

521.0 - Protections for Pregnant and Parenting Students

Purpose:

The purpose of this operational procedure, in accordance with the Title IX of the Education Amendments of 1972 and the Pregnancy Discrimination Act of 1978, is to prohibit discrimination on the basis of sex—including pregnancy and parental status—in educational programs and College-sponsored activities.

This operational procedure serves as a supplement to Bismarck State College's (BSC) Discrimination and Harassment Policy. Failure to follow this operational procedure will be considered a violation of the Harassment and Discrimination Policy if the conduct is found to constitute harassment, discrimination, or retaliation as defined by that policy.

Definitions:

Medical Necessity: Medical necessity is a determination made by a health care provider.

Pregnancy and Pregnancy-Related Conditions: Pregnancy and Pregnancy-Related Conditions include, but are not limited to, pregnancy, childbirth, false pregnancy, termination of pregnancy, conditions arising in connection with pregnancy, and recovery from any of these conditions, in accordance with federal and/or state law.

Parental Status Discrimination: Treating a person less favorably because of their actual or perceived parental status. This includes a failure to provide legally mandated leave or accommodations. Parental status discrimination is addressed in BSC's Discrimination and Harassment Policy.

Pregnant student/Birth-parent: refers to the student who is or was pregnant. Pregnancy-related protections apply to all pregnant persons regardless of gender identity or expression.

Pregnancy Discrimination: Treating a person less favorably because of their actual or perceived pregnancy or pregnancy-related condition. This includes a failure to provide legally mandated leave or accommodations. Pregnancy discrimination is addressed in BSC's Discrimination and Harassment Policy.

Pregnancy Harassment: Unwelcome and offensive conduct directed towards a pregnant or parenting individual or an individual perceived to be pregnant or parenting that creates a hostile environment. Harassment may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults

or put-downs, offensive objects or pictures, and interference with work or academic performance. Pregnancy harassment is addressed in BSC's Discrimination and Harassment Policy (See Related Information).

Parental Leave: A leave to care for a child following birth, adoption, or foster placement of a child, including bonding leave.

Student: All persons taking courses at and/or receiving instruction through the College, whether credit hours are earned, full-time or part time, pursuing undergraduate, graduate, non-degree, or professional studies. The term student includes all persons who withdraw after allegedly violating the Code, who are not enrolled for a particular term but have a continuing relationship with the College, who have been notified of their acceptance for admission, or who are living in College residence facilities designated for students regardless of their current enrollment status.

Reasonable Adjustments for Pregnancy: Changes in the academic environment or typical operations that enable students with a pregnancy-related condition to continue to pursue their studies or work. Such adjustments may not necessarily be ADA accommodations but instead are adjustments due to pregnancy status or a pregnancy-related condition.

Procedure:

1. Non-discrimination and reasonable adjustment and/or accommodation of students affected by pregnancy, childbirth, or related conditions
 - a. BSC complies with Title IX of the Education Amendments of 1972 and the Pregnancy Discrimination Act to provide reasonable adjustment and/or accommodation for students who are or have been pregnant, as well as parenting students and employees with family obligations. BSC will provide reasonable accommodations for such students for equitable access to BSC-sponsored programs and activities.
 - b. BSC and its employees will not discriminate against pregnant and/or parenting students. Additionally, a student may not be excluded from any College-sponsored activity or program on the basis of pregnancy.
2. Reasonable Adjustment
 - a. BSC will provide a pregnant student with reasonable adjustments as appropriate to provide equitable access to BSC programs and activities. Requests should be made in advance with sufficient time to implement the adjustment. Retroactive



adjustments will not be provided except when extenuating circumstances, such as a medical emergency, prevent a request from being made in a timely manner.

- b. Students are to work with BSC faculty and staff to request minor academic or physical environment changes relating to their pregnancy status. If students need assistance making the request or if the student and staff or faculty member are unable to agree upon a reasonable adjustment, students are to contact BSC's Title IX Coordinator.
- c. Students are to contact BSC's Title IX Coordinator to request reasonable adjustments that require substantive changes to their academic environment or the purchase of additional equipment. BSC need not implement an adjustment that alters the fundamental nature of the course, decreases academic standards, or decreases essential requirements. BSC will assess and implement adjustments on a case-by-case basis.

3. Reasonable Accommodation

- a. Although pregnancy itself is not a disability, federal regulations require that BSC treat pregnancy and pregnancy-related conditions as a temporary disability. Therefore, BSC will provide pregnant students with the same services it provides to individuals with temporary medical conditions.
- b. In addition, pregnant students may have impairments related to their pregnancies that qualify as disability under the Americans with Disability Act (ADA) or Section 504 of the Rehabilitation Act (504). For more information on requesting a disability-related accommodation, please contact BSC's Accessibility Office and/or BSC's Human Resources Office if the request is employment related.

4. Participation in Activities

- a. A pregnant student is not required to produce medical provider documentation in order to participate in a College-sponsored activity, including but not limited to externships, internships, and similar programs, unless College policy or state or federal law requires medical provider documentation from all participants in that activity.
- b. The College will not require a pregnant student to submit to physical environment changes or other adjustments unless legally required.



5. Modified Academic Responsibilities Procedure for Parenting Students

- a. Students with parenting responsibilities who wish to remain engaged in their coursework while adjusting their academic responsibilities because of the birth or adoption of their child or placement of a foster child may request an academic modification period of up to one semester beginning within the first six months of the child entering the home. Extensions may be granted where additional time is required due to medical necessity or extraordinary parenting responsibilities.
- b. During a modification period, the student's academic requirements may be adjusted, and deadlines postponed as appropriate.
 - i. Students seeking a period of modified academic responsibilities must consult with the BSC Title IX Coordinator to determine possible modifications to academic responsibilities and/or to reduce the student's overall course load, as appropriate. Students are entitled to full relief from academic responsibilities for at least six weeks.
 - ii. A student who seeks modifications upon the birth or placement of their child shall be allowed an extension of 12 months to prepare for and take preliminary and qualifying examinations, and an extension of 12 months toward normative time to degree while in candidacy. Longer extensions may be granted in extenuating circumstances.
 - iii. A student can request modified academic responsibilities under this section regardless of whether the student elects to take leave.
 - iv. While receiving academic modifications, the student will remain registered and retain benefits accordingly.

6. Academic Leave of Absence

- a. BSC will excuse absences from class due to pregnancy, a pregnancy-related condition, and/or physical recovery from childbirth for as long as the student's medical provider states the absence is medically necessary. The student may be required to produce supporting documentation from the medical provider only if the academic program also requires supporting medical documentation from students for other absences.



- b. Students are requested, but not required, to discuss their need for medical absences with their faculty as soon as practical to support planning and minimize disruption.
- c. When the student returns from an excused absence, the student will be given a reasonable opportunity to make up any work they may have been missed, including credit for attendance or in-class participation. The determination of what is a reasonable opportunity to make up work will be made on a case-by-case basis and may vary based upon factors such as, but not limited to:
 - i. Type of course
 - ii. Type of program
 - iii. Volume and type of work missed
 - iv. Length of absence
 - v. When in the academic calendar the absence occurred
- d. If a student requires extended medical leave and takes a leave of absence or withdraws from the college due to pregnancy or childbirth, the College will allow the student to be reinstated to the status held when the leave began without academic penalty. The time and manner of reinstatement may vary based upon factors such as, but not limited to:
 - I. Type of program
 - II. Availability of courses
 - III. Volume and type of work missed
 - IV. Length of absence
 - V. When in the academic calendar the absence occurred
- e. If a student wishes to extend their academic leave beyond what is medically necessary, they will need to reapply for admission.
- f. Absences for parenting students due to illness of their children shall be treated the same as absences due to illness of students.



- g. Faculty, staff, or other employees shall not require a student to take a leave of absence or withdraw from or limit their studies due to pregnancy, childbirth, or related conditions.
 - h. Pursuant to Title IX regulations, BSC shall treat pregnancy and related conditions as a justification for a leave of absence for as long a period of time as is deemed medically necessary by a student's physician.
 - i. A student taking a leave of absence under this operational procedure shall provide notice of the intent to take leave thirty days prior to the initiation of leave, or as soon as practicable.
 - j. Intermittent leave may be taken with the advance approval of the student's department, or when medically necessary due to the student's health condition.
 - k. Students who elect to take leave under this operational procedure may continue their eligibility for certain benefits.
 - l. Upon return from leave, the student will be reinstated to their program in the same status as when the leave began.
 - m. Continuation of the student's scholarship during the leave term will depend on the student's registration status and the policies of the funding program regarding registration status. Students will not negatively impact or forfeit their future eligibility for their scholarship by taking leave under this operational procedure.
7. Student Employee Leave
- a. BSC offers the protections of the Family and Medical Leave Act to eligible employees regardless of whether they are also a student (29 USC §2601 et seq.);
 - b. BSC treats pregnancy and related conditions as any other temporary disability for job purposes, including leave and benefits (34 C.F.R. § 106.57 (c));² and
 - c. Where BSC doesn't provide leave or where employees are ineligible for other leave policies, BSC will treat pregnancy and related conditions as a "justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status that she 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" (34C.F.R. § 106.57 (d)).

8. Retaliation and Harassment

- a. Harassment by any member of the BSC community based on sex, gender, gender identity, gender expression, pregnancy, or parental status is prohibited.
- b. Faculty, staff, and other BSC employees are prohibited from interfering with a student's taking leave, seeking reasonable accommodation, or otherwise exercising her rights under this operational procedure. Faculty, staff, and other BSC employees are prohibited from retaliating against a student for exercising the rights articulated by this operational procedure, including imposing or threatening to impose negative educational outcomes because a student requests leave or accommodation, files a complaint, or otherwise exercises their rights under the operational procedure.

9. Dissemination of the Procedure

- a. A copy of this operational procedure shall be made available on BSC's website.

10. How To Report a Concern

- a. Any member of the BSC community is to report concerns or violations of this operational procedure to BSC's Title IX Coordinator.
- b. Any member of the BSC community who receives such a report is responsible for promptly forwarding the reports to the BSC Title IX Coordinator.

11. Violations

- a. Violations of this operational procedure may result in disciplinary sanctions or actions, up to and including expulsion or termination.

References:

[Pregnancy Discrimination Act of 1978](#)

[Title IX and Sex Discrimination](#)

[North Dakota University System Title IX – Sexual Assault](#)

[BSC Sexual Harassment and Title IX Compliance Policy](#)



[BSC Sexual Harassment and Title IX Compliance Policy Procedure](#)

[BSC Discrimination & Harassment Operational Procedure \(will link when updated\)](#)

History of This Procedure:

First policy draft April 9, 1990.

Revisions - October 22, 1991; September 1, 1992; June 6, 1998; approved by the Faculty Senate on October 4, 2012, reviewed by the Operations Council on October 24, 2012 and approved by the Executive Council on November 13, 2012. Reviewed by the Operations Council on April 10, 2013 and approved by the Executive Council on April 29, 2013; October 21, 2013, September 8, 2016; requested changes on February 6, 2018 by the Grade Appeals Committee, approved by the Faculty Senate on April 5, 2018, reviewed by the Operations Council on May 9, 2018 and approved by the Executive Council on May 9, 2018; reviewed by Campus Council on June 9, 2021 and approved by the Executive Council on July 1, 2021, changed from a policy to an operational procedure as reviewed by the Campus Council on April 26th, 2023, and reviewed by the Executive Council on May 17th, 2023, approved by the President on June 8th, 2023.