

# Pregnancy, Childbirth, and Related Medical Conditions (Employees) Policy

## I. Purpose

Dyersburg State Community College prohibits discrimination against employees because of sex and requires institutions to comply with all legal obligations regarding pregnancy, childbirth, and related medical conditions in accordance with Title VII of the Civil Rights Act of 1964, the Pregnant Workers Fairness Act, Title IX of the Education Amendments of 1972, the PUMP Act, Tennessee Code Annotated § 50-1-305, and all other applicable state and federal statutes and regulations.

## II. Scope

Policy Area- Sexual Discrimination/Harassment/Misconduct

## III. Policy

- I. Nondiscrimination in General
  - A. Discrimination or harassment based on pregnancy or related medical condition is prohibited gender discrimination. Complaints of discrimination or harassment based on pregnancy should be submitted to the Title IX Coordinator and will be investigated pursuant to TBR P-080 or DSCC Sex Discrimination, Sexual Harassment, or Sexual Misconduct Policy.
  - B. Retaliation against someone who requests a reasonable accommodation for pregnancy, childbirth, or a related medical condition or who files a complaint based on pregnancy is prohibited. Retaliation complaints will be investigated under P-080 or DSCC Sex Discrimination, Sexual Harassment, or Sexual Misconduct Policy.
  - C. The institution shall treat employees who are temporarily unable to perform their job duties or participate in educational programs due to pregnancy, childbirth, or related medical conditions the same as non-pregnant employees who are similar in their ability or inability to work or participate in educational activities, for example with respect to temporary and light duty assignments.
- II. Reasonable Accommodation on the Basis of Pregnancy, Childbirth, and Related Medical Conditions
  - A. An employee or applicant who seeks a reasonable accommodation should contact the institution's Title IX Coordinator or other individual designated by the institution. Employees are required to participate in an interactive process to determine a reasonable accommodation.
  - B. An employee who learns that another employee may need reasonable accommodation under this policy should report the matter to the Title IX Coordinator or other individual designated by the institution.
  - C. The institution shall make reasonable accommodation to known limitations related to pregnancy, childbirth, or related medical condition of a qualified employee. The

institution and employee must engage in a good faith, interactive process to identify a reasonable accommodation.

- D. The institution may deny a reasonable accommodation if it would result in undue hardship to the institution. TBR's Office of General Counsel must be consulted prior to denying a reasonable accommodation based on undue hardship.
- E. The institution shall not:
  1. require a qualified employee to accept a reasonable accommodation other than one arrived at through an interactive process;
  2. deny equal employment opportunities to a qualified employee based on the need to make reasonable accommodations; or
  3. take adverse action against a qualified employee because the employee requested or used a reasonable accommodation, or otherwise retaliate against an individual in violation of applicable law.
- F. A qualified employee may elect to take leave in accordance with DSCC Parental Leave Policy or DSCC Family, Medical, and Service Member Leave Policy. The institution shall not require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided.
- G. Reasonable accommodation pursuant to this policy is available only to qualified employees who are pregnant, have given birth, or have a pregnancy-related condition. Leave for family members may be available pursuant to DSCC Parental Leave Policy or DSCC Family, Medical, and Service Member Leave Policy.

### III. Lactation

- A. The institution shall provide space other than a restroom to express milk. The institution may either create dedicated space or provide temporary space on an as-needed basis. The space must be clean, shielded from view, and free from intrusion from others.
- B. Institutions must provide a reasonable amount of break time, as frequently as needed by the nursing mother, to express milk. Breaks must be provided for one year following birth, and any employee who wishes to continue expressing breast milk beyond one year should contact the Title IX Coordinator to discuss additional time to provide breaks.
- C. Employees taking breaks to express milk shall be compensated in the same manner as other employees are compensated during break time. No deduction may be made from an exempt employee's salary. No deduction from a non-exempt employee's pay is permitted unless the Title IX Coordinator has approved in advance.

## IV. Compliance

All administrative staff responsible for writing and maintaining DSCC policies must adhere to this policy. Persons found to be in violation of this policy will have their names reported to the President of the college.

## V. Definitions

- "Institution" means each location at Dyersburg State Community College.
- "Known limitation" means a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth or related medical conditions that the employee or the employee's representative has communicated to the institution, whether or not such condition constitutes a disability under the Americans with Disabilities Act.
- "Qualified employee" means an employee or applicant who, either with or without reasonable accommodation, can perform the essential functions of the job position. An employee or applicant

is considered qualified if any inability to perform an essential function is for a temporary period, the essential function can be performed in the near future, and the inability to perform the essential function can be reasonably accommodated.

- This policy applies to all qualified employees of the institution, whether full- or part-time; whether faculty, adjunct, or staff; and regardless of length of employment.
- A qualified applicant is considered to be a qualified employee.
- “Reasonable accommodation” generally has the same meaning as under the ADA.
  - Reasonable accommodation means a modification or adjustment to a job or the work environment that will enable a qualified employee to perform the essential functions of the job. (Unlike the ADA, reasonable accommodation under this policy may include temporarily relieving a qualified employee of an essential function of the job.) If multiple reasonable accommodations are available, the institution may select among reasonable accommodations.
  - Reasonable accommodation may include, but is not limited to, making existing facilities accessible, leave, job restructuring, a part-time or modified work schedule, acquiring or modifying equipment, changing or making exceptions to a policy, and reassignment to a vacant position.
- “Related medical condition” includes any illness, complication, or symptoms arising out of pregnancy or childbirth. Examples of related medical conditions include, but are not limited to, morning sickness, gestational diabetes, pregnancy-induced hypertension, miscarriage, sciatica, lactation or the need to express breast milk, medical procedures and recovery, physical injuries from childbirth, and postpartum depression.

### **Sources**

- Tenn. Code Ann. § 50-1-305
- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (as amended by the Pregnant Workers Fairness Act)
- Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688
- Fair Labor Standards Act § 18d (as amended by the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act))

### **Related Policies**

- Parental Leave: 5.01.01.08
- Family, Medical, and Service Member Leave: 5.01.01.14
- Sex Discrimination, Sexual Harassment or Sexual Misconduct: 6.01.00.00
- Sex Discrimination and Sexual Harassment: 6.02.00.00
- Sexual Misconduct: 6.03.00.00
- Discrimination & Harassment - Complaint & Investigation Procedure: P-080

## **VI. Revision History**

TBR Added this policy May 2023.

DSCC Administrative Council reviewed and approved policy, September 28, 2023.