

POLICY NAME: *Pregnancy, Childbirth and Pregnancy Related Conditions for Students and Employees*

POLICY NUMBER: *Unique identifier assigned by OARC*

Authority Title and Review Information:	Name and Date
Approval Authority:	<i>President</i>
Responsible Executive:	<i>Vice President, Office for Civil Rights and Title IX Education and Compliance</i>
Responsible Office:	<i>Office for Civil Rights and Title IX Education</i>
Responsible Officer:	<i>Vice President, Office for Civil Rights and Title IX Education and Compliance</i>
Policy Category:	<i>Administration and Operations</i>
Effective Date:	
Last Review Date:	
Next Review Date:	

I. POLICY STATEMENT

Michigan State University is committed to creating an accessible and inclusive environment for students and employees affected by pregnancy, childbirth and pregnancy related conditions.

This Policy addresses the University’s obligations under federal law to provide reasonable accommodations for employees affected by pregnancy, childbirth or pregnancy related conditions, and academic modifications and extended leaves of absence for students who are affected by pregnancy, childbirth, and pregnancy-related conditions, and/or students who are parenting, including, adoptive parents, foster parents, stepparents and/or legal guardians.

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in education programs or activities that receive federal financial assistance. This prohibition includes discriminating against or excluding a student from an education program or activity, extracurricular activity, athletic program, or other program or activity of the University, on the basis of the student’s pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Additionally, the

Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, prohibits discrimination on the basis of pregnancy, childbirth or other related medical conditions. The Pregnant Workers Fairness Act requires covered employers to provide reasonable accommodations to an employee's known limitations related to pregnancy, childbirth or related medical conditions. The Fair Labor Standards Act and the Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act provide nursing employees up to one year after birth, the right to receive break time and private space at work to express breast milk.

The University prohibits any action based on actual or potential parental, family, or marital status which discriminates on the basis of sex.

II. SCOPE

This policy applies to all operations of the University, including all academic, educational, employment, extracurricular, athletic, and other programs or activities of the University.

Students and employees who are affected by pregnancy, childbirth or pregnancy related conditions and who are seeking modifications and accommodations related to their education and/or work, including leaves of absence, may seek assistance under this policy. Parenting students, including adoptive and foster parents, stepparents and legal guardians, who are seeking modifications related to their education may also seek assistance under this policy.

III. DEFINITIONS

A. Definitions for Student Modifications

Medical Necessity: a health care provider's determination of a student's need for reasonable modifications related to pregnancy or pregnancy related conditions.

Pregnancy, childbirth and pregnancy-related conditions: include (but are not limited to) pregnancy, childbirth, false pregnancy, miscarriage, termination of pregnancy, abortion services, lactation, conditions arising in connection with pregnancy, and recovery from any of these conditions, in accordance with federal law. Throughout this Policy, the use of the phrase "pregnancy, childbirth and pregnancy related conditions" encompasses all conditions within the non-exhaustive list above.

Pregnancy Related Conditions and Parenting Student Modification Form (PRP): A document that enables students to communicate their pregnancy or pregnancy related modifications to faculty. The Pregnancy Modification Form is individualized and will not be generated until the student requests a modification, provides sufficient documentation, and engages in the individualized modification process.

Parental status: 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 is incapable of self-care because of a physical or mental disability, is: (1) A biological parent; (2) An adoptive parent; (3) A foster parent; (4) A stepparent; (5) A legal custodian or guardian; (6) Someone who is acting in the role of a parent; or (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

B. Definitions for Employee Accommodations

Qualified Employee: An employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if:

- a. any inability to perform an essential function is for a temporary period;
- b. the essential function could be performed in the near future; and,
- c. the inability to perform the essential function can be reasonably accommodated.

Known Limitation: Physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that an employee or employee's representative has communicated to MSU.

Reasonable Accommodation: Changes to the work environment or the way things are usually done at work.

Statement of Pregnant Employee Accommodation Determination (SPEAD): A document that conveys to supervisors the pregnancy related accommodation.

Undue Hardship: Significant difficulty or expense.

IV. POLICY

The University prohibits any action that discriminates against or excludes a student, employee, prospective student or job applicant from any of its programs or activities on the basis of pregnancy, childbirth and pregnancy related conditions. The prohibition extends to any policy, practice, or procedure concerning current, potential, or past parental, family, or marital status that treats the student, employee, or applicant differently on the basis of sex.

A. Modifications for Parenting Students and Students Affected by Pregnancy, Childbirth and Other Pregnancy-Related Conditions

The University provides reasonable modifications for students because of parenting, pregnancy, childbirth or other pregnancy related conditions on an individualized and voluntary basis depending on the student's needs when necessary to prevent

discrimination and ensure equal access to the recipient's education program or activity. Reasonable modifications are coordinated and documented by the MSU Office for Civil Rights and Title IX Education and Compliance (OCR), under the supervision of the Title IX Coordinator.¹

Students may take a voluntary leave of absence from their educational program or activity to cover, at minimum, the period of time deemed medically necessary by the student's physician or other licensed healthcare provider. Upon the student's return to the recipient's education program or activity, the student must be reinstated to the same academic status and as practicable or to the extracurricular status that the student held when the leave began.

The University provides reasonable time and spaces for students to express breast milk or breastfeed/chestfeed that are not bathrooms and are shielded from view and free from intrusion from others.

B. Accommodations for Employees Affected by Pregnancy, Childbirth and Pregnancy Related Conditions

- i. **Reasonable Accommodations.** The University provides reasonable accommodations to qualified employees who have known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would cause an undue hardship. Reasonable accommodations are coordinated and documented by the Employee Accommodations Specialist within MSU Human Resources. Accommodation requests will be considered on a case-by-case basis considering the employee's individual needs and the needs of the department. Some examples are listed below; this is not intended to be a complete list of all possible accommodations:
 - sip or drink water
 - receive closer parking
 - have flexible hours
 - receive appropriately sized uniforms and safety apparel
 - receive additional break time to use the bathroom, eat, and rest;
 - take leave or time off to recover from childbirth; and
 - be excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.

¹ The Title IX Coordinator and others mentioned in this Policy may delegate their authority by naming a designee.

- ii. **Leaves of Absence-** Employees may take a voluntary leave of absence related to pregnancy, childbirth, or related conditions in accordance with the leave policy applicable to their employment status. At minimum, pregnancy or a related condition allows leave without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

- iii. **Lactation/Breastfeeding/Chestfeeding Procedures for Employees-** For up to one year after the child's birth, any MSU employee who is breastfeeding/chestfeeding will be provided reasonable times and locations to express breast milk. Employees will be provided with a place to express breast milk, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public.
 - a. Guidance-
 - Non-exempt employees- Non-exempt employees may take reasonable break time each time such employee has need to express milk. Breaks of more than 20 minutes in length will be unpaid and recorded on timesheets where appropriate. The only exception is when an employee receives permission to work during the break; in that case, they must be paid.
 - Exempt employees- Exempt employees may take reasonable break time each time such employee has need to express milk. Because the salaries of exempt employees are not deducted because of the variations in the quality or quantity of work, when exempt employees take pump breaks, their salaries may not be reduced to reflect this break time.
 - b. Location - The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing employee's use, it must be available when needed by the employee in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing breast milk or made available when needed by the nursing employee is sufficient, provided that the space is shielded from view and free from any intrusion from co-workers and the public.
 - c. Michigan State University has designated lactation rooms across campus for this purpose; the Work Life Office maintains a [map](#) of the location, contact person and hours for each room.
 - d. Please contact WorkplaceAccommodations@hr.msu.edu with questions.

C. Referral to Title IX Coordinator

When an employee learns a student is affected by pregnancy, childbirth or pregnancy related conditions, they should inform the student how to seek assistance from the Title IX Coordinator and provide the following contact information:

Title IX Coordinator
Office for Civil Rights and Title IX Education and Compliance
Suite 5, Olds Hall
408 West Circle Dr.
East Lansing, MI 48824
(517) 353-3922
oit@msu.edu

V. POLICY PROCEDURES

A. Procedures for Student Modifications

- i. Outreach to Student – Upon notification to OCR that a student is seeking a modification based on pregnancy, childbirth or pregnancy related conditions, or parenting, OCR will reach out to the student and provide them with information regarding their rights, resources, and a full explanation of the modification process and its requirements and offer to schedule a meeting.
- ii. Healthcare Provider Documentation - Students will be required to submit documentation from a healthcare provider of their choosing (e.g., general practitioner, therapist, doula, midwife, etc.) to establish medical necessity related to pregnancy, childbirth or pregnancy related conditions. Once sufficient medical documentation is received and there has been a full discussion of the student's request(s), the Title IX Coordinator determines reasonable modifications. Any records or information obtained by the University as part of the modification process that reflect diagnosis, evaluation, or treatment of a student's medical condition are kept confidential. Such records will be shared only with those University employees who have a need to know and will not be released except as required by law.
- iii. Individualized and Interactive Process - Reasonable modifications are evaluated individually and will vary depending on the circumstances. In evaluating reasonable modifications or alternatives, the preferences of the student will be considered, but the ultimate determination regarding the type of modification, if any, is made by the Title IX Coordinator. To aid its

assessment, OCR will endeavor to gather information from the faculty or other employees involved in implementing the modification and may include the faculty or other employee in the interactive process. Reasonable modifications are required unless they pose an undue hardship, fundamentally alter course integrity or its requirements, or conflict with any licensing or accreditation requirements.

- iv. Informal Discussion and Request for Reconsideration of the Student's Modifications – Modifications deemed reasonable by OCR and thus, appearing on the student's PRP must be implemented unless they would pose an undue hardship, fundamentally alter course integrity or its requirements, or conflict with any licensing or accreditation requirements. If a faculty or other employee has information not previously considered during the interactive process that the modification on the student's PRP poses an undue hardship, fundamentally alters course integrity or its requirements, or conflicts with any licensing or accreditation requirements they may submit a request for reconsideration to the Title IX Coordinator at ocr@msu.edu. The Title IX Coordinator will seek to resolve the issue and may gather details from each person involved in the situation, meet individually or as a group with those involved, and ultimately seek a resolution to the issue.
- v. Academic modifications may include, but are not limited to:
 - Periodic Absences: The University must excuse medically necessary absences for a student affected by pregnancy, childbirth or pregnancy related conditions. Absences will not be counted as a missed class in which attendance is a measure of academic performance. The student will be permitted to complete any coursework (e.g., in-class participation points/assignments, quizzes, examinations) for missed class periods. Instructor course practices such as allowing a certain number of "unexcused absences" or dropping of quiz grades should not be applied to circumstances of medically necessary absences related to a student who is affected by pregnancy, childbirth or pregnancy related conditions.
 - Extensions: Instructors are required to create alternative due dates for assignments when a student cannot meet a course deadline due to a medically necessary absence.
 - Alternative Assignments: If a medically necessary absence for a student who is affected by pregnancy, childbirth or pregnancy related conditions prevents a student from completing an in-class assignment, instructors are required to create an alternative assignment of equivalent value for the student to complete.
 - In-Class Setting: A student may request periodic breaks, alternative classroom seating (e.g., near the end of a row or exit), or larger desk space.

- Non-classroom setting: Some University courses and programs may have out-of-class activities or requirements (e.g., practicums, externships, clinicals, etc.) where modification is necessary. Instructors and program leaders are required to implement reasonable modifications to such requirements or activities and are encouraged to be flexible and creative in their approach.
 - Lactation: A student will be permitted to take breaks for lactation/pumping. For in-class lactation breaks, students will be directed to the nearest, private lactation space on campus.² For programs or activities with off-campus locations, students should be provided with a private lactation space that does not include restrooms. Students who require lactation breaks while attending class in a virtual format are permitted to turn their cameras off without penalty.
 - Virtual Learning: Requests for virtual learning will be assessed on a course-by-course basis. In certain circumstances, there may be situations where certain courses are approved for virtual learning rather than all courses during a given semester.
- vi. Pregnancy Related Conditions and Parenting Student Modification Form (PRP) - When a modification is granted, the Title IX Coordinator provides the student with a completed PRP. Students are responsible for providing the completed PRP to instructors, ideally as soon as possible. Students should also maintain proactive communication with instructors for the successful implementation of approved modifications. Instructors are responsible for maintaining confidentiality and facilitating the implementation of approved modifications as outlined in the form. Any questions regarding the PRP, modification process, or implementation of modifications should be directed to the Title IX Coordinator immediately.
- vii. Extended Absences for Students - The University is required to excuse a student's absences for a student who is affected by pregnancy, childbirth or pregnancy related conditions for as long as the student's medical provider deems medically necessary. In assessing requests for extended periods of absence, the Title IX Coordinator will consider the degree program a student is enrolled in, program timelines, graduation timelines, applicable licensing and accreditation requirements, and other relevant factors. This may include semester withdrawals, course drops, and course incompletes. A student will be informed of any impacts to financial aid, scholarships, or grants prior to the authorization of a withdrawal or course drop and be permitted to determine how they would like to proceed. Faculty will not coerce, or otherwise infringe, on a student's right to determine how they would like to proceed. Once a student returns from an extended period of absence, they will be reinstated to the same academic and extracurricular

² <https://ispm.msu.edu/locations/lactation-rooms>

status as before and will not be required to demonstrate a readiness to return before being able to re-enroll.³

viii. Parenting Students

Parenting students, including students who are non-birth parents, adoptive or foster parents, stepparents and legal guardians may also seek modifications in accordance with this policy. In addition to the common modifications listed above, some common modifications for parenting students include leaves of absence related to birth or adoption, and absences related to children's healthcare appointments.

Nothing in this policy will be interpreted to impede or supersede another policy or contractual agreement related to leaves of absence for students.

ix. Student Athletes

In accordance with Title IX, the University's Athletic Department will not exclude a student who is affected by pregnancy, childbirth or pregnancy related conditions and allow them to fully participate on an athletic team, including all team-related activities. No coach or other athletics department personnel shall suggest to a student-athlete that their continued participation in a team will be affected in any way by pregnancy, childbirth or pregnancy related conditions, parental status or marital status. The University will allow a pregnant or parenting student-athlete to fully participate on the team, including all team-related activities, unless the student-athlete's physician or other medical provider certifies that participation is not medically safe.

x. Student Employee Pregnancy related Requests for Employment Accommodations

Students seeking accommodation in the context of their student-employment because of pregnancy, childbirth and/or pregnancy related conditions will be referred to the Office of Employee Relations to discuss reasonable accommodation in the workplace. Student employees who are seeking modifications in the academic setting will work with OCR as outlined above in this section. Thus, student employees may need to work with OCR and the Office of Employee Relations concurrently if they are seeking accommodations in the academic and workplace setting.

³ Medical Leave requests that are not related to pregnancy, childbirth and pregnancy related concerns are handled by the Office of Student Support and Accountability. More information on the Medical Leave process can be found at: <https://ossa.msu.edu/medical-leave>.

Nothing in this Policy will be interpreted to apply to payment of student employees while on leave.

- xi. Graduate Assistants not covered by Graduate Employee Union

Leave for students who are graduate assistants will be addressed according to the Graduate Assistant (not covered by the Graduate Employees Union Contract) Illness, Injury, and Pregnancy Leave Policy.

Nothing in this Policy will be interpreted to apply to payment of Graduate Assistants while on leave.

B. Procedures for Employees

- i. Employees needing pregnancy related accommodation should contact an Accommodation Specialist in the Office of Employee Relations (OER) at WorkplaceAccommodations@hr.msu.edu. An Accommodation Specialist will communicate with the employee to engage in the interactive process which includes discussing the following with the employee and their unit:
- Possible accommodations;
 - The essential job functions of the position;
 - The employee's ability to perform essential job functions and the application of the definition of "qualified employee";
 - Possible reasonable accommodation, if any, that may be needed.

What constitutes reasonable accommodation will vary depending on the circumstances of each case. In evaluating alternatives for accommodation, the preferences of the individual are considered, but the ultimate decision regarding the type of accommodation, if any, is made by an Accommodation Specialist. All relevant factors will be considered, including the following:

- Whether an accommodation is needed
 - If needed, whether an accommodation would be effective, and
 - If effective, whether the accommodation is reasonable and whether providing the accommodation would impose an undue hardship.
- ii. Employees will be required to provide documentation from a health care provider establishing the medical need for the accommodation.

An Accommodation Specialist will provide a health care provider form to be filled out by the employee's medical professional. Employees should provide the completed form to an Accommodation Specialist. Any records

or information obtained by the University as part of the accommodation process that reflect diagnosis, evaluation, or treatment of an employee's medical condition are kept confidential. Such records will be shared only with those University employees who have a need to know and will not be released except as required by law.

- iii. When an accommodation is granted, an Accommodation Specialist issues their determination in a document entitled Statement of Pregnant Employee Accommodation Determination (SPEAD). Supervisors are responsible for maintaining confidentiality of SPEAD and for facilitating the granted accommodations outlined in it. The SPEAD should be held in a confidential place separate from the employee's personnel file.

Employees and supervisors should contact an Accommodation Specialist with questions about whether a specific accommodation is reasonable. The employee should continue to receive the accommodation as indicated in the SPEAD unless and until a new or revised SPEAD is issued.

To contact an Accommodation Specialist, please send an email to: WorkplaceAccommodations@hr.msu.edu.

- iv. Employees who develop a disability due to pregnancy, childbirth or related medical condition should refer to the [MSU Disability and Reasonable Accommodations Policy](#).
- v. Employee Leaves Programs and Time Off

The University offers different leave programs and time off for all employees, including employees who are affected by pregnancy, childbirth and other related conditions. These programs vary depending on the status of the employee and the reason for the leave. For more information, please visit: <https://hr.msu.edu/time-off-leave/index.html>

C. RCPD and Disability Related Accommodations

While pregnancy is not a disability, pregnancy related medical impairments that are substantially limiting may be a disability under the [Disability and Reasonable Accommodation Policy](#). Students and employees who develop a substantially limiting medical impairment due to pregnancy, childbirth or related medical conditions should refer to the [Disability and Reasonable Accommodation Policy](#). Examples of pregnancy related impairments that may be substantially limiting include placenta previa, gestational diabetes, pregnancy related sciatica, preeclampsia, and mental health care related to pregnancy and pregnancy related conditions. RCPD, the Title IX Coordinator and OER may simultaneously engage with students and employees needing reasonable accommodations for a disability related reason.

VI. VIOLATIONS

Employees who violate this policy may be subject to discipline. Failure to provide reasonable accommodation or modification for a student or employee who has demonstrated that they are affected by pregnancy, childbirth or pregnancy-related conditions (or concerns related to parenting students) could be considered discrimination on the basis of sex and would be evaluated under the University's Anti-Discrimination Policy. Additionally, students or employees who report experiencing harassment, discrimination and or retaliation because they are affected by pregnancy, childbirth or pregnancy-related conditions (or concerns related to parenting students) can report to:

Office for Civil Rights and Title IX Education and Compliance
Suite 5, Olds Hall
408 West Circle Dr.
East Lansing, MI 48824
(517) 353-3922
oie@msu.edu

Or by using the online public incident reporting form. Reports of sex harassment will be evaluated under the University's Anti-Discrimination Policy and/or the University's Relationship Violence and Sexual Misconduct and Title IX Policy.

VII. RELATED INFORMATION AND ATTACHMENTS

- a. Michigan State [University Anti-Discrimination Policy](#)
- b. Michigan State [University Relationship Violence and Sexual Misconduct & Title IX Policy](#)
- c. [Lactation Room Locations](#)
- d. [Disability and Reasonable Accommodation Policy](#)
- e. [Academic Programs Catalog: Graduate Assistant \(not covered by GEU Contract\) Illness, Injury and Pregnancy Leave Policy](#)
- f. [MSU/GEU Contract](#)
- g. [\[Resource Guide\] - Post Resource Guide on the website](#)

VIII. HISTORY

Effective [date].

Action	Description
Issued:	1. [executive position/committee, month/date/year] 2. [month/date/year]
Approved by:	1. [committee, name, date] 2. [name] 3. [date]

Action	Description
Revised:	<ol style="list-style-type: none">1. [committee/executive position title with name]2. [month/date/year]3. Revisions include section 2.2 ...