PROCEDURE – PREGNANT AND PARENTING STUDENTS

The district is committed to a positive and productive education free from sex-based discrimination as required by Federal and State laws for all students in its education programs and activities, including discrimination based on current, potential, past pregnancy, or related conditions, or marital or parental status. Sex-based harassment is a form of sex-based discrimination and includes harassment based on pregnancy or related conditions or marital or parental status.

The superintendent establishes this procedure to ensure the protection and equal treatment of pregnant persons, individuals with pregnancy-related conditions, and new parents. Nothing in this procedure should be construed to allow different treatment on the basis of sex concerning a student's current, potential, or past parental, family, or marital status, except as necessary to provide pregnancy or pregnancy-related medical accommodations.

A. Key Definitions/Terms

- **Caretaking** means caring for and providing for the needs of a child.
- **Familial status** refers to the configuration of one's family or one's role in a family.
- **Marital status** refers to the state of being married, single, or divorced.
- **Medically necessary** is a determination made by a health care provider of a student's choosing.
- **Parental status** refers to the status of a person who, with respect to another person who is under the age of 18 (or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- **Parental, family, and marital status discrimination** is different treatment based on one or more of those statuses. For example, treating an unmarried mother worse than a married mother, treating a married person of one sex or gender more or less favorably than a married person of another gender based on sex stereotypes, or treating a man who is married to a man worse than a woman who is married to a man.
- **Pregnancy discrimination** includes treating a pregnant student or a student with a pregnancy-related condition less favorably than similar individuals not so affected and includes a failure to provide legally mandated leave or accommodations.
- **Pregnancy and pregnancy-related conditions** include (but are not limited to)
    - pregnancy, childbirth, false pregnancy, termination of pregnancy, miscarriage, lactation (expressing breast milk);
    - medical conditions related to the above;
    - recovery from above; and
    - any other conditions in accordance with State and Federal law.
- **Pregnant student/birthparent** refers to the student who is or was pregnant.

- **Reasonable modifications** mean individualized modifications to the district's policies, practices, or procedures that are comparable to the modifications offered for any other temporary medical condition. A modification that the district can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.
- **Student's legal representative** means a parent or other person who has a legal right to act on behalf of the affected student.

B. Student Protections

The district must give all pregnant and parenting students equal access to district programs, extracurricular activities, athletic programs, and educational opportunities. The district may not require students to change educational plans (e.g., drop out of a class or program) or deny an honor or award based on pregnancy or parental status, including valedictorian status, scholarships, participation in graduation, or election for class office or homecoming court. The district cannot expel or suspend a student for being pregnant or being a parent.

C. The Title IX Coordinator's Responsibility

If a student (or a student's legal representative) informs the Title IX Coordinator of the student's pregnancy or pregnancy-related condition, the Title IX Coordinator should inform the student or legal representative of the following:

- The district's policy of nondiscrimination.
- The district's obligation to provide equal access and modifications.
- The district's confidentiality obligations under State and Federal laws, and this policy and procedure.

D. Privacy and Confidentiality

As stated in District Policy 3230 -Student Privacy and Searches, Washington State law provides that at certain ages, students attain the right to decide for themselves what records will remain confidential, even from their parents, and what activities the student will participate in. A student's pregnancy or pregnancy-related conditions may constitute confidential medical or educational information. Disclosing information about a pregnancy or pregnancy-related condition may violate privacy laws. To ensure the safety and well-being of the student, school employees should not disclose a student's pregnancy status or pregnancy-related conditions to others unless (1) legally required to do so or (2) the student has authorized such disclosure.

Except, the district may disclose some information to provide reasonable modifications. For example, the district may need to tell specific staff to implement reasonable modification for a student, but does not need to disclose why the reasonable modification is being provided.

The following are other exceptions that may apply:

(1) A person with the legal right to consent to the disclosure provides written consent and specifies to whom the disclosure may be made.
(2) As required by laws, regulations, or to comply with State or Federal grant awards or other funding agreement.
(3) When required by Federal, State or local law, including FERPA, and those laws do not conflict with Title IX.

E. Comparable treatment to other temporary medical conditions

The district must treat 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 district administers, operates, offers, or participates in with respect to students admitted to the district's education program or activity.

F. Certification to participate

The district must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the district's class, program, or extracurricular activity unless such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

G. Reasonable modifications

The district must make reasonable modifications to its policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the district's education program or activity.

- Each reasonable modification must be based on the student's individualized needs.
- In determining what modifications are required under this paragraph, the district must consult with the student.
- A modification that a district can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.
- The student has the discretion to accept or decline each reasonable modification offered by the district. If a student accepts a district's offered reasonable modification, the district must 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, or using the restroom;
- allowing a student to sit or stand or carry or keep water nearby;

- intermittent absences to attend medical appointments;
- excusing medically necessary absences;
- access to online or homebound education;
- changes in schedule or course sequence;
- extensions of time for coursework and rescheduling of tests and examinations;
- counseling;
- changes in physical space or supplies (for example, access to a bigger desk or a footrest);
- requested accommodations to protect the health and safety of the student and/or their pregnancy (such as allowing the student to maintain a safe distance from hazardous substances); or
- elevator access.

H. Voluntary Access to Separate and Comparable Portion of Program or Activity

The district must allow the student to voluntarily access any separate and comparable portion of the district's education program or activity, provided that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

The district may offer alternative schools or programs for pregnant and parenting students so long as participation in such programs is *voluntary* on the part of the student. When discussing such options with students, school personnel should present all options available in a non-coercive manner.

Alternative schools or programs for pregnant and parenting students must offer opportunities and programs comparable to those offered for non-pregnant students.

Parenting classes and programs must be open to male and female students.

I. Voluntary leaves of absence and intermittent absences

The district must allow the student to voluntarily take a leave of absence from the district's education program or activity to cover, at minimum, the time deemed medically necessary by the student's licensed healthcare provider.

To the extent that a student qualifies for leave under a leave policy maintained by a district that allows a greater period of time than the medically necessary period, the district must permit the student to take voluntary leave under that policy instead if the student so chooses.

When the student returns to the district's education program or activity, the student must be reinstated to the academic status and as practicable, to the extracurricular status that the student held when the voluntary leave began.

The district may not penalize a student for absences related to pregnancy or childbirth. Childbirth or pregnancy-related absences deemed medically necessary by a student's doctor must be excused. Health plans, medical benefits, and related services must be provided to pregnant students in the same manner as services are provided to students with temporary disabilities.

If home instruction is available for students who need to stay home due to a medical condition, then students are entitled to home instruction if they need to stay home due to pregnancy or childbirth. When a student returns to the district or a school following a pregnancy-related absence, the student must be reinstated to the status they held when the absences began.

If other students who miss school for health reasons receive make-up assignments from their teachers, pregnant students are also entitled to receive make-up assignments for classes missed due to pregnancy or childbirth.

J. Limitation on supporting documentation

The district must not require supporting documentation unless the documentation is necessary and reasonable for the district to determine the reasonable modifications to make or whether to take additional specific actions under paragraphs.

Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as

- when a student who is pregnant needs a bigger uniform;
- when the student has previously provided the district with sufficient supporting documentation;
- when the reasonable modification because of pregnancy or related conditions at issue 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 the student has lactation needs; or
- when the modification, access, leave, or space is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

K. Lactation space

The district must ensure that the student can access a lactation space, which must be a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

L. Retaliation Prohibited

"Retaliation" means intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX, this policy and procedure, or because the person reported information, made a complaint, was a witness or provided information, assisted, or participated or refused to participate in any manner in an investigation or appeal under the Title IX regulations and this process. Retaliation is prohibited from the district, a student, or an employee or other person authorized by the district to provide any aid, benefit, or service under the district's education program or activity.

When the district has information about conduct that reasonably may constitute retaliation under Title IX or this policy and procedure, the district is obligated to respond promptly and effectively, inform the Title IX Coordinator, and provide notice of the district's grievance process for addressing complaints of retaliation. Upon receiving a complaint alleging retaliation, the district must initiate its grievance procedures as described below or, as appropriate, an informal resolution process under those procedures.

M. Grievance Procedure

The district has adopted procedure 3210P to set forth the process for receiving, investigating, and resolving reports or complaints of sex-based discrimination, including harassment based on a person's actual or perceived pregnancy status, and retaliation. Such complaints are to be taken seriously and handled in the same manner as other sex-based discrimination and harassment complaints. Procedure 3210P is designed to provide for a prompt, thorough, and equitable investigation of complaints and to take appropriate steps to resolve such situations. If sex-based discrimination or retaliation is found to have occurred, the district must take immediate action to eliminate the discrimination or retaliation, prevent its reoccurrence, and address its effects.

For questions about this procedure, contact the district's Title IX Coordinator, who can be reached at: TitleIXcoordinator@sumnersd.org