

COLLEGE of CHARLESTON

OFFICIAL POLICY

9.6.1

Interim Pregnancy, Parenting, and Lactation Policy

08/01/2024

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Policy Statement

1.0 POLICY STATEMENT

The College of Charleston (“College”) is committed to nondiscrimination on the basis of sex, including pregnancy, childbirth or related medical conditions and providing equal access to educational programs and activities, including employment. This commitment is in accordance with state and federal laws and regulations including, Title IX of the Education Amendments of 1972 (“Title IX”), Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), the Pregnancy Discrimination Act, the Pregnant Workers Fairness Act (“PWFA”), the Providing Urgent Maternal Protections for Nursing Mothers Act (“PUMP Act”), and the South Carolina Pregnancy Accommodations Act.

The College shall not adopt any policy, practice, or procedure, or take any employment action, on the basis of sex concerning the current, potential, or past pregnancy or related conditions, or parental, family, or marital status of an employee or applicant for employment, which treats persons differently or that is based on whether an employee or applicant for employment is the head of household or principal wage earner in such employee’s or applicant’s family unit.

The College provides reasonable workplace accommodations for employees whose ability to perform job duties is limited because of pregnancy, childbirth, lactation, or related medical conditions. The College will also take specific actions, including reasonable modifications, to promptly and effectively prevent sex discrimination and ensure equal access to the College’s program or activity once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student’s pregnancy or related conditions. The Title IX Coordinator will coordinate these actions.

Complaints alleging sex discrimination or harassment will be handled in accordance with the College's Prohibition of Discrimination and Harassment Including Sexual Harassment and Abuse Policy and/or the College's Interim Title IX Policy and Procedures, as applicable.

Policy Manager and Responsible Department or Office

Director of the Office of Equal Opportunity Programs and Title IX Coordinator, and the Office of Equal Opportunity Programs is responsible for the administration of this Policy.

Policy

2.0 APPLICABILITY

This Policy applies to all members of the College community, including students, faculty, staff, and applicants for admission or employment; members of the Board of Trustees; third parties (e.g., contractors, consultants vendors, guests, visitors), and all others who demonstrate that they were attempting to participate in the College's education program or activity, including employment, at the time of the need for accommodation.

3.0 DEFINITIONS

3.1 COMMUNICATING KNOWN LIMITATIONS TO THE EMPLOYER: Known limitations shall be considered communicated to the College, when an employee or the employee's representative, or applicant for employment, has made the employer aware of the limitation (1) by communicating with (a) a supervisor, (b) a manager, (c) someone who has supervisory authority for the employee or who regularly directs the employee's tasks (or the equivalent for an applicant), (d) the College's Office of Human Resources, or (e) the Office of Equal Opportunity Programs, or (2) by following steps in the College's Policy to request an accommodation. The communication may be made orally, in writing, or by another effective means.

3.2 REPRESENTATIVE: Means a family member, friend, health care provider, or other representative of the employee or applicant for employment.

3.3 KNOWN LIMITATION: With regards to employment, known limitation means a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that an employee or applicant for employment at the College or their representative has communicated to the College, whether or not such condition meets the definition of a disability under the Americans with Disabilities Act (ADA). The

limitation may be an impediment or problem which is modest, minor and/or episodic and includes a need or problem related to maintaining the employee's health or the health of the pregnancy or related to seeking health care for pregnancy, childbirth, or a related medical condition.

3.4 PARENTAL STATUS: Means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but incapable of self-care because of a physical or mental disability, is:

- (i) A biological parent;
- (ii) An adoptive parent;
- (iii) A stepparent;
- (iv) A legal custodian or guardian;
- (v) In loco parentis (in place of a parent) with respect to such a person; or
- (vi) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

3.5 PREGNANCY OR RELATED CONDITION: Means

- (i) Pregnancy, childbirth, or lactation; or
- (ii) Medical conditions related to pregnancy, childbirth, or lactation; or
- (iii) Recovery from pregnancy, childbirth, lactation, or related medical conditions.

3.6 QUALIFIED EMPLOYEE: Means (1) an employee or applicant who, with or without reasonable accommodations, can perform the essential functions of the employment position, and (2) an employee who cannot perform the essential functions of their position for a temporary period but can in the near future and can be reasonably accommodated without undue hardship.

3.7 TEMPORARY: Means lasting for a limited time, not permanent, and may extend beyond "in the near future."

3.8 UNDUE HARDSHIP: Means significant difficulty or expense incurred by the College (as employer).

4.0 RESPONSIBILITY TO PROVIDE INFORMATION

When a student (or a person who has a legal right to act on behalf of the student) informs any employee of the College of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee will inform the student of the College's obligations related to pregnancy, promptly provide the person with the Title IX Coordinator's contact information, inform that person that the Title IX Coordinator can coordinate specific actions, including on an interim basis, to prevent sex discrimination and ensure the student's equal access to the College's education program or activity, and provide the College's notice of nondiscrimination.

Additionally, the employee should inform the Title IX Coordinator of the student's information so that the Coordinator can provide that student with relevant information on resources and accommodations.

5.0 EDUCATIONAL ADJUSTMENTS

5.1 Reasonable Modifications: The College will make reasonable modifications to its policies, practices, or procedures, as necessary to prevent sex discrimination and ensure equal access to the College's education program or activity. Each reasonable modification will be based on a student's individualized needs after consulting with the student. A modification that the College can demonstrate would fundamentally alter the nature of the College's education program or activity is not a reasonable modification. A student may accept or decline each reasonable modification offered by the College. If a student accepts the reasonable modification offered, the College will implement it. Reasonable modifications may include, but are not limited to:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking and using the restroom;
- Intermittent absences to attend medical appointments;
- Access to online or homebound education;
- Changes in schedule or course sequence;
- Extensions of time for coursework and rescheduling of tests and exams;
- Allowing students to sit or stand, or carry or keep water nearby;
- Change in physical space or supplies, e.g., a larger desk, footrest; or
- Elevator access

5.2 Voluntary Leaves of Absence: The College will allow a student to voluntarily take a leave of absence from its education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the College's education program or activity, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

5.3 Limitation on Supporting Documentation for Students: The College does not require supporting documentation unless it is necessary and reasonable for the College to determine what reasonable modifications to make or what additional specific actions may be advisable. Examples of situations in which requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for specific action is obvious, such as when a student who is pregnant needs a bigger uniform; when a student has previously provided the College with sufficient supporting documentation; when the reasonable modification 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 a student has lactation needs; or when the specific action is available to students for reasons other than pregnancy without submitting supporting documentation.

6.0 EMPLOYMENT ACCOMMODATIONS

The College provides reasonable workplace accommodations for employees whose ability to perform job duties is limited because of pregnancy, childbirth, lactation, or related medical conditions. A reasonable accommodation is one that does not cause undue hardship, i.e., does not require significant difficulty or expense in the operation of the College. Accommodations may be granted on an interim basis if appropriate.

The College also provides reasonable accommodations for applicants for employment to the job application process to enable a qualified applicant with a known limitation to be considered for the position such qualified applicant desires.

6.1 Requests for Reasonable Accommodations: An employee or applicant may request a reasonable accommodation because of pregnancy, childbirth, or related medical conditions. For instance, when:

- An employee needs a modification or adjustment to the work environment, or to the manner or circumstances under which the position is held or desired is customarily performed;
- An applicant needs a modification or adjustment to a job application process that enables them to be considered for a desired position; and
- An employee needs a modification or adjustment that allows them to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees.

These requests may be made orally, in writing, or by another effective means. The College does not require that requests be in writing or be in a specific format but asks that those needing accommodation complete the Pregnancy Accommodation Request Form found on EOP.cofc.edu.

Examples of possible reasonable accommodations include:

- Frequent breaks;
- Sitting/standing;
- Schedule changes, part-time work, and paid and unpaid leave;
- Telework;
- Parking;
- Light duty;
- Making existing facilities accessible or modifying the work environment;
- Job restructuring;
- Temporarily suspending one or more essential functions;
- Acquiring or modifying equipment, uniforms, or devices; and
- Adjusting or modifying exams or policies.

6.2 Interactive Process: The College engages in an interactive process when an employee requests reasonable accommodation for pregnancy or related medical conditions to determine what accommodation is appropriate. Accommodations are determined individually and must be tailored to match the employee's needs while not placing undue hardship on the College's department. In making this determination, a number of factors are considered, including but not limited to:

- The nature and duration of the requested accommodation;
- The impact of the requested accommodation on the performance of the employee's essential functions or core-related duties;
- The financial impact of the requested accommodation;
- The impact of the requested accommodation on other employees, students, or College operations; and
- Any alternative accommodations.

6.3 Comparable Treatment: The College treats pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration and extension of leave, payment of disability income, accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

6.4 Voluntary Leaves of Absence: In the case of an employee with insufficient leave or accrued employment time to qualify for leave, the College will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee will be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

6.5 Supporting Documentation: The College may request supporting documentation when it is reasonable and needed to:

- Confirm the condition (impediment);
- Confirm the condition is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions; and
- Describe the adjustment or change needed due to the limitation.

Documentation is not required under the following circumstances:

- The limitation and need for accommodation are obvious;
- Pumping at work or nursing during work hours (with self-confirmation)
- The limitation and accommodation are already known;
- Predictable assessments (e.g., carrying or keeping water near and drinking as needed, allowing additional restroom breaks, allowing sitting and standing as needed, and allowing breaks to eat and drink as needed).

7.0 COMPARABLE TREATMENT TO OTHER TEMPORARY MEDICAL CONDITIONS.

The College treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the College administers, operates, offers, or participates in regarding students admitted to the College's education program or activity.

8.0 CONFIDENTIALITY

The College does not disclose personally identifiable information obtained in the course of complying with this Policy, except in the following circumstances:

- When the College has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to a parent, guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purposes of this Policy;
- When required by Federal law and regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or,

When required by State or local law or when permitted by FERPA or its implementing regulations but only to the extent such disclosure is not otherwise in conflict with Title IX

9.0 LACTATION

The College provides accommodation related to lactation and pumping. Breastfeeding students and employees have the right to reasonable break time and a place, other than a bathroom, that is shielded from view and free from intrusion from others and the public to express breast milk or breastfeed while on-campus. This right is available for up to one year after the child's birth for employees. The College does not require an employee to provide a note from the employee's health care provider before allowing an employee to take pump breaks. The College acknowledges that the frequency and duration of breaks needed may vary and may engage in an interactive dialogue to determine the frequency and duration of breaks needed, including affording flexibility as needs may change. Employees must complete their required hours of work. (e.g., 7.5 hours for FTE employees).

Please contact the Office of Human Resources at 843.953.5512 or the Office of Equal Opportunity Programs at 843.953-5754 for locations of lactation spaces and access information.

10.0 COMPLAINTS OF DISCRIMINATION

In accordance with Title IX and Title VII, and other applicable federal and state laws, and consistent with the College's Prohibition of Discrimination and Harassment Including Sexual Harassment and Abuse Policy and the College's Interim Title IX Policy and Procedures, the College prohibits discriminatory conduct that is based upon sex or another legally protected category. Concerns about possible discrimination on the basis of sex should be reported to the Director of the Office of Equal Opportunity Programs. Complaints will be handled in accordance with the College's Prohibition of Discrimination and Harassment including Sexual Harassment and Abuse Policy and Grievance Procedures, and its Interim Title IX Policy and Procedures, as applicable. Any questions about this process should be directed to the Office of Equal Opportunity Programs at 843-953-5754 or eop@cofc.edu.

11.0 RETALIATION

Neither the College nor other person, including a peer, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a good faith report or complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Examples of retaliation can include harassment or threats of violence. The exercise of rights protected under the First Amendment does not constitute retaliation. Should the College receive a complaint of retaliation for a person exercising their rights under this Policy, that complaint will be resolved under the grievance procedures described in 16.1 or through the informal resolution process in the College's Interim Title IX Policy and Procedures. A complaint of retaliation may also be consolidated with a complaint of sex- based discrimination or sex-based harassment and, if so, will be resolved in accordance with the procedures that apply to the underlying complaint under the aforementioned policy.

Provisions in this policy are interpreted in accordance with applicable controlling laws and regulations.

Departments/Offices Affected by the Policy

This Policy applies to the entire College community.

Procedures Related to the Policy

Related Policies, Documents or Forms

Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse
Interim Title IX Policy and Procedures

Issue Date: 08/01/2024 Date of Policy Revision: n/a	Next Review Date: 08/02/2026
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POLICY APPROVAL
(For use by the Office of the Board of Trustees or the Office of the President)

Policy Number: 9.6.1

President or
Chairman, Board of Trustees Andrew D. Hsu Date: July 31, 2024