identified will then need to be provided by your unit. DMS will typically refer the employee back to you to work out the best way to provide the accommodations.

DMS will initiate a reevaluation of any accommodations provided depending on the nature of the accommodation. If the accommodation is based on the employee's pregnancy, the arrangement will be reevaluated after the pregnancy has ended. If the accommodation is based on childbirth, the arrangement will be reevaluated six (6) months after the child is born. During this reevaluation, DMS will work with you and the employee to assess whether any ongoing requests are reasonable or if an alternative process (such as under the ADAA) should be initiated.

At any time, you or the employee can contact DMS if there are questions or concerns about the accommodations provided. This can include questions about needing to identify new accommodations or modify the existing arrangement.

What if an employee tells me that they cannot perform essential functions of the role due to pregnancy, childbirth, or a related medical condition? Can I put the employee on leave until they get cleared to work without restrictions?

The PWFA provides clear guidance that every reasonable accommodation should be explored before placing an employee on leave (unless the employee explicitly requests a leave).

Therefore, you should refrain from putting the employee on leave until all reasonable accommodations (including the temporary removal of essential functions) can be considered and assessed through the PWFA process. If there are no reasonable accommodations available to keep the employee in the workplace, then a job-protected leave may be offered.

If there are concerns about an employee's safety to remain in their role, please contact DMS to discuss potential options and appropriate next steps.

How long will I be expected to accommodate an employee who has limitations related to pregnancy, childbirth, or a related medical condition?

The PWFA anticipates that many of the accommodations will be temporary in nature. As a result, DMS will initiate a review of any accommodations after the end of the pregnancy (if the accommodation is related to pregnancy) or six months after childbirth (if the accommodation is related to childbirth). At that time, DMS will work with you and the employee to understand any ongoing need for accommodations and whether those accommodations are reasonable in light of the extended time period. DMS will also determine if the employee should pursue continuing accommodations through the ADA process if appropriate.

What other protections or benefits apply to employees who experience pregnancy, childbirth, or a related medical condition?

The PWFA also contains specific actions that are prohibited, including:

- Requiring an employee to accept an accommodation without a discussion about the accommodation with the worker;
- Denying a job or other employment opportunities to a qualified employee or applicant based on the person's need for a reasonable accommodation;
- Requiring an employee to take leave if another reasonable accommodation can be provided that would let the employee keep working;
- Retaliating against an individual for reporting or opposing unlawful discrimination under the PWFA or participating in a PWFA proceeding; or
- Interfering with any individual's rights under the PWFA.

Who should I contact about questions regarding employees who need accommodations for pregnancy, childbirth, or a related medical condition?

Any questions or concerns can be directed to DMS at DMSOffice@duke.edu. You can also contact your S&LR representative.

Who should I contact about questions relating to leave or benefits if an employee goes out on leave due to pregnancy, childbirth, or a related medical condition?

You can contact your Staff and Labor Relations or Human Resources representatives for additional guidance on how to manage an employee's leave.

In addition, employees can access additional information or resources by consulting the Human Resources [Family-Friendly Benefits](#) or the [Guide for Parents and Family](#).