



Virginia Tech Pregnant Workers Fairness Act Guide

What is the Pregnant Workers Fairness Act?

The [Pregnant Workers Fairness Act](#) (PWFA) is a law that takes effect June 27, 2023. The PWFA requires covered employers to provide reasonable accommodations to any employee or applicant for employment who has a known limitation due to pregnancy, childbirth, or related medical conditions.

Is this like disability-related accommodations under the Americans with Disabilities Act (ADA)?

Pregnancy is not considered a disability under the ADA. The PWFA is a completely separate and new law that focuses entirely on pregnancy and childbirth. However, like the ADA does for employees with disabilities, the PWFA creates an expectation that employers will work with employees who are experiencing a limitation related to pregnancy or childbirth and provide reasonable accommodations.

Does the PWFA apply at Virginia Tech?

Yes. Virginia Tech employees (and applicants for employment at Virginia Tech) who have a known limitation due to pregnancy, childbirth, or a related medical condition are entitled to reasonable accommodations under the PWFA.

What is a “known limitation due to pregnancy, childbirth, or related medical condition”?

A “limitation due to pregnancy, childbirth, or a related medical condition” occurs when a condition, whether physical or mental, that arises out of, or is otherwise related to, pregnancy or childbirth limits an employee’s ability to meet some work-related practice or expectation.

A limitation is “known” if the employee, applicant, or a representative (such as a family member or doctor) communicates the existence of the limitation to the employer.

What is a reasonable accommodation under the PWFA?

An accommodation is generally a modification or adjustment in the work environment or in the way work is customarily completed to enable an employee or applicant to enjoy equal employment opportunities. A modification will be considered reasonable if it (1) seems plausible or feasible and (2) will be effective in addressing the limitation that the employee or applicant has.

Are there times when Virginia Tech does not have to provide a reasonable accommodation to an employee with a known limitation due to pregnancy, childbirth, or a related condition?

Yes. Under the PWFA, an employer does not have an obligation to provide a reasonable accommodation if it would cause an “undue hardship” to the employer. “Undue hardship” means significant difficulty or expense. An otherwise reasonable accommodation may present an undue hardship if it is unduly disruptive or would fundamentally alter the nature or operation of the business.

Undue hardship can be a complex concept to apply in action. Before a decision is made that a reasonable accommodation presents an undue hardship, a civil rights expert should be consulted. At Virginia Tech, the [Office for Civil Rights Compliance and Prevention Education](#) (CRCPE) should be consulted before a supervisor or department determines that an employee with a known limitation due to pregnancy or childbirth cannot be accommodated.

What are some examples of reasonable accommodations under the PWFA?

What may or may not be a reasonable accommodation under the PWFA depends on the limitation, the work environment, and the expectations of the job. Because of these multiple factors that require consideration, decisions must be made on a case-by-case basis. However, the following non-exhaustive list includes some possible examples of accommodations that may be reasonable:

- Receiving appropriately sized uniforms and safety apparel.
- Permission to sit for job that is typically standing.
- Excused from strenuous activities or activities that involve exposure to chemicals or radiation.
- Receiving additional breaks to use the bathroom, eat, and rest.

If an employee’s request for accommodation presents a clear challenge or seems complicated, contact CRCPE.

Guidance for Supervisors, Managers, HR Specialists, and Department Heads

An employee in my area recently came to me to share a limitation related to pregnancy or childbirth. What should I do?

Supervisors who receive notice that an employee has a job-related limitation due to pregnancy, childbirth, or a related condition should follow the following process:

1. Ask the employee what assistance they need in order to fulfill their responsibilities and how long they would require an accommodation. If the accommodation would be for more than one year, first consult with CRCPE.
2. Share the request with those in the employee's supervisory chain who have a legitimate need to know in order to implement the request. Do not share the request with anyone outside the employee's supervisory chain, with the exception of your department/unit's human resources contact or CRCPE.
3. Decide whether the request is a reasonable accommodation that would not prevent an undue hardship for the department or unit:
 - a. If the request either sounds unreasonable or you believe the request would present an undue hardship on the department or unit, contact CRCPE at civilrights@vt.edu or (540) 231-2010 for guidance.
 - b. If the request seems reasonable or feasible:
 - i. First, ask the employee how long they will require the accommodation.
 - ii. Second, document the accommodation with CRCPE [using this form](#).
 - iii. Third, let the employee know that their accommodation has been granted and the date on which you will review the need for the accommodation with the employee. A request for an accommodation should not be denied without consulting CRCPE.
 - iv. Lastly, begin implementing the accommodation.

As someone who might receive a request for an accommodation based on pregnancy, childbirth, or a related condition, is there anything else I should know?

Yes. In addition to requiring Virginia Tech to provide reasonable accommodations to any employee with a known limitation due to pregnancy, childbirth, or a related condition, the PWFA and other employment discrimination laws—and Virginia Tech policies prohibiting sex discrimination—prohibit the following:

- Departments or units cannot require an employee to accept an accommodation without a discussion about the accommodation between the requesting employee and the supervisor/manager;
- Departments or units cannot deny a job or other employment opportunities to a qualified employee or applicant based on the person's need for a reasonable accommodation;
- Departments or units cannot require an employee to take leave if another reasonable accommodation can be provided that would let the employee keep working; and
- Departments or units cannot retaliate against an individual for requesting an accommodation related to pregnancy or childbirth or for reporting or opposing discrimination under the PWFA or University policies prohibiting sex discrimination.

How do I know for sure that an employee's stated limitation is actually due to pregnancy or childbirth or a related medical condition? Can I ask the employee to provide medical documentation or some proof?

No. You should never ask an employee or applicant for medical documentation to prove that they are pregnant or recently gave birth to a child, nor should a department or unit deny a request for an accommodation because leadership does not believe an employee's (or applicant's) representations as to their need for an accommodation.

Most often, the department or unit can simply accept the employee's assertions as true. If a department or unit has concerns that an employee is misrepresenting the need for an accommodation, then the supervisor or manager, et al. who has the concern should consult with CRCPE before taking any next steps.

What should I do if an employee communicates that they need an accommodation due to a disability or medical condition caused by pregnancy such as gestational diabetes or preeclampsia?

Contact the university's ADA and Accessibility Services team in the Office for Civil Rights Compliance and Prevention Education at adaaccess@vt.edu.