


Office of State Human Resources

ROY COOPER  
Governor

BARBARA GIBSON  
Director, State Human Resources

**MEMORANDUM**

TO: Agency Human Resources Directors  
CC: Agency Heads, Chief Deputies  
FROM: Glenda Farrell, Chief Deputy   
RE: Pregnant Workers Fairness Act  
DATE: June 27, 2023

Starting this week, the [Pregnant Workers Fairness Act](#) (PWFA) is in effect. PWFA is a new federal law that requires covered employers to 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.” Since Governor Cooper issued Executive Order 82, [Promoting Health and Wellness by Clarifying Protections Afforded to Pregnant State Employees](#), which was followed by a change to the State Human Resources Manual Reasonable Accommodation policy that ensures our employees receive workplace accommodations during their pregnancy, this law does not represent a significant change for our agencies or employees.

PWFA applies to all employees, including permanent, probationary, time-limited, part-time, and temporary employees, as well as applicants for employment. While there will not be significant changes for agencies or our employees in light of this new law, we want to ensure all agencies are aware of the law as well as highlight small differences from current policy.

PWFA’s accommodation provisions are based on the Americans with Disabilities Act (ADA). However, under PWFA, an employer may temporarily have to remove an essential function of an employee’s job. That is not typically the case under the ADA.

Unpaid leave may be an accommodation required by the employee to recover from childbirth, even if they are not eligible for Paid Parental Leave, unpaid FML, or unpaid leave under the Leave Without Pay policy. The unpaid leave is available only if there is no undue hardship.

Agencies will need to ensure they are engaging in the interactive process with pregnant employees who request an accommodation, just as you would an employee who requests an accommodation under the ADA. Under PWFA, agencies can require an employee to accept a reasonable accommodation only if it is arrived at through the interactive process. Note that under PWFA, employers cannot require an employee to take leave if another reasonable accommodation is available that would allow the employee to keep working absent undue hardship. You can find additional information about PWFA from the EEOC [here](#).

As a result of PWFA going into effect, the EEOC has released a revised “Know Your Rights: Workplace Discrimination is Illegal” poster. Agencies should be sure to update this poster in all locations in which it is currently posted, both in the workplace and online. You can find information about the “Know Your Rights” poster and the print, electronic, and Spanish versions of the poster [here](#).