

West Virginia University at Parkersburg Board of Governors

Proposed POLICY A-63 RIGHTS OF PREGNANT AND NURSING MOTHERS

Section 1. General

- 1.1 Purpose. - To establish West Virginia University at Parkersburg Board of Governors' policy regarding the rights of pregnant and nursing mothers who are employees or students of WVU Parkersburg.
- 1.2 Authority. - [W.Va. Code § 18B-1-6](#) and [W. Va. Code § 5-11B-1, et seq.](#)
- 1.3 Scope. - This policy applies to all members of the West Virginia University at Parkersburg campus community.
- 1.4. Effective Date. – September 19, 2023
(Replaces version dated April 25, 2017)

Section 2. Introduction

As set forth in [Policy A-34](#), *Equal Opportunity, Affirmative Action and Nondiscrimination*, West Virginia University at Parkersburg is committed as an employer and an educational institution to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of sex. Sex discrimination, which can include discrimination based on pregnancy, marital status, or parental status, is prohibited and illegal in admissions, educational programs and activities, hiring, leave policies, employment policies, and health insurance coverage. WVU Parkersburg is an Equal Opportunity/nondiscriminatory institution. WVU Parkersburg hereby establishes the following guidelines for ensuring the protection and equal treatment of pregnant individuals, persons with pregnancy-related conditions, and new mothers.

Section 3. Pregnancy

3.1 Students

- 3.1.1. Under the U.S. Department of Education's (DOE) regulations for implementing Title VI/Title IX/Section 504 of the Education Amendments of 1972 (Title VI/Title IX/Section 504), an institution that receives federal funding "shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom." According to the DOE, appropriate treatment of a pregnant student includes granting the student leave "for so long a period of time as is deemed medically necessary by the student's physician," and then effectively reinstating the student to the same status as was held when the leave began. This federal regulation supersedes any college- or instructor-based attendance or other policies regarding allowable numbers of absences or ability to make up missed school work.
- 3.1.2. West Virginia University Parkersburg shall take reasonable steps to ensure that pregnant students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same course catalog that was in place for that student when the leave began; *Provided*, that such action does not place an undue burden on the College. Appropriate methods for accommodating pregnancy-related absences or leaves may include extended

deadlines, make-up assignments (such as papers, quizzes, tests, and presentations), tutoring, independent study, online course completion options, and incomplete grades that can be completed at a later date, in addition to any other ergonomic and assistive supports typically provided by Disability Services.

- 3.1.3 The Title VI/Title IX/Section 504 Coordinator may designate the Director of Disability Services to receive requests for accommodations from students related to medical leave and/or temporary disabilities associated with pregnancy and related conditions. On the basis of medical documentation provided by the student's physician, the Director of Disability Services or his or her designee shall notify faculty members of reasonable accommodations authorized for the student. The Title VI/Title IX/Section 504 Coordinator shall determine whether the requested accommodations are reasonable and advise faculty members or others, as necessary.
- 3.1.4 West Virginia University Parkersburg will make every effort to devise alternative paths to completion, when possible, in situations such as clinical rotations, performances, labs, and group work. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. West Virginia University Parkersburg faculty, staff, and other employees may not require a student to limit her studies as the result of pregnancy or pregnancy-related conditions. Pregnant students may not be channeled into alternative programs against their wishes.
- 3.1.5 The College may not impose artificial deadlines or time limitations on requests for accommodations; however, West Virginia University Parkersburg cannot implement accommodations retroactively. Reasonable accommodations may include, but are not limited to:
 - 3.1.5.a. Accommodations requested by the pregnant student to protect the health and safety of the student and/or the pregnancy (such as allowing the student to maintain a safe distance from hazardous substances);
 - 3.1.5.b. Modifications to the physical environment (such as accessible seating);
 - 3.1.5.c. Extending deadlines and/or allowing the student to make up tests or assignments missed for pregnancy-related absences;
 - 3.1.5.d. Providing remote learning options;
 - 3.1.5.e. Excusing medically-necessary absences (irrespective of classroom attendance requirements set by a faculty member, a division, or otherwise established by the institution); and
 - 3.1.5.f. Granting leave or implementing incomplete grades for classes that will be resumed at a future date.
 - 3.1.5.g. Reasonable accommodations do not include modification of the essential elements of any academic program.
- 3.1.6 Students are encouraged to work with their advisors, faculty members, and West Virginia University Parkersburg's support systems to devise a plan for how to best address the conditions as pregnancy progresses, to anticipate the need for absences and leaves, to minimize the academic impact of their absences, and to get back on track as efficiently and comfortably as possible. The Title VI/Title IX/Section 504 Coordinator will assist with plan development and implementation as needed.

- 3.1.7 The Title VI/Title IX/Section 504 Coordinator shall maintain all appropriate documentation related to accommodations. The Title VI/Title IX/Section 504 Coordinator shall share information about pregnant students' requests for accommodations with faculty and staff only to the extent necessary to provide the reasonable accommodation. Faculty and staff shall regard all information associated with such requests as private and may not disclose this information unless necessary.

3.2 Employees

- 3.2.1 Discrimination based on pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under the federal Pregnancy Discrimination Act (PDA) and the State Pregnant Workers Fairness Act (PWFA). Women affected by pregnancy or related conditions must be treated in the same manner as other similarly situated applicants or employees. The PDA and the PWFA forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, pay, job assignments, promotions, layoffs, training, fringe benefits, firing, and any other term or condition of employment.
- 3.2.2 Supervisors may not single out pregnancy-related conditions for medical clearance procedures that are not required of other employees pursuant to Policy B-24, [Employee Leave](#), Section 5.8.
- 3.2.3 Pregnant employees shall be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, no supervisor or administrator may not require her to remain on leave until the baby's birth. Administrators and supervisors may not establish a predetermined length of time for an employee to take leave after childbirth. West Virginia University Parkersburg shall hold open a job for a pregnancy-related absence the same length of time that jobs are held open for employees on sick or temporary disability leave.
- 3.2.4 Under the Family and Medical Leave Act (FMLA) of 1993, a new parent (including foster and adoptive parents) may be eligible for 12 weeks of leave (unpaid or paid if the employee has earned or accrued it) that may be used for care of the new child. To be eligible, the employee must have worked for WVUP for 12 months prior to taking the leave. FMLA leave is discussed further in these Institutional procedures.
- 3.2.5 If an employee is temporarily unable to perform her job due to pregnancy, the College shall treat her the same as it does any other temporarily disabled employee, (e.g., by providing light duty, modified tasks, alternative assignments, disability leave, or leave without pay). Additionally, impairments resulting from pregnancy (for example, gestational diabetes) may be disabilities under the Americans with Disabilities Act (ADA) and employees are entitled to a reasonable accommodation(s) for a disability related to pregnancy, in accordance with Policy A-43, [Disability Accommodations](#).
- 3.2.6 Employees on medical leave for pregnancy related conditions have equal access to benefits provided to other employees on medical leave. Expenses for pregnancy related conditions are covered by health insurance and be reimbursed in the same manner as for other medical conditions. The College shall treat employees with pregnancy-related disabilities the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

Section 4. Nursing Mothers

4.1 Support

- 4.1.1 In recognition of the documented health advantages of breastfeeding for infants and mothers, WVU at Parkersburg provides a supportive environment to enable any employee or student mother to express

milk during their time on campus. In addition, pursuant to [W. Va. Code § 16-1-19](#), a mother has the right to “breast feed a child in any location open to the public.”

- 4.1.2 In accordance with State and federal law, employees may breastfeed or express milk during work hours using their normal breaks and meal times.

4.2. Facilities

- 4.2.1 West Virginia University Parkersburg shall provide a private room that is not a toilet stall or restroom for any employee or student mother to express milk. Such room will be private and sanitary, located near a sink with running water for washing hands and rinsing out breast pump parts, and have an electrical outlet. If the College chooses to provide a dedicated lactation lounge in addition to the space required herein, such space shall meet the same sanitation requirements as the required space.
- 4.2.2 Employees may breastfeed or express milk in their own private offices if they prefer or in other comfortable locations agreed upon in consultation with the employee’s supervisor.

Section 5. Harassment and Retaliation

- 5.1. Harassment of any member of the West Virginia University Parkersburg community based on sex, including pregnancy or related conditions and parental status, is prohibited.
- 5.2. Faculty, staff, and other West Virginia University Parkersburg employees are prohibited from interfering with an employee’s or student’s right to take leave, seek reasonable accommodation, or otherwise exercise their rights under the institution’s nondiscrimination policy.
- 5.3. Faculty, staff, and other West Virginia University Parkersburg employees are prohibited from retaliating against an employee or student, including imposing or threatening to impose negative educational or employment outcomes because a student or employee requests leave or accommodation, files a complaint, participates in a complaint investigation, or otherwise exercises their rights under the institution’s nondiscrimination policy.
- 5.4. [Policy B-62, Mandatory Reporters](#), establishes that any employee of West Virginia University Parkersburg who receives a report of discrimination on the basis of sex (which includes pregnancy or related conditions) promptly forwarding such report to the Social Justice Officer/Title VI/Title IX/Section 504 Coordinator.
- 5.5. The College shall investigate all allegations of harassment, discrimination or retaliation and handle them promptly and equitably under the supervision of the institution’s Social Justice Officer/Title VI/Title IX/Section 504 Coordinator.

Section 6. Complaints

- 6.1 Complaints of discrimination, harassment, or retaliation may be filed with West Virginia University at Parkersburg:

Social Justice Officer/Title VI/Title IX/Section 504 Coordinator, Room 1017
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
E-mail: Social.Justice@wvup.edu
Telephone: (304) 424-8212

FAX: (304) 424-8302

6.2 Complaints may also be filed (under Title VI/Title IX/Section 504) with the U.S. Department of Education, Office for Civil Rights:

U.S. Department of Education Office for Civil Rights
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605;
TDD: 877-521-2172
Email: OCR_Philadelphia@ed.gov
Website: www2.ed.gov/about/offices/list/ocr/index.html

6.3 Employees may also file complaints (under Title VII or other employment laws) with the U.S. Equal Employment Opportunity Commission or the West Virginia Human Rights Commission:

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 866-408-8075
Fax: 215-440-2606
TTY: 800-669-6820
Website: www.eeoc.gov/

West Virginia Human Rights Commission
1321 Plaza East, 108A
Charleston, WV 25301
Telephone: (304) 558-2616 or 1-888-676-5546
Fax: (304) 558-0085
Website: www.hrc.wv.gov