

Policy Procedure: Pregnancy Accommodation

Procedure Number: 428P

Responsible Office: Human Resources

Forms: Form 105-192, Form 105-094

Effective Date: 06/23/2023

Date Last Reviewed: 01/22/2024

1. Purpose

This policy aims to ensure compliance with the federal Pregnant Workers Fairness Act (PWFA) and to promote a supportive and inclusive environment for pregnant workers at Northern Virginia Community College (NOVA).

2. Definitions:

Known Limitation: The term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee's representative has communicated to the College whether or not such condition meets the definition of disability specified in section 3 of the Americans with Disabilities Act of 1990.

Qualified Employee: The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if

- Any inability to perform an essential function is for a temporary period; **and**
- The essential function could be performed in the near future; **and**
- The inability to perform the essential function can be reasonably accommodated.

Reasonable Accommodation: Modifying or adjusting practices, procedures, policies, job duties, or the work environment that permits a qualified individual with a disability to participate in the job application process, to perform a position's essential functions, and/or enjoy equal benefits and privileges of employment to those enjoyed by employees without disabilities. Reasonable accommodations are those that do not impose an undue hardship on the College.

Undue Hardship: An action requiring excessive or significant cost or expense, extensive, substantial, or significant disruption or modification to the work operations or business.

3. Procedures:

A. Reasonable Accommodations

- NOVA will make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the accommodation would impose an undue hardship on the operations of NOVA.
- Upon notification of an employee's pregnancy, childbirth, or related medical condition, NOVA will engage in an interactive process to determine appropriate accommodations.
- Accommodations may include, but are not limited to, more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk. See *also* VCCS Policy 3.14.7 for "Lactation" related policy.
- Requests for reasonable accommodation(s) will be assessed on an individualized case-by-case basis, taking into consideration the employee's job responsibilities, medical needs, and NOVA's operational requirements. Accommodations will be provided unless the accommodation would impose an undue hardship on the operation of NOVA.

B. Confidentiality and Privacy

- NOVA will maintain the privacy and confidentiality of employees' pregnancy-related information, in accordance with applicable laws and regulations.
- Employees' consent will be sought before sharing any sensitive information with relevant parties involved in the accommodation process.
- Managers and supervisors involved in the accommodation process will be informed of the need to ensure the protection of privacy and confidentiality and should seek advice from HR prior to sharing information regarding a specific individual's accommodations with any others outside of the supervisor's chain of command if necessary or with HR staff.

C. Communication and Awareness

- NOVA will provide employees with information about their rights under this policy, including the right to request reasonable accommodations.
- The College will establish a clear process for employees to request accommodations, including designating an office responsible for handling such requests. NOVA employees should contact the ADA Coordinator at ada@nvcc.edu to request accommodations or with questions.
- Managers and supervisors will receive training on this policy, including their responsibilities in affording reasonable accommodations and preventing pregnancy discrimination.

D. Non-Discrimination

- NOVA strictly prohibits any form of discrimination or harassment based on pregnancy, childbirth, or related medical conditions.
- Employees will not be subjected to adverse employment actions or denied employment opportunities due to their pregnancy status.
- Employees will not be required to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee.
- NOVA prohibits retaliation (taking of any adverse action) against any employee because such employee has opposed any act or practice prohibited under this Policy or because the employee makes a complaint or participates in any manner in an investigation or proceeding related to the enforcement of this Policy.
- NOVA prohibits any employee from coercing, intimidating, threatening, or interfering with any employee's exercise or enjoyment of the rights granted under this Policy.
- Violations of this Policy shall result in disciplinary action, up to and including termination or dismissal.

E. Reporting and Complaint Procedure

- Employees may report concerns or complaints to their immediate supervisor, the Office of Human Resources, or eo@nvcc.edu.
- NOVA will promptly and thoroughly investigate all formal complaints and take appropriate remedial actions as necessary.