

New York University

UNIVERSITY POLICIES

Title: Pregnancy Disability Leave and Accommodation Policy – California
Effective Date: March 25, 2019
Supersedes: N/A
Issuing Authority: Executive Vice President
Responsible Officer: Human Resources

Statement of Policy

This Policy addresses pregnancy disability leave and accommodation for employees of NYU in California (hereinafter, “NYU-CA” or “the University”).

To Whom the Policy Applies

This Policy applies to full-time, part-time and temporary employees of NYU-CA, without regard to length of service.

Policy and Procedures

Pregnant employees are encouraged to continue working, according to the advice of their medical provider. Pregnant employees and employees affected by childbirth or related medical conditions are entitled to the benefits set forth in this Policy.

Pregnancy Disability Accommodation

Temporary Transfers. Any employee affected by pregnancy may request a temporary transfer to a less strenuous position or to less hazardous duties if the request is based on medical advice, and the transfer can be reasonably accommodated. No new or additional job will be created for an employee affected by pregnancy. The University will not discharge or transfer another employee in order to create a vacancy, or promote or transfer an employee who is not qualified to perform the new job.

Other Accommodations. The University will make other reasonable accommodations for any employee affected by pregnancy who, with medical advice, requests an accommodation in order to perform her job duties.

*Any requests for accommodation under this Policy shall be referred to NYU’s Office of Equal Opportunity (“OEO”).

Pregnancy Disability Leave

An employee unable to perform her job because of a pregnancy, childbirth or a related medical condition is eligible for an unpaid leave of absence during the period that they are actually disabled (“pregnancy disability leave”), up to a maximum of four (4) months of leave. The specific duration

of the leave will be determined based on the advice of the employee's health care provider and applicable law. Pregnancy disability leave includes leave for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth and recovery from childbirth. Pregnancy disability leave does not need to be taken in one continuous period of time, but may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the health care provider.

Notification & Certification

Employees should notify their supervisor and Human Resources to request a pregnancy disability leave, or to obtain a transfer or other accommodation. As noted above, requests for transfer and other accommodations will be referred to OEO.

If a need for leave or transfer is foreseeable, employees should provide at least thirty (30) days advance notice before the requested leave or transfer would begin. If thirty (30) days advance notice is not possible, notice must be given as soon as practicable. The notice should include the anticipated timing and duration of the requested leave or transfer.

The employee also may be required to provide Human Resources and/or OEO (as applicable) with a certification from a health care provider confirming the need for leave, or transfer/other accommodation. The employee must provide prompt notice to their supervisor, as well as to Human Resources and/or OEO (as applicable), if there is any change in the employee's anticipated leave start or return date, or a change in the date(s) a transfer/other accommodation is needed. When approved, a requested leave or a transfer/other accommodation will usually begin when ordered by the employee's health care provider.

Maintenance of Benefits While on Leave

Pregnancy disability leave can be paid or unpaid, as specified herein. The University will continue an employee's health insurance coverage during a pregnancy disability leave on the same terms and conditions in effect prior to the leave. If the employee is responsible for paying any portion of her health insurance premiums, she will continue to be responsible for paying her regular premium contribution, and the University will continue to pay any employer contribution amount, during the authorized leave period. The employee and the University will work together to establish a plan for ensuring the employee makes the necessary contribution payments during her leave. Employees can pay these premium amounts in advance (before the leave begins) or on an agreed upon schedule during the leave period.

Other University Leaves

Disability Accommodation Leave. Pregnancy disability shall run concurrently with leave taken as a disability accommodation under the Americans with Disabilities Act (ADA) and equivalent federal, state, and local laws.

FMLA Leave. Pregnancy disability leave shall run concurrently with leave taken under the federal Family and Medical Leave Act ("FMLA"), in accordance with the University's FMLA Policy and Procedure.

CFRA Leave. Pregnancy disability leave is designated separately from, and does not run concurrently with, family leave under California Family Rights Act (“CFRA”), although the two leaves may be taken consecutively. Employees who wish to combine family care and medical leave with pregnancy disability leave may take up to seven months (up to four months of pregnancy disability leave, plus up to twelve weeks of family care leave under CFRA), provided the employee meets the eligibility requirements of this policy and the University’s CFRA policy.

Long-Term Disability Benefits. An employee on pregnancy disability leave may be eligible for long-term disability benefits in accordance with the terms of the applicable plan.

Scheduled Holidays/University Closures. If a holiday falls within a week taken as a pregnancy disability leave, the week is counted as a week of pregnancy disability leave. If, however, the University’s business activity has temporarily ceased for some reason and employees are generally not expected to report for work for one or more weeks, the days the University’s activities have ceased do not count against the employee’s pregnancy disability leave entitlement.

Statutory Short-Term Disability Benefits. An employee on pregnancy disability leave is required to apply for California SDI benefits as soon as possible.

Paid Leave. Pregnancy disability leave shall run concurrently with any unused, accrued paid sick leave. Upon exhaustion of the employee’s paid sick leave, the employee may (but is not required to) use any unused, accrued vacation or personal days. SDI will be integrated with any vacation, personal days, or sick leave benefits provided to the employee, so that the employee receives up to 100% of her regular pay.

Additional Options. If the employee is unable to return to work upon the exhaustion of her pregnancy disability leave, the employee may take or continue to take any other leave for which the employee is eligible under any other applicable laws or University policies; pursue disability options; or seek an accommodation, as appropriate. At no point shall any continued leave be counted as pregnancy disability leave unless and until the employee again satisfies the respective eligibility requirements.

Return to Work

If an employee is released to resume work on her anticipated date of return, the employee will be reinstated on that date. If the employee is ready to return earlier than the expiration of approved leave, she must notify Human Resources and/or OEO (as applicable) of her readiness to return within two (2) business days, where feasible, after she learns of the changed circumstances.

Upon returning from a pregnancy disability leave, the University will reinstate an employee to the job she held before the leave or transfer began, unless the employee would not otherwise have been employed in the same job at the time reinstatement is requested for legitimate business reasons unrelated to the leave. If the University cannot reinstate an employee to her job, it will offer the employee a comparable position, provided that a comparable position is available.

*Nothing in this Policy shall supersede any provision of law or employment benefit program that provides greater leave or accommodation rights than the rights established under this Policy.