

Uintah Basin Technical College

125 – Pregnancy or Pregnancy-Related Conditions and Parental, Family, or Marital Status Policy

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Executive Team Approval:08/26/2024
Policy Committee Approval:09/06/2024
Board of Trustees Approval:09/18/2024

1. Purpose

To provide an environment free from discrimination for students and employees based on their pregnancy or pregnancy-related conditions and explain that the institution will not treat students or employees differently on the basis of sex concerning the student's or employee's current, potential, or past parental, family, or marital status. The Title IX Coordinator may assign designees to carry out the responsibilities in this policy, however, the Title IX Coordinator will retain ultimate oversight over the requirements of this policy. This policy is not intended to confer or create any contractual rights.

2. References

- 2.1. Americans with Disabilities Act (ADA) (as amended)
- 2.2. Section 504, Rehabilitation Act of 1973
- 2.3. Title VII of the Civil Rights Act of 1964
- 2.4. Title IX of the Higher Education Amendments Act of 1972
- 2.5. Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act
- 2.6. Pregnant Workers Fairness Act
- 2.7. Pregnancy Discrimination Act
- 2.8. Utah Code § 13-7a-102, Breastfeeding Location and Conduct
- 2.9. Utah Code § 34-49-202, Reasonable Breaks and Private Room Required
- 2.10. Utah Code § 34-49, Nursing Mother in the Workplace
- 2.11. USHE Board Policy R256, Student Disciplinary Processes
- 2.12. USHE Board Policy R831, Minimum Requirements for Non-Faculty Staff Employee Grievance Process
- 2.13. UBTech Policy 121 - Title IX
- 2.14. UBTech Policy 401 Family Medical Leave
- 2.15. UBTech Policy 405 Sick Leave
- 2.16. UBTech Policy 406 Vacation Benefits

3. Scope

This policy applies to students and employees in UBTech's admissions, employment, or education program or activity based on a students' or employees' current, potential, or past: (1) parental, family, or marital status; and (2) pregnancy or pregnancy-related conditions.

4. Definitions

- 4.1. **Absence:** Tardiness, nonattendance, or a break for a pregnancy or pregnancy-related conditions.
- 4.2. **UBTech's Education Program or Activity:** Includes: (1) conduct occurring in buildings owned or controlled by UBTech; or (2) conduct that is under UBTech's disciplinary authority.
- 4.3. **Fundamental Alteration:** A change that is so significant that it alters the essential nature of a UBTech education program or activity.

4.4. Leave of Absence: A period when a student or employee is not able to participate in employment or be enrolled at UBTEch due to a pregnancy or pregnancy-related conditions.

4.5 Lactating: Expressing breast milk or breastfeeding.

4.6 Medical Necessity: When a physician or other licensed healthcare provider of an employee's or student's choosing provides written documentation that a modification is necessary for the employee or student to maintain equal access to employment or a UBTEch education program or activity.

4.7 Pregnancy or Pregnancy-Related Conditions: Includes:

4.7.1 Pregnancy, childbirth, termination of pregnancy, or lactation;

4.7.2 Medical conditions related to pregnancy, childbirth, termination of pregnancy, lactation: or

4.7.3 Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

4.8 Parental Status: 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) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person.

4.9 Reasonable Modifications: Changes to UBTEch's policy, practices, or procedures because of pregnancy or pregnancy-related conditions so the employee or student can maintain equal access to employment or a UBTEch education program or activity. Modifications are considered reasonable if they do not create a fundamental alteration to the course or an undue burden on UBTEch.

4.10 Retaliation: Intimidation, threats, coercion, or discrimination against any person by UBTEch, a student, or an employee, or other person authorized by UBTEch to provide aid, benefit, or service under an education program or activity, for the purpose of interfering with any right or privilege under this policy or Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process, in the grievance process, and in any other actions taken by UBTEch in response to reports of sex discrimination or retaliation. This includes peer retaliation. This does not prevent UBTEch from requiring an employee or other person authorized by UBTEch to provide aid, benefit, or service under UBTEch's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under the Title IX and Nondiscrimination Policy.

4.11 Sex Discrimination: For purposes of this policy, means treating someone differently, i.e., disadvantaging the individual, on the basis of pregnancy or pregnancy-related conditions that: (1) adversely affects a term or condition of an individual's employment, education, or participation in a UBTEch education program or activity; or (2) is used as the basis for or a factor in a decision affecting an individual's employment, education, or other participation in a UBTEch education program or activity. This term also includes sex-based harassment.

4.12 Student: A person who has gained admission to UBTEch.

4.13 Employee: A person who is employed at UBTEch for wages or salary.

5. UBTEch's Requirements based on Parental, Family, or Marital Status and Pregnancy or Pregnancy-Related Conditions

5.1. UBTEch will not adopt or apply any policy, practice, or procedure, or take any adverse action on the basis of sex concerning the current, potential, or past parental, family or marital status of an employee, an applicant, student, or potential student which treats persons differently or which is based upon whether an employee, applicant, student, or potential student is the head of household or principal wage earner in the employee's, applicant's, student's, or potential student's family unit.

5.2. UBTEch will not discriminate against an employee, applicant, student, or potential student in its

employment, admissions, education program, or activity based on their current, potential, or past pregnancy or pregnancy-related conditions.

6. Employee Responsibilities

- 6.1. When a student, or a person who has a legal right to act on behalf of the student, informs a UBTech employee about the student's pregnancy or pregnancy-related conditions, the UBTech employee must promptly: (1) inform the student on how to notify the Title IX Coordinator of the Student's pregnancy or pregnancy-related conditions to get assistance; and (2) provide the Title IX Coordinator's contact information to the Student.
- 6.2. An employee or applicant has the obligation to inform the Title IX Coordinator about their pregnancy or pregnancy-related condition.
- 6.3. Once the Title IX Coordinator has been notified about the individual's pregnancy or pregnancy-related conditions, they will reach out to the individual and provide further information about UBTech's Pregnancy or Pregnancy-Related Policy, offer modifications as outlined in section 7.

7. Modifications for Pregnancy or Pregnancy-Related Conditions

7.1. Requesting Reasonable Modifications

- 7.1.1. **Disclosure:** Disclosure of pregnancy or pregnancy-related conditions is voluntary. UBTech will not provide reasonable modifications to an employee or student under this policy based on observation of physical characteristics, rumors, or information from a third party who does not have a legal right to act on the employee's or student's behalf.
- 7.1.2. **Requests:** An employee or student must request modifications from the Title IX Coordinator. This request may be made orally or in writing. UBTech must make reasonable modifications to the institution's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the institution's education program, activity, or equal employment opportunity.
 - 7.1.2.1. **Documentation:** The Title IX Coordinator may request documentation from an employee's or student's physician or licensed healthcare provider, however, the Title IX Coordinator will not require documentation unless it is necessary and reasonable for the institution to determine the reasonable modification. After an employee or student requests a modification, then the Title IX Coordinator will engage in the interactive process with the employee or student. The Title IX Coordinator will implement, coordinate, and document all reasonable modifications.
- 7.1.3. **Examples:** Reasonable modifications may include, but are not limited to: breaks to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or 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 examinations; allowing employee or student to sit, stand, carry or keep water nearby; counseling; changes in physical space or supplies (for example access to a larger desk or footrest); elevator access; or other appropriate changes to policies, practices, or procedures that do not cause a fundamental alteration or undue burden on UBTech.

8. Interactive Process

- 8.1.1. Once an employee or student requests modifications from the Title IX Coordinator for pregnancy or pregnancy-related conditions, the Title IX Coordinator will either implement the requested modification or engage the employee or student in the interactive process to identify a different

modification. Each reasonable modification must be based on the employee's or student's individualized needs. Denial of a modification request may be appropriate when the interactive process fails to result in identification of a reasonable modification. The employee or student also has discretion to accept or decline each reasonable modification offered by the Title IX Coordinator.

8.1.2. The interactive process requires ongoing participation from the employee or student and Title IX Coordinator and is a fact-specific, case-by-case inquiry. The process will generally include ongoing communication between the employee or student and the Title IX Coordinator about the student's needs and the exploration or proposal of alternative academic adjustments, when needed. An employee or student may access reasonable modifications on an individualized and voluntary basis due to pregnancy or pregnancy-related conditions *unless* the requested modification would fundamentally alter an education program or activity or create an undue burden on UBTech. When determining whether a request is a fundamental alteration, the Title IX Coordinator will consult with others who are trained, knowledgeable, and experienced on when to grant academic adjustments to students. The Title IX Coordinator will base any decision about modifications or the denial of a modification on a careful, thoughtful, and rational review of the employee's or student's health and wellbeing, information provided by the employee's or student's physician or licensed healthcare provider, and information about the student's academic program and its requirements.

8.1.3. If an employee or student accepts a reasonable modification, then the Title IX Coordinator will implement it. The Title IX Coordinator will engage in the interactive process before denying an employee's or student's requested modification. The Title IX Coordinator will notify the employee or student of any denial, the reason for the denial, and allow the employee or student to request a different modification. The Title IX Coordinator will document this process.

8.1.4. Modifications may be adjusted over time and adjustments may require additional documentation from the employee's or student's physician or licensed healthcare provider.

8.2. Absences

8.2.1. When possible, employees and students should schedule medical appointments for pregnancy or pregnancy-related conditions outside of work or class time. However, if an employee or student is absent due to pregnancy or pregnancy-related conditions, and requests an excused absence, then the Title IX Coordinator will determine if this is a reasonable modification. Employees or students who are pregnant or have pregnancy-related conditions may be absent for as long as a physician or licensed healthcare provider deems medically necessary. If grading is based in part on class attendance or participation, the student must be allowed to earn missed credits and be reinstated to the student's pre-leave status if this is a reasonable modification. UBTech may offer a student alternatives to making up missed work, such as retaking a semester, taking part in an online course credit recovery program, or allowing the student additional time in a program to continue at the same pace and finish at a later date, especially after longer periods of leave. If applicable, the Title IX Coordinator will engage in the interactive process in subsection 8.1.

8.3. Leave of Absence

8.3.1. A student may take a leave of absence from a UBTech education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. Before deciding to take a leave of absence, a student may, if they choose, consult with their academic advisor(s), the Title IX Coordinator, the financial aid office, and, if applicable, the Student Success Officer, to ensure that they are aware of any implications that taking a leave of absence may have on their academic progress, loan eligibility, and more.

8.3.2. Upon the student's return from a leave of absence, the student must be reinstated to the academic and, as practicable, to the extracurricular status that the student held when the leave began.

8.3.3. An employee may take an approved family medical leave of absence in accordance with UBTech Policy 401 if modification cannot be reasonably accommodated for a pregnancy or pregnancy related condition. UBTech will treat pregnancy or pregnancy-related conditions the same as any other temporary disability for all job-related purposes.

8.3.4. Upon the employee's return from a family medical leave, the employee shall 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.

8.4. Lactation

8.4.1. UBTech shall provide an employee or student with reasonable time and space described in subsection 9.1 to express breast milk or breastfeed and with reasonable modifications to ensure the employee or student has equal access to employment or a UBTech education program or activity. If applicable, the Title IX Coordinator will engage in the interactive process in subsection 8.1.

9. Lactation Space for Students

9.1. Lactation Space: UBTech shall provide lactation spaces on campus to students and employees for the purpose of expressing breast milk or breastfeeding. Lactation rooms must be clean, shielded from view, free from the intrusion of others, and reasonably available. Bathrooms do not satisfy this requirement. All designated lactation rooms should be equipped with, at a minimum, a table or other flat surface, a chair, an electrical outlet, and access to running water in the room or nearby. Each designated room will be equipped with a door lock and window coverings.

9.2. The Title IX Coordinator shall maintain a list of lactation rooms available.

9.3. Breastfeeding Location: Breastfeeding is permitted at any space where members of the public have access. This does not include spaces where classes are being taught or at secured locations.

10. Harassment and Retaliation Prohibited

10.1. UBTech's employees, and students are prohibited from engaging in hostile environment harassment based on pregnancy or pregnancy-related conditions or retaliation against a student, employee, or individual who exercises their rights under this policy.

11. Compliance and Grievance Processes

11.1. An individual may report a violation of this policy to the Title IX Coordinator, at Title9@ubtech.edu, 435-722-6932.

11.2. Any individual may file a complaint based on alleged violations of this policy. UBTech will respond promptly and equitably to any complaint of hostile environment harassment, discrimination, or retaliation.

12. UBTech Website

12.1. UBTech will provide on its website information for Title IX rights of employees and students who are pregnant or have pregnancy-related conditions, the process for requesting modifications, and a link to the grievance procedures that apply to complaints of sex discrimination related to pregnancy or pregnancy-related conditions.

13. Policy Revision

13.1. UBTech retains the right to revise this policy at any time.