



## **BBC Administrative Process**

AP 6117 Pregnancy Procedure

Effective Date: 10-11-2024

Implementing Board Policy: BP 6115

Responsible Department: Human Resources

## **Policy**

Big Bend Community College (the College) has a responsibility to prevent sex discrimination and ensure equal access to the College's education programs and activities. As required by Title IX of the Educational Amendments of 1972, this policy prohibits discrimination against any student, employee, applicant for employment, or anyone who was participating or attempting to participate in the College's education program or activity (collectively, College Community Members) based on their current, potential, or past pregnancy or related conditions.

## **Definitions**

1. **Pregnancy or Related Conditions** means:
  - a. Pregnancy, childbirth, termination of pregnancy, or lactation;
  - b. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
  - c. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
2. **Program and Program or Activity** means all of the operations of the College.
3. **Student** means a person who has gained admission to the College.
4. **Reasonable Modifications** means changes to the College's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the College's education program or activity for a student experiencing pregnancy or related conditions. Reasonable modifications are based on a student's individualized needs and are determined in consultation with the student. A modification that the College can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification. Reasonable modifications may include, but are not limited to:
  - a. breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
  - b. intermittent absences to attend medical appointments;
  - c. access to online or homebound education;
  - d. changes in schedule or course sequence;
  - e. extensions of time for coursework and rescheduling of tests and examinations;
  - f. allowing a student to sit or stand, or carry or keep water nearby;
  - g. counseling;

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- h. changes in physical space or supplies (for example, access to a larger desk or a footrest);
- i. elevator access;
- j. voluntary leave of absence, or
- k. other changes to policies, practices, or procedures.

**Students****Responsibility to Inform Students**

The College has the responsibility to promptly and effectively prevent and respond to sex discrimination, including discrimination on the basis of pregnancy or related conditions. When a student informs any College employee, including confidential employees of the student's pregnancy or related conditions, the employee must:

- 1) Promptly provide the student, verbally or in writing, the Title IX Coordinator's contact information, and
- 2) Inform that student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the College's education program or activity.

If the employee reasonably believes that the Title IX Coordinator has already been notified of a student's pregnancy or related condition, they are relieved of their responsibility to inform in this instance. Absent information about conduct that reasonably may constitute sex discrimination, employees should not directly inform the Title IX Coordinator of a student's pregnancy or related conditions. No College employee shall approach a student unprompted and ask about their pregnancy or related condition or make assumptions about a student's needs or medical status.

Nothing under this policy or Title IX obligates a student to seek reasonable modifications for their pregnancy or related conditions after receiving the Title IX Coordinator's information, nor does it obligate the student to accept offered reasonable modifications.

**Title IX Coordinator's Responsibility to Act**

When a student informs the Title IX Coordinator of their pregnancy or related condition, the Title IX Coordinator will provide the student with information about the College's Title IX policies and procedures, including information about requesting and receiving reasonable modifications.

**Reasonable Modifications**

At the student's request, the Title IX Officer will work with the student to identify reasonable modifications to any policy, practice, or procedure necessary to prevent sex

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discrimination and to ensure equal access to the College's education programs or activities based on the student's individualized needs. A modification that fundamentally alters the nature of an education program or activity is not a reasonable modification. It shall be the responsibility of the College to demonstrate if a particular modification would be a fundamental alteration, and to consult with the student to identify alternative reasonable modifications.

During this process, the Title IX Coordinator shall not inquire about the specific circumstances surrounding a student's pregnancy or related conditions and will maintain the student's privacy at all times unless reasonably necessary to ensure reasonable modifications are implemented promptly and effectively.

Nothing in this policy precludes a student from participating in any part of an education program or activity due to pregnancy or related conditions, including athletics and other extracurricular activities. The College does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity, e.g., allowing a pregnant student who is confined to bed rest to access an in-person course online, provided that the College ensures that the separate portion is comparable to that offered to students who are not pregnant or have related conditions.

A student can voluntarily take a leave of absence from the College's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. Students who elect to take a voluntary leave of absence in relation to pregnancy or a related condition will be reinstated to the same extracurricular status upon returning from leave, unless exact reinstatement would not be administratively possible or practicable under the circumstances.

**Appeal of Reasonable Modifications**

A student has the right to appeal any reasonable modification to an impartial reviewer in accordance with the following procedure:

If a student becomes dissatisfied with their reasonable modifications or undergoes a change of circumstances that warrants revisions to their reasonable modifications, the student may submit a request to revise their reasonable modifications to the Title IX Coordinator. The Title IX Coordinator will respond to such a request within ten (10) business days. If the student disagrees with the Title IX Coordinator's decision, they may submit a written appeal to Director of Recruitment, Retention & Equity within ten (10) business days of receiving the Title IX Coordinator's decision. Review of the appeal shall be performed by an impartial employee with authority to modify or reverse the Title IX Coordinator's decision to provide, deny, modify or terminate reasonable modifications applicable to the student seeking review. Challenged reasonable

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modifications will be reviewed to determine whether they are meeting the purposes of preventing sex discrimination and ensuring equal access to the College's education programs and activities.

**Supporting Documentation**

The College may in certain instances ask a student seeking reasonable modifications to produce supporting documentation to validate their pregnancy or pregnancy related condition. The College will **not** require supporting documentation to validate a student's pregnancy or related condition if:

- a student's need for a specific modification is obvious;
- if the student has previously provided sufficient supporting documentation;
- when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- when the student has lactation needs; or
- when the specific modification is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

In addition, the College will not require certification from a healthcare provider or any other person to determine if a student who is pregnant or has related conditions is physically able to participate in a class, program, or extracurricular activity unless:

1. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
2. The College requires such certification of all students participating in the class, program, or extracurricular activity; and
3. The information obtained is not used as a basis for discrimination prohibited by this Policy.

**Employees**

Under Title IX, the College treats all employees' pregnancy or related conditions as it does any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit of service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment. Employees who are pregnant or experiencing related conditions have the right to take leave, including voluntary unpaid leave, as outlined in AP 3011 Administrative & Exempt Leaves, AP 4130 Classified Leaves and respective collective bargaining agreements.



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Under the Pregnant Workers Fairness Act (PWFA) and Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act), the College offers reasonable workplace accommodations for employees affected by pregnancy, childbirth, or related medical conditions. The College will always provide the following reasonable accommodations to employees experiencing pregnancy or related conditions, as needed, without requesting written certification from a healthcare professional:

1. Providing frequent, longer, or flexible restroom breaks;
2. Modifying a no food or drink policy;
3. Providing seating or allowing the employee to sit more frequently;
4. Refraining from lifting more than 17 pounds; and
5. Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a clean and private location, other than a bathroom, which may be used by the employee to express breast milk.

The College may provide other reasonable accommodations, some of which may require written certification from a healthcare professional, which may include but are not restricted to:

1. Job restructuring, including modifying a work schedule, job reassignment, changing a workstation, or providing equipment;
2. Providing a temporary transfer to a less strenuous or hazardous position;
3. Scheduling flexibility for prenatal visits; and
4. Providing any further accommodation the employee may need.

Under the PUMP Act, the College is not required to compensate an employee receiving reasonable break time for expressing breast milk for any work time spent for such purpose. However, as the time it takes to express breast milk is highly individualized, employees are encouraged to work with Human Resources and/or the Title IX Coordinator to ensure they have the flexibility to express breast milk as necessary.

Employees who are enrolled in the College's education program or activity are eligible to receive reasonable modifications as outlined in the student section of this policy/procedure in order to sufficiently allow the employee to continue their educational progress as a student.

The College will not retaliate against employees affected by pregnancy or related conditions who request one of these changes or deny them employment opportunities if they are otherwise qualified or require them to take leave if an alternative is available. Additionally, pregnant employees with a pregnancy-related disability may have rights in addition to those listed here.



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## **Lactation Space**

The College has designated lactation space(s) on campus that is not a bathroom, which may be used by any person on campus for pumping or breastfeeding as needed, regardless of a person's gender identity or gender expression. Any designated lactation spaces will be kept clean, will be private and accessible, and available for use whenever the building the space is open for use.

While there is lactation space available for use, the College recognizes that in Washington State, breastfeeding is permitted in any public place. Breastfeeding is not considered "indecent exposure," and no one may stop another person from breastfeeding, require they cover themselves, move, or leave a public premises because they are breastfeeding. The decision of where to pump or breastfeed is at the person's discretion, if consistent with Washington State law.

The College also has a designated specific refrigerator adjacent to the Lactation Room on campus available for the storage of expressed breastmilk. Any breastmilk containers should be labeled and dated, as any unlabeled items may be removed during routine cleaning.

## **Reporting Policy Violations**

If a College Community Member notifies the College of a failure to implement a reasonable modification or make a lactation space available, the College will promptly and effectively take additional steps to comply with their Title IX obligation to ensure that its education program or activity is free from discrimination on the basis of sex, including on the basis of pregnancy or related conditions. If a College Community Member files a complaint regarding the failure to implement a reasonable modification for pregnancy or a related condition or to make a lactation space available, this will constitute a report of sex discrimination, and the investigation procedure outlined in AP 6113 Sex Discrimination Investigation Procedure will be initiated. To report violations of this procedure, contact the College's Title IX Coordinator or their designee:

### **Title IX / EO Coordinator, Vice President of Human Resources & Labor**

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