

North Carolina Policy Language

This policy was drafted by A Better Balance in collaboration with MomsRising to address the needs of pregnant county employees. The County's name has been redacted for privacy reasons, but there are some key components to include in healthy pregnancy policies to ensure that employees have reasonable accommodations available to maintain a healthy pregnancy and continue to provide financial stability for their families. If you have questions about this document or would like assistance tailoring language to fit the needs of your locality, please contact A Better Balance at kdawson@abetterbalance.org.

I. Purpose

It is the policy of the County of _____ to combat pregnancy discrimination, promote public health, and ensure full and equal participation for women in the labor force by providing reasonable accommodations to county employees with conditions related to pregnancy, childbirth, or a related condition. Current workplace laws are inadequate to protect pregnant women from being forced out or fired when they need a reasonable accommodation in order to stay on the job. Many pregnant employees are single mothers or the primary breadwinners for their families—if they lose their jobs then the whole family will suffer. This is not an outcome that families can afford in today's difficult economy.

_____ County strives to retain its existing employees, recruit new talent, and implement initiatives that seek to improve employee wellness and health for its workforce. Research suggests that reasonable accommodations for pregnant workers promote physical and mental health, reduce the risk of poor birth outcomes, and increase workplace productivity, retention, and morale.

The purpose of this policy is to ensure that pregnant county employees are able to receive modest job accommodations to stay healthy and working so long as those accommodations do not impose an undue hardship on the County. All current employees and job applicants who have a known limitation related to pregnancy, childbirth, or a related condition are covered by, and the County of _____ is expected to comply with, this policy and to take appropriate measures. A reasonable accommodation must be provided for a known limitation to any pregnant County employee.

II. Policy

It is the policy of the County of _____ to reasonably accommodate employees or job applicants with known limitations related to pregnancy, childbirth, or related conditions unless the accommodation would impose an undue hardship on the County.

III. Definitions

Reasonable accommodations: Any change or modification in the work environment or the normal course of business for an individual with known limitations related to pregnancy, childbirth, or related medical conditions.

Undue hardship: A significant difficulty or expense imposed upon an employer as a result of offering or providing a reasonable accommodation. The following factors shall be considered in determining whether an accommodation would impose an undue hardship: (i) the nature and cost of the accommodations; (ii) the overall financial resources of the particular facility or facilities, (iii) the number of employees and the number, type, and location of facilities, and (iv) the impact of reasonable accommodations on the employer's expenses, resources, or operation(s).

IV. Reasonable Accommodation

The County shall provide a reasonable accommodation for any known limitation related to pregnancy, childbirth, or related condition of a job applicant or employee unless the County can demonstrate that the accommodation would impose "undue hardship" on the operation of the County.

Reasonable accommodation may include, but is not limited to, the following temporary accommodations: (i) a change in workstation and seating equipment, and/or relocation of workplace materials and equipment to make them more accessible; (ii) acquisition of equipment; (iii) more frequent or longer breaks; (iv) periodic rest; (v) assistance with manual labor; (vi) adjustment of uniforms or dress codes; (vii) job restructuring; (viii) light duty assignments; (ix) modified work schedules; (x) temporary transfers to less strenuous or hazardous work, (xi) access to food and drink and permitting meals and beverages at workstations; (xii) reasonable break time and access to appropriate, non-bathroom facilities for expressing and storing breast milk; and (xiii) closer parking and/or access to mobile assistance devices.

V. Grievance Process

An individual covered by this policy alleging a violation of this policy or retaliation may file a grievance following the process outlined by the County manager or bring a civil action in superior court in the county where the alleged discriminatory practice occurred or where the plaintiff or defendant resides. The court may award back pay, which shall not accrue from a date more than two years prior to the filing an action under this section, declaratory relief, injunctive relief, and costs, including reasonable attorney's fees to the substantially prevailing party. A civil action must be commenced no later than one (1) year from the date of the alleged violation. An employee is not required to pursue an administrative action or remedy prior to filing suit. Applicants or employees may also elect to file a grievance directly with the County manager, Human Resources or the Human Relations Commission.

In the event the County receives a grievance, or otherwise has reason to believe that violation of this policy has occurred, the County will take all necessary steps to ensure that the matter is promptly investigated and addressed.

The County is committed, and required by law, to take appropriate and remedial action if it learns of a potential violation of this policy. Once a complaining party makes a grievance to the County manager, Human Resources, or the Human Relations Commission the person receiving

the report must forward all relevant information to Human Resources. Failure to appropriately report such complaints shall be considered a violation of this policy.

Municipal Code

Sec. _____ Reasonable Accommodations for Pregnant Workers

(a) The County shall make reasonable accommodations to the known limitations related to pregnancy, childbirth, or related conditions of an applicant or employee, including but not limited to the need to express breast milk for a nursing child, unless the County can demonstrate that the accommodation would impose “undue hardship” on the operation of the County.

(b) “Reasonable accommodation” may include, but is not limited to, the following temporary accommodations: (i) a change in workstation and seating equipment, and/or relocation of workplace materials and equipment to make them more accessible; (ii) acquisition of equipment; (iii) more frequent or longer breaks; (iv) periodic rest; (v) assistance with manual labor; (vi) adjustment of uniforms or dress codes; (vii) job restructuring; (viii) light duty assignments; (ix) modified work schedules; (x) temporary transfers to less strenuous or hazardous work, (xi) access to food and drink and permitting meals and beverages at workstations; (xii) reasonable break time and access to appropriate, non-bathroom facilities for expressing and storing breast milk; and (xiii) closer parking and/or access to mobile assistance devices.

(c) The following factors shall be considered in determining whether an accommodation would impose an undue hardship: (i) the nature and cost of the accommodations; (ii) the overall financial resources of the particular facility or facilities, (iii) the number of employees and the number, type, and location of facilities, and (iv) the impact of reasonable accommodations on the employer’s expenses, resources, or operation(s).

(d) It shall be unlawful sex discrimination for the County:

- (1) to take adverse action against an employee who requests or uses an accommodation in terms, conditions or privileges of employment, including, but not limited to, counting an absence related to pregnancy under no fault attendance policies, failing to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other applicable service credits when her need for reasonable accommodations ceases;
- (2) to deny employment opportunities to an otherwise qualified job applicant or employee, if such denial is based on the need of the employer to make reasonable accommodations to the known conditions related to the pregnancy, childbirth, or related conditions of the applicant or employee; or

- (3) to require an employee to take leave if another reasonable accommodation can be provided to the known conditions related to the pregnancy, childbirth, or related conditions of an employee.

(e) The County shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(f) A civil action must be commenced no later than one (1) year from the date of the alleged violation. An employee is not required to pursue an administrative action or remedy prior to filing suit. An individual covered by this policy alleging a violation of this policy or retaliation may file a grievance following the process outlined by the County manager or bring a civil action in superior court in the county where the alleged discriminatory practice occurred or where the plaintiff or defendant resides. The court may award back pay, which shall not accrue from a date more than two years prior to the filing an action under this section, declaratory relief, injunctive relief, and costs, including reasonable attorney's fees to the substantially prevailing party. A civil action must be commenced no later than one (1) year from the date of the alleged violation. An employee is not required to pursue an administrative action or remedy prior to filing suit. Applicants or employees may also elect to file a grievance directly with the County manager, Human Resources or the Human Relations Commission.

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(g) The County shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related conditions, including the right to reasonable accommodations for conditions related to pregnancy, childbirth, or related conditions, pursuant to this subdivision to:

- (1) new employees at the commencement of employment;
- (2) existing employees within one hundred twenty days after the effective date of the law that added this subdivision; and
- (3) any employee who notifies the employer of her pregnancy within 10 days of such notification.

Such notice must also be conspicuously posted at an employer's place of business in an area accessible to employees.

(h) The County Manager or the Human Resources Department shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and job applicants about their rights and responsibilities under this subdivision.

(i) This subdivision shall not be construed to preempt, limit, diminish or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage for pregnancy, childbirth, or a condition related to pregnancy or childbirth under any other provision of this section.