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Higher Education

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Pregnant & Parenting Students: Title IX Old and New in a Post-Dobbs Environment

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Supplemental Materials

ABOUT THE AUTHORS

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Director of Consulting Services at GRS



Before joining Grand River Andrea served as Deputy General Counsel and Director of Government Relations & Compliance at Barnard College, where she oversaw all legal and compliance matters. At the State University of New York Andrea represented three colleges and provided system-wide Title IX compliance advice. She has advised federal and state legislators on best practices in campus safety and sexual harassment prevention and served on a state-wide campus working group with prevention and response partners throughout New York. At SUNY, Andrea co-coordinated a working group that created the policies that evolved into New York Education Law Article 129B, a groundbreaking state law providing fair and transparent practices to prevent and respond to sexual and interpersonal violence on campus. Andrea worked in federal higher education lobbying for Rutgers University before attending law school. In 2014, Andrea was awarded the Commissioner's Award from the State University Police, and in 2019 she received the First Decade Award from the National Association of College and University Attorneys. She graduated from Rutgers University and The George Washington University Law School.

JODY SHIPPER

Co-Founder & Managing Director at GRS



Jody Shipper, J.D., is a nationally-recognized subject-matter expert with more than 20 years of experience in Title IX and related fields. She is known for her insight into best-in-class programming, policies, and community outreach aimed at addressing sexual misconduct on campus. She lectures extensively at universities and conferences throughout the U.S. on Title IX, VAWA, harassment, and implementation of best and emerging practices. Jody also co-founded Project IX in 2014, a nonprofit focused on Title IX-related services to schools with a mission to provide effective solutions for preventing and responding to sexual violence. Jody was selected as the systemwide director for Title IX/VAWA/Clery and sexual assault/sexual violence compliance for the University of California in 2015. Prior to that, she served for 11 years as executive director of the Office of Equity and Diversity at a medium sized private research university where she also held the post of chief Title IX administrator. In these roles, she provided direct, hands-on experience in the fields of Title IX, civil rights, employment law, and workplace and academic investigations. Her responsibilities included focusing on diversity efforts, sexual assault prevention and training, affirmative action, and protecting minors on campus.



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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

VIA EMAIL ONLY TO jhawkins@troy.edu

January 26, 2023

Jack Hawkins, Jr., Ph.D.
Chancellor
Troy University
216 Adams Administration Building
Troy, AL 36082

Re: OCR Complaint # 04-21-2060

Dear Chancellor Hawkins:

This letter is to advise you of the outcome of the complaint filed by Complainant [redacted content] on December 2, 2020, with the U.S. Department of Education, Office for Civil Rights (OCR) against Troy University. The Complainant alleged discrimination on the basis of pregnancy.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. As a recipient of Federal financial assistance from the Department of Education, the University is subject to Title IX and to OCR's jurisdiction.

OCR opened an investigation into whether the University discriminated against the Complainant on the basis of pregnancy in violation of Title IX and its implementing regulation at 34 C.F.R. § 106.40(b).

During its investigation, OCR reviewed information provided by the Complainant and the University, including email correspondence between the Complainant and University personnel, the University's Title IX policies, and the Complainant's grades in her courses. OCR interviewed the Complainant's [redacted content] professor as well as the University's Dean of Student Services, who serves as the Title IX Coordinator.

Prior to OCR completing its investigation, the University expressed an interest in resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Section 302 states that allegations under investigation may be resolved at any time when, prior to the completion of the investigation, the recipient expresses an interest in resolving the allegation and OCR determines that it is appropriate to resolve it because OCR's

investigation has identified concerns that can be addressed through a resolution agreement. Following are the relevant legal standards and OCR's summary of the investigation.

Legal Standards

The Title IX regulation, at 34 C.F.R. § 106.31(a), states as follows: Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.

The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. To ensure a pregnant student's access to its educational program, when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student's temporary pregnancy status. Title IX requires a school to provide the same special services to a pregnant student that it provides to students with temporary medical conditions. 34 C.F.R. § 106.40(b)(4).

Further, under 34 C.F.R. § 106.40(b)(5), in the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which the student held when the leave began.

Facts

The University's 2020-2021 Title IX policy is located in its 2020-2021 Student Handbook. The policy identifies and provides contact information for the Title IX Coordinator and Title IX points of contact for the University's campuses, as well as the members of the University's Title IX Committee. The Title IX policy outlines the responsibilities of the Title IX Coordinator. These responsibilities include that "[t]he Title IX coordinator shall work with the University on its obligation not to discriminate against students based on their parental, family, or marital status, or exclude pregnant or parenting students from participating in any educational program, including extracurricular activities." This is the sole mention in the 2020-2021 Student Handbook of the University's obligation toward pregnant students.

In 2020, the Complainant was a student at the University. On [redacted content] 2020, prior to the start of the Fall 2020 semester, the Complainant emailed the University's Adaptive Needs office, part of the University's Office of Student Development in the John W. Schmidt Center for Student Success, regarding her pregnancy. That office forwarded her email to the Dean of Student Services, who was also the Title IX Coordinator for the

University. On [redacted content] 2020, the Title IX Coordinator responded to the Complainant and asked what accommodations she needed.¹

Classes for the Fall 2020 semester began on August 10, 2020. The Complainant was enrolled in [redacted content]. In advance of the Complainant's first [redacted content] class on August 13, 2020, the Complainant emailed the professor, stating that she was not feeling well and would not be in class that day. In that email, the Complainant did not mention she was pregnant.

In an [redacted content]2020, email, the Complainant requested a table for her [redacted content] class from the Title IX Coordinator because, due to her pregnancy, she could not fit into the smaller desks in the classroom. The Title IX Coordinator responded that he would speak with the Department Chair about this request. Also, on [redacted content] 2020, the [redacted content] professor emailed the Complainant to ask if she would be able to attend class and gave her the option to sign into Teams instead. On [redacted content], 2020, the Complainant emailed her [redacted content] professor, stating that she was experiencing [redacted content] and was pregnant, so she would not be able to be in class. The [redacted content] professor replied that day and told the Complainant that she could attend via Teams.

On [redacted content] 2020, the Complainant emailed the Title IX Coordinator that she had been unable to attend class due to [redacted content] and now had an F in her [redacted content] class due to that professor's policy of giving a grade for attendance. She also noted that the table had not yet been installed in her [redacted content] classroom. That same day, the Title IX Coordinator replied that he would follow up on the table that day and that he would reach out to the Complainant's professors about her absences and allowing her to make up missed work.

On [redacted content] 2020, the [redacted content] professor emailed the Complaint to notify her there had been an update to the University's attendance policy. The professor stated that the Complainant's absences would need to be excused by the Title IX Coordinator if she was unable to attend class in person, or that she might be able to drop the class and enroll in an online class. On [redacted content], 2020, the Complainant replied that she would be coming to class that day, and that she had consulted with her physician, who had advised that this would be okay. She also replied that she had emailed the Title IX Coordinator about her absences and that he was supposed to have sent an email to her professors.

On [redacted content] 2020, the Complainant emailed her [redacted content] professor that she had been hospitalized due to pregnancy complications. She also reported that she had been working on her discussion questions and asked if she could make up the first test. The

¹ The Complainant and the Title IX Coordinator differ about when the Complainant first responded to the Title IX Coordinator's [redacted content] 2020, inquiry. The Title IX Coordinator alleges that the Complainant responded with several requests on [redacted content] 2020. The Complainant recalls making a request to the Title IX Coordinator on [redacted content] 2020, and the email correspondence provided to OCR supports the Complainant's recollection.

[redacted content] professor responded that same day, stating that she was able to re-open questions and tests for the Complainant. In a later email that same day, the [redacted content] professor stated that she had discussed the Complainant's situation with her Department Chair and that he had given permission for the Complainant to make up the work and to attend via Teams temporarily. The professor also added that she was worried that other students noticed the Complainant's absences and that questions of fairness may arise. She again asked the Complainant to reach out to the Title IX Coordinator so that he could excuse her absences.

On [redacted content] 2020, the Complainant emailed the Title IX Coordinator that she had been admitted to the hospital related to her pregnancy. She stated that she had already emailed most of her professors but asked the Title IX Coordinator to also follow up with them. She also noted that one of her professors had told her that other students had noticed her absences and that she was still being docked for absences and late assignments related to her pregnancy. She also asked for an extension on assignments and tests that she would be missing.

On [redacted content] 2020, the Title IX Coordinator replied to the Complainant, telling her that he would email her professors that morning and that she should take care of herself and her child. Three days later, the Title IX Coordinator emailed the Complainant's professors and told them that the Complainant would be out of class for non-COVID-related medical issues and that she should have deadlines extended and be allowed to make up work. On [redacted content] 2020, the [redacted content] professor sent the Complainant an email expressing concern that the Complainant was not attending classes. She warned the Complainant she would not allow her to submit all of her work after Thanksgiving but would give her a one-week extension on each assignment.

On [redacted content] 2020, the [redacted content] professor emailed stating that she could see that Test 1 did not deploy for the Complainant and that the Complainant was not able to upload her discussion work. The [redacted content] professor indicated that she would reopen both items until October 11 for the Complainant to complete. On [redacted content] 2020, the Complainant emailed the [redacted content] professor to let her know that she went into early labor and had been admitted to the hospital to stop the labor. She asked if she could turn in her discussion questions the following Friday. The [redacted content] professor replied on [redacted content] asking which questions the Complainant needed to have opened. The Complainant emailed the [redacted content] professor on [redacted content], 2020, stating that the baby had been born on [redacted content]; noting that she had tried to access Test 1 on October 13, but that it would not open for her; and asking to have access to some discussion questions.

On [redacted content] 2020, the Complainant's [redacted content] professor emailed the Title IX Coordinator to ask for guidance on how to handle the Complainant's grades. She also let him know that the Complainant had not returned to class, taken any exams, or made up any projects, but had turned in some assignments. On [redacted content] 2020, the Title IX Coordinator responded to the [redacted content] professor that he would follow up with the Complainant that day and get back to the [redacted content] professor. On November

24, 2020 - the Tuesday before Thanksgiving 2020, when the University was closed for students - the Title IX Coordinator attempted to call the Complainant but got no answer. He did not attempt to follow up with her again at any point during that semester. Nothing in the records provided to OCR indicates that the Title IX Coordinator further responded to the [redacted content] professor's request for guidance, or that he had any additional involvement with the Complainant that semester.

On [redacted content], 2020, the Complainant emailed the [redacted content] professor to request that she be allowed to turn in all of her discussion posts that evening. The [redacted content] professor replied that she would not accept the assignments so late and that she had given the Complainant an extra week on each assignment. She also noted that the Complainant almost never attended class in person or on Teams, and that she had taken none of the tests. She informed the Complainant that even if she turned in all of the discussion questions, she could not pass the class at this point. Finally, she told the Complainant that it just was not her semester to take [redacted content]. The Complainant received an F in [redacted content] for the semester.

The Complainant told OCR that she never received a table for her [redacted content] class. By contrast, the Title IX Coordinator told OCR that he received confirmation from the [redacted content] Department Chair that the table was put in place on or about August 29, 2020, and the University provided a photo of an installed table in an email dated [redacted content], 2021.

The Complainant received a D in the [redacted content] class for Fall 2020. In what appears to be an email statement that the University provided to OCR, the [redacted content] professor stated that during Fall 2020, the Complainant only attended a handful of classes in person and the professor had met with the Complainant in person prior to the last class she had attended to discuss her pregnancy and complications. The [redacted content] professor recalled that she told the Complainant that she would work with her, but the Complainant needed to stay in communication with her so that they could make arrangements for the Complainant's work. The [redacted content] professor stated that the Complainant attended class once thereafter and she did not hear from the Complainant again.

During his interview with OCR, the Title IX Coordinator said he was unaware of any written University policy that prohibited discrimination against pregnant students or that outlined the process for addressing requests from pregnant students. He also stated that the Complainant was the first pregnant student with whom he had worked. The Title IX Coordinator did not remember giving any guidance to the Complainant's professors regarding how to work with her to make up her work in light of the Complainant's pregnancy, nor did he speak with them about the possibility of letting the Complainant have an incomplete or a late withdrawal from classes. He told OCR that the Complainant did not request these things, but these are the types of accommodations that he has provided to students at the University with temporary disabilities when they have asked. In addition, when asked, the Complainant's [redacted content] professor stated that she was unaware

of any University policy pertaining to accommodating pregnant students and that she had never received any training on this issue through the University.

During the course of this investigation, the University updated its Title IX web page to include a section on pregnancy and parenting.² The new webpage states that pregnant or parenting students have certain rights, including the right to have excused absences when medically necessary, the ability to make up work missed, and the right to be protected from pregnancy harassment. The webpage also outlines a process by which a pregnant student may ask for reasonable adjustments or medically necessary accommodations or file a complaint if they have been discriminated against or harassed. The webpage also provides the contact information for the University's Title IX Coordinator, as well as for OCR.

Analysis

OCR has a concern that the University did not make reasonable and responsive adjustments in response to the Complainant's pregnancy-related requests. At the time of the incidents at issue here, the University provided pregnant students no information, either in its 2020-2021 Student Handbook or on its website about how students could seek adjustments related to pregnancy, and one professor interviewed by OCR had not received training regarding Title IX's application to pregnant students. The Complainant made various requests to the Title IX Coordinator as well as directly to professors, and in multiple instances, the request was not communicated to other staff or addressed.

Moreover, the Title IX Coordinator did not consistently intervene when the Complainant contacted him about issues with certain classes and, when he did so, he was not always prompt. It appears that the Title IX Coordinator's first and only documented communication with all of the Complainant's professors was a [redacted content] 2020, email that he sent after the Complainant advised she had been hospitalized due to pregnancy-related complications. The Title IX Coordinator sent his email a month after the Complainant first contacted him about her inability to attend certain classes due to pregnancy complications and her low, attendance-related [redacted content] grade. Further, the Complainant's [redacted content] professor sought the Title IX Coordinator's advice on how to handle the Complainant's absences and lack of class participation but received no answer.

The evidence to date also suggests that the University did not engage in an interactive process with the Complainant or otherwise attempt to determine what adjustments would be appropriate for each of her courses based on the information she provided about her pregnancy. Although the Complainant appears to have received some pregnancy adjustments from some professors, OCR is concerned that these efforts were ad hoc and uncoordinated and dependent on each professor's individual interpretation of the Title IX Coordinator's [redacted content] 2020, email.

² The webpage is located at: <https://www.troy.edu/about-us/leadership/student-services-administration/title-ix-save-act.html> and was last accessed by OCR on January 25, 2023.

Although the University has updated its Title IX webpage to include policies and information for pregnant students, it is unclear whether the University has provided faculty and staff training concerning its obligations under the Title IX regulations regarding pregnant students who request adjustments.

As noted above, the University expressed an interest in resolving the complaint with a resolution agreement pursuant to Section 302 of OCR's *Case Processing Manual*. Based on the investigation to date, OCR has concerns that warrant entering into a resolution agreement. The attached Resolution Agreement (Agreement), when fully implemented, will resolve the issues identified above. The Agreement requires the University to take various steps with respect to the Complainant and to provide pertinent training to staff members. OCR will monitor the University's implementation of the Agreement until the University is in compliance with the terms of the Agreement and the statute and regulations at issue in this case.

This concludes OCR's investigation of the complaint and should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR would like to make you aware that the complainant may have a right to file a private suit in Federal court whether or not OCR finds a violation.

If you have any questions or concerns about the content of this letter, please contact OCR attorney Robyn Painter at 404-974-9345 or at robyn.painter@ed.gov.

Sincerely,

/s/

OCR Complaint # 04-21-2060
cc: Tom Davis, tomdavis@troy.edu

Scott R. Sausser
Supervisory General Attorney

Ashley English, englisha@troy.edu

**Resolution Agreement
Troy University
Complaint Number 04-21-2060**

Troy University enters into this Resolution Agreement (Agreement) to resolve issues raised in Complaint Number 04-21-2060. The University assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

Prior to the completion of OCR’s investigation, the University agreed to resolve the issues of this investigation pursuant to Section 302 of OCR’s *Case Processing Manual*. This Agreement does not constitute an admission of wrongdoing or liability by the University pursuant to Title IX. Accordingly, to ensure compliance with Title IX and its implementing regulation, the University voluntarily agrees to the following actions.

I. REVIEW AND REVISION OF PRACTICES, POLICIES AND PROCEDURES

- A. The University will review its practices, policies and procedures for providing adjustments for pregnant students, to ensure that the University adequately addresses Title IX’s prohibition on discrimination against pregnant students. During its review, the University will identify the relevant practices, policies and procedures currently in effect and revise, or as needed, develop, written policies and procedures.

REPORTING REQUIREMENT:

By March 1, 2023, the University will submit to OCR documentation demonstrating that the University has: (i) identified all relevant practices, policies and procedures and (ii) as needed, revised or developed policies and procedures pursuant to Item IA above. The University will include a draft of the proposed revisions¹ for OCR’s review and approval. The University will promptly and fully address OCR’s feedback, if any, until the University receives OCR’s final approval of the revised policies and procedures.

- B. Within thirty (30) calendar days of receiving OCR’s final approval of the policies and procedures, the University will adopt and implement the policies and procedures, and disseminate them to all students, faculty, and staff.

REPORTING REQUIREMENT:

By April 15, 2023, the University will submit to OCR documentation demonstrating the University has: (i) formally adopted the revised policies and procedures, and (ii) disseminated the adopted policies and procedures to all students, faculty, and staff. The

¹ The University will submit the revised policies and procedures by submitting: (i) a red-lined version of the proposed changes, and (ii) a clean copy of the proposed final policies and procedures.

University will promptly and fully address OCR’s concerns, if any, regarding adoption and dissemination of the revised policies and procedures.

II. WEBSITE UPDATE AND DISSEMINATION OF INFORMATION

The University will publish prominently on its website and elsewhere, as appropriate, information regarding: (i) the Title IX rights of—and the University’s obligations to—pregnant students; (ii) the procedure for pregnant students to request adjustments to the regular program; (iii) the name and contact information for the individual(s) tasked with coordinating the University’s response to requests for adjustments from pregnant students; (iv) if different from (iii) above, the name and contact information for the University’s Title IX Coordinator; and (v) the grievance procedure for students to file complaints of sex discrimination, including pregnancy-related complaints, and a web link to the grievance procedures.

REPORTING REQUIREMENT:

By April 15, 2023, the University will provide OCR with web links and, if applicable, hard copies of the publications in Item II above, as well as the method(s) and date(s) of publication for any hard copies.

III. TRAINING REGARDING RIGHTS OF AND OBLIGATIONS TO PREGNANT STUDENTS

The University will provide training regarding the Title IX rights of pregnant students and the University’s obligations regarding pregnant students to all faculty, as well as to all staff involved in providing Title IX resources or addressing requests for adjustments from pregnant students. This training must include: (i) how and to whom students may submit requests for adjustments to the regular program; (ii) the contact information for the University’s Title IX Coordinator and any individual(s) tasked with coordinating the University’s response to requests for adjustments from pregnant students; (iii) the process for identifying and providing adjustments; (iv) examples of pregnancy-related adjustments; and (v) the grievance procedure for students to file complaints of sex discrimination, including pregnancy-related complaints.

REPORTING REQUIREMENTS:

By April 15, 2023, the University will provide OCR with the name and qualifications of the proposed trainer(s) who will provide the training described in Item III above and a copy of the proposed training materials for OCR’s review and approval.

The University will promptly and fully address OCR’s feedback, if any, until the University receives OCR’s final approval of the trainer and training materials.

Within ninety (90) calendar days of receiving OCR’s final approval of the trainer, training materials and training survey in Item IV below, the University will ensure that the training described above takes place and provide OCR: (i) the date, time, and location of the

training; (ii) confirmation that the approved training materials were used; (iii) confirmation that the approved trainer(s) was used; (iv) the names and titles or positions of faculty and staff who attended the training; (v) the names and titles or positions of faculty and staff who were required but did not attend the training; and (vi) a plan to train each person identified in (v) above.

Within thirty (30) days of completing its training obligation under this Agreement, the University will provide items (i) to (iv) above for each person identified in item (v) above who received training on an alternate date.

IV. SURVEY FOR TRAINED FACULTY AND STAFF

The University will assess the effectiveness of the training referenced in Item III above, by conducting a survey of the faculty and staff who attend the training. The survey will specifically inquire about their knowledge regarding: (a) how and to whom students may submit requests for adjustments to the regular program; (b) the contact information for the University's Title IX Coordinator and any individual(s) tasked with coordinating the University's response to requests for adjustments from pregnant students; and (c) the grievance procedure for students to file complaints of sex discrimination, including pregnancy-related complaints.

REPORTING REQUIREMENTS:

Within thirty (30) calendar days of receiving OCR's final approval of the trainer and training materials in Item III above, the University will provide OCR a draft survey for assessing the effectiveness of the training. The University will promptly and fully address OCR's feedback, if any, until the University receives OCR's final approval of the survey.

Within thirty (30) days of receiving training attendees' survey results, the University will provide documentation to OCR of the results of the survey and a description of any actions the University took or plans to take in response to the survey results, including conducting additional training sessions to ensure effective training is provided. The University will promptly and fully address OCR's feedback regarding the survey results, if any.

V. TRACKING SYSTEM FOR PREGNANCY-RELATED ADJUSTMENTS FOR STUDENTS

By March 15, 2023, the University will develop a system for tracking (i) requests for pregnancy-related adjustments for students made to the Title IX Coordinator, faculty or other staff; (ii) the responses to the requests, including verification of adjustments provided by faculty, staff or others; and (iii) the reasons for the denial of any requests.

REPORTING REQUIREMENTS:

By April 15, 2023, the University will provide OCR with details regarding the tracking system, including how requests for adjustments, responses and denials are documented and

tracked. The University will promptly and fully address OCR's feedback, if any, regarding the tracking system.

VI. LIST OF REQUESTS FOR PREGNANCY-RELATED ADJUSTMENTS AND THE UNIVERSITY'S RESPONSES

By December 1, 2023, the University will compile a list of all pregnancy-related requests for adjustments for students and all responses to the requests for the period March 15 – November 15, 2023.

REPORTING REQUIREMENTS:

By December 15, 2023, the University will provide OCR the above list of pregnancy-related requests for adjustments for students, and all responses to the requests for the period March 15 – November 15, 2023.

If OCR determines it needs underlying documentation, the University will provide such documentation within **ten business days** of OCR's request.

If OCR determines the University is not in compliance with Title IX with regard to a specific request, **within 15 days of the date of OCR's notice**, the University will take action to respond to the request consistent with the requirements of Title IX.

VII. INDIVIDUAL REMEDY

The University will remove the Complainant's Fall 2020 grades in [redacted content] (collectively, the Courses) from the Complainant's transcript. In addition, consistent with all applicable laws, the University will work to limit the negative impact on the Complainant's future applications for financial aid that any disbursement of financial aid for the Courses may have had and reimburse the Complainant for Fall 2020 documented expenses related to any of the Courses the Complainant has since retaken.

REPORTING REQUIREMENTS:

By April 15, 2023, the University will provide OCR an updated copy of the Complainant's transcript or other documentation of (i) changes made in response to Item VII above; (ii) the Complainant having retaken any of the Courses; (iii) reimbursement for Fall 2020 documented expenses related to any of the Courses the Complainant has since retaken; and (iv) any other steps the University took to limit the impact of the Courses on the Complainant's future applications for financial aid.

By signing the Agreement, the University agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the Agreement, if necessary, OCR may visit the University, interview staff and students, and

request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of the Agreement.

The University understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the University is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in the case.

The University understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms of the Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the University written notice of the alleged breach and 60 calendar days to cure the alleged breach.

This agreement will become effective upon the signature(s) of the representative for the University.

For Troy University:

/s/

Dr. Jack Hawkins, Jr.
Chancellor

January 20, 2023
Date

OCR Resolves Pregnancy Discrimination Investigation with Troy University in Alabama

Feb 15, 2023

On January 26, 2023, OCR issued a letter and agreement to Troy University in Alabama regarding a Title IX complaint about pregnancy discrimination.

The complainant, a pregnant student, sought accommodations and assistance from the Title IX Coordinator and faculty. The complainant requested assistance for a number of adjustments, including extensions on assignments and excused absences.

OCR did not issue formal findings of violations because the parties entered into a resolution agreement to resolve the complaint prior to the completion of the investigation. The agreement requires updates to policies, websites, and training; a survey to assess the effectiveness of the training; and a tracking system for pregnancy-related adjustment requests. This agreement is the second we have seen recently with this survey requirement, where the survey is meant to assess the effectiveness of an OCR-required training.

So what are the takeaways from this investigation? Examine your institution's policies and practices about pregnant students, whether they are written or not, and ask:

- Do we make reasonable responsive adjustments in response to pregnant students' requests?
- Does the student handbook and/or website include information about available support during pregnancy, including academic and other adjustments?
- Is a particular person or title assigned to promptly and appropriately respond to pregnant students' requests, either the Title IX Coordinator or their designee?
- How do we engage in an interactive process with pregnant students to attempt to determine what adjustments are needed and appropriate?
- Is the support for pregnant students centrally coordinated for efficiency, equity, and better record keeping, rather than relying on individual faculty for ad hoc accommodations? Compare this to the accommodations process for students with disabilities who seek accommodations.

- Do faculty and staff receive training or information about the institution's obligations under Title IX regarding pregnant students who request adjustments?

Grand River Solutions Title IX and Equity experts can assist as you consider your responses to these questions and find areas in need of development.

OCR's letter is [here](#) and the resolution agreement is [here](#).

Read about a previous OCR pregnancy discrimination resolution from June 2022 [here](#).

Read about what the current Title IX regulations and the proposed rules say about pregnancy [here](#).



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310
DENVER, CO 80204-3582

REGION VIII

ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

June 14, 2022

Dr. Deneece G. Huftalin, President
Salt Lake Community College
4600 S Redwood Rd
Salt Lake City, UT 84123

By email only to [redacted content]

Re: OCR Complaint No. 08-22-2021
Salt Lake Community College

Dear President Huftalin:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR) with respect to the above-referenced complaint filed against Salt Lake Community College (College). The complaint alleged that the College discriminated against the Complainant on the basis of her sex.

Specifically, the Complainant alleged that:

- 1) a College Professor encouraged her to drop a course because she was pregnant, the Professor told her that she needed to accept responsibility for her pregnancy, and the Title IX Coordinator did not promptly and equitably respond to her [redacted content] complaint regarding the Professor's conduct;
- 2) the College did not engage in an interactive process with the Complainant to provide her with academic adjustments and/or related services during her pregnancy in the same manner that the College provides to students with temporary medical conditions; and
- 3) the College did not excuse the Complainant's pregnancy-related absences and did not allow her to submit work after pregnancy-related absences, both of which [redacted content] with the Professor.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination based on sex in any education program or activity operated by a recipient of Federal financial assistance from the Department. OCR also enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. §794, and its implementing regulation at 34 C.F.R. Part 104,

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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which prohibit discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. Because the College receives Federal financial assistance from the Department, OCR has jurisdiction over the College pursuant to Section 504 and Title IX.

During the course of the investigation, OCR reviewed documents and other information provided by the Complainant and by the College. OCR also interviewed the Complainant and College staff. As discussed below, OCR found that the College failed to respond promptly and equitably to the Complainant's complaint of pregnancy discrimination, in violation of Title IX. OCR also found that the College failed to engage in an interactive process with the Complainant to determine the appropriate special services and/or academic adjustments to provide in light of her pregnancy, in violation of Title IX. OCR further found that the College failed to engage in an interactive process with the Complainant and failed to consider whether the Complainant's pregnancy caused a temporary disability requiring academic adjustments, in violation of Section 504. Finally, OCR found that the College failed to excuse the Complainant's absences related to pregnancy, provide her the opportunity to make up work missed due to absences related to pregnancy, or provide alternatives to making up missed work at a later date, in violation of Title IX.

Legal Standards

Title IX

The Title IX regulation, at 34 C.F.R. § 106.31(a), states as follows: "Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance."

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires each recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulation implementing Title IX, including investigation of any complaint communicated to the recipient alleging any actions which would be prohibited by Title IX. The regulation, at 34 C.F.R. § 106.8(c), requires that a recipient adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX.

Discrimination based on pregnancy

The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

Special Services to Pregnant Students

To ensure a pregnant student's access to its educational program, when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student's temporary pregnancy status. Title IX requires a recipient to provide the same special services to a pregnant student that it provides to students with temporary medical conditions. 34 C.F.R. §§ 106.40(b)(4) and (5).

Absences due to Pregnancy

Pursuant to 34 C.F.R. § 106.40(b)(5), a recipient must excuse a student's absences due to pregnancy or related conditions, including recovery from childbirth, for as long as the student's doctor deems the absences to be medically necessary. When the student returns to school, she must be reinstated to the status she held when the leave began, which should include giving her the opportunity to make up any work missed. A recipient may offer the 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. The student should be allowed to choose how to make up the work.

Section 504

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability. Although a normal, healthy pregnancy is generally not considered a disability, a pregnant student may become temporarily disabled and thus entitled to the same rights and protections of other students with a temporary disability.

If students with disabilities in postsecondary education believe that they need a disability-related modification, they have the obligation to identify themselves as having a disability and to request the modification. The Section 504 regulation, at 34 C.F.R. § 104.44(a), requires a post-secondary institution to modify its academic requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability.

Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between a post-secondary institution and the student. Students are responsible for knowing these procedures and following them. Generally, upon receiving documentation of a disability and a request for academic adjustments, a postsecondary institution's evaluation of a student's request requires a fact-specific, case-by-case inquiry. This evaluation process should be interactive, with information exchanged between the student and the postsecondary institution to arrive at a conclusion about the academic adjustment requested.

In providing an academic adjustment, a postsecondary institution does not have to eliminate or lower essential requirements of its programs or activities or make modifications that would result in a fundamental alteration of its programs or activities or impose an undue burden on the institution. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by a student or to any directly related licensing requirement are not regarded as discriminatory. In reviewing an institution's determination that a specific standard or requirement is an essential program requirement that cannot be modified, OCR considers whether that requirement is educationally justifiable. The requirement should be essential to the educational purpose or objective of a program or class. OCR considers among other factors, whether: (1) the decisions regarding essential program requirements were made by a group of people who are trained, knowledgeable, and experienced in the area through a careful, thoughtful, and rational review of the academic program and its requirements; and (2) whether the decision-makers considered a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability. OCR affords considerable deference to academic decisions made by post-secondary institutions, including what is or is not an essential program requirement.

Policies

Although the College has a Nondiscrimination Policy and a Title IX website,¹ neither of these resources explains the College's policies and procedures for addressing pregnant students' requests for leaves of absence related to pregnancy or need for academic adjustments or related aids and services. The College's Code of Student Rights and Responsibilities (Code) also does not provide information about the rights of pregnant students.² Finally, the College's ADA Access and Reasonable Accommodations Policy and Disability Resource Center's website³ do not refer to pregnant students and do not describe the process the College uses to approve or deny academic adjustments, including any appeal rights for students or the process the College uses to determine when a requested academic adjustment constitutes a fundamental alteration.

Factual Findings

The Complainant is a student at the College taking classes in the [redacted content] (Program). The Complainant told OCR that she enrolled in four courses for the [redacted content] semester. On or about [redacted content], the College informed students that courses would be completed in person and not online for the [redacted content] semester. The Complainant stated that she dropped one course shortly after the semester began but remained enrolled in three courses. Of the three remaining courses, [redacted content] were with the Professor, [redacted content]. [Redacted content] were scheduled in the mornings on [redacted content]

¹ See <https://www.slcc.edu/title-ix/index.aspx> (last visited on June 14, 2022).

² See https://www.slcc.edu/policies/policies/student_affairs/8.1.050.aspx (last visited on June 14, 2022).

³ See <http://www.slcc.edu/drc/> (last visited on June 14, 2022).

The Complainant informed OCR that the Program has an attendance policy that states, in relevant part, that a student with [redacted content] absences would fail any Program course and that three late arrivals constitute one absence. The Course syllabi state that any student who misses more than 20% of a class is not eligible to pass the course, and states that students may not miss more than [redacted content] classes. The syllabi also states that three tardies are considered equal to one absence.

The Complainant stated that [redacted content] after the semester began, around the end of [redacted content], she learned that she was pregnant. The Complainant told OCR that, on [redacted content], she informed the Professor of her pregnancy and that she was struggling with morning sickness and had missed or been late to some of the Professor's classes as a result. She requested academic adjustments from the Professor to allow additional absences and the ability to turn in assignments late without a grade penalty due to her nausea, which she told the Professor often lasted all day and prohibited her from eating. In a written statement to OCR, the Professor acknowledged that the Complainant shared this information with her on [redacted content]. According to the statement, the Complainant informed the Professor of her pregnancy during the [redacted content] week of the course and the [redacted content] of 29 class meetings according to the College's academic calendar.⁴

The Complainant explained to OCR that she asked the Professor if she could modify the Program's attendance policy and allow her to turn in assignments late because of her morning sickness, and that the Professor responded that she would allow a few additional absences but would apply a grade penalty to late assignments. In addition, the Complainant told OCR that the Professor advised her to drop the [redacted content] course because of her pregnancy. The Complainant told OCR that she wanted to stay in the [redacted content] course because that was the only time it was offered and it was a prerequisite for other courses, and that she explained this to the Professor. However, in a written statement to OCR, the Professor asserted that the Complainant informed the Professor that she would drop one of the courses. There is no written documentation to corroborate either the Complainant's or the Professor's characterization of the conversation on [redacted content], but the Professor expressed concern that the Complainant decided to continue with [redacted content] in an email to the Complainant on [redacted content].

This email from the Professor was in response to the Complainant's email of [redacted content],⁵ in which she asked the Professor again for extra time to work on assignments in [redacted content] because her "morning sickness ... has really been lasting all day ... and has been affecting [her] ability to focus and work on the projects as much as I normally would, even with taking medicine." The Professor responded via e-mail that she "was concerned that [the Complainant] had decided to continue with [redacted content] this semester," and that although

⁴ See <https://www.slcc.edu/satts/docs/academic-calendar.pdf> (last visited on June 14, 2022).

⁵ The class of [redacted content], held the day before this email, was the [redacted content] of 29 class meetings. <https://www.slcc.edu/satts/docs/academic-calendar.pdf>.

she had not failed someone pursuant to the Program's absence policy, she had lowered final grades if missed days were "excessive." The Professor also stated that a late submission penalty would apply to late assignments and again advised the Complainant to drop [redacted content] because the Complainant's "health is more important than a class."

Although the Professor did not refer the Complainant to the College's Title IX Coordinator or Disability Resource Center (DRC) in response to the requested accommodations on [redacted content], later that day, the Complainant contacted the College's DRC to seek formal academic adjustments, providing a note from her treating physician discussing her nausea and vomiting and requesting that the College provide her accommodations. In her application for academic adjustments, the Complainant stated that she sought "flexibility to arrive a little later to class without having it count against me when my morning sickness prevents me from getting there on time. Also extra time on assignments as my sickness can and has lasted all day and prevents me from being able to work or focus on homework to get it turned in."

On [redacted content], an [redacted content] (Advisor) emailed the [redacted content] about an upcoming appointment with the Complainant who "on her application is asking for attendance and assignment deadlines because she has been sick even with medication with [her] pregnancy." The Advisor asked to discuss the matter with the Assistant Director prior to meeting with the Complainant. The Assistant Director informed the Advisor, copying the Title IX Coordinator, that "pregnancy falls under Title 9 [sic]" and that she could refer the Student to the College's Title IX Coordinator. The Assistant Director also provided the Advisor and Title IX Coordinator with OCR's Guidance, [Supporting the Academic Success of Pregnant and Parenting Students](#).

The Advisor spoke with the Complainant via phone on [redacted content]. The Advisor's notes reflect that she discussed a modification to the courses' attendance and assignment deadlines with the Complainant, and that the Complainant would need to discuss the requests with the Title IX Coordinator.

On [redacted content], the Complainant twice emailed the Title IX Coordinator. In the first email, the Complainant described the effect of her nausea, stating that she was occasionally nauseous all day, was taking medication, and [redacted content]. The Complainant also raised her concern about the Program's attendance and tardiness policy, and explained that the Professor would not allow late submissions because of her pregnancy without deducting 10% for each week an assignment was late. The Complainant asked for "more time to work on/turn in assignments and to be able to show up late for [her] [redacted content] class without being penalized for it due to the extremity of her situation."

In the second email to the Title IX Coordinator, the Complainant expressed concern that the Professor had encouraged her to drop [redacted content] because of her pregnancy and that she felt discriminated against because of her pregnancy. The email explained that the Professor told her that she "needed to take some responsibility for the things that were going on," and that the Professor's treatment makes her feel like the Professor "would rather have me drop out of the class or fail rather than try to help me succeed," and that the Professor told her that "pregnancy isn't normally something that can be accommodated."

The Title IX Coordinator told OCR that he had a brief conversation with the Complainant about her requests on [redacted content], in which he told her that she could receive academic adjustments but that they were not without limit. The Title IX Coordinator informed OCR that he did not document this conversation and that he did not consult with the DRC about the Complainant's request or the DRC's academic adjustment process.

The Title IX Coordinator emailed the Professor on [redacted content], stating that "Title IX does require that accommodations are provided to students within limits," and that he would like to find a time to discuss the matter with the Professor. The Title IX Coordinator spoke via phone with the Professor during that week. The Title IX Coordinator did not retain notes from his conversation with the Professor, but in a written statement to OCR stated that the Professor told him that the Complainant requested "to have her previous absences invalidated, [be allowed] to stream any upcoming classes that she would not be able to attend, [be allowed] to submit past assignments that she had missed, and [be allowed] additional time to submit upcoming assignments."

The Professor's written statement to OCR similarly explained that the Title IX Coordinator told her that the Complainant "felt she deserved special accommodations in [the Professor's] classes because of her pregnancy." The Professor stated that she told the Title IX Coordinator that the Complainant sought excused absences and tardies and an opportunity to participate via streaming when she was unable to attend class. The Professor stated that in week [redacted content], of the semester, she consulted with an employee at the DRC who told her that "it didn't sound like accommodations were warranted."

In its written response to OCR, the College characterized the Complainant's requested academic adjustments for her pregnancy as "to not have her attendance count, to be able to submit her assignments without deadline." The College explained that the Title IX Coordinator discussed the Complainant's request for academic adjustments with the Professor, who expressed concern that, due to the Complainant's current grade and lack of attendance in the class, additional absences and continued missed work would result in a fundamental alteration of the class because "additional absences and failure to due [sic] the assignments would have upon her educational impact."

In an interview with OCR, the Title IX Coordinator said that he determined that the Complainant's requested academic adjustments constituted a fundamental alteration to the courses. The Title IX Coordinator told OCR that he consulted with the Professor and Dean of Students when he determined that the Complainant's request for academic adjustments constituted a fundamental alteration of the Program. However, the Title IX Coordinator did not document the conversation with the Professor or Dean of Students and did not identify the College policy or other information on which the Title IX Coordinator based the conclusion that the Complainant's requested academic adjustments constituted fundamental alterations, other than the single [redacted content] conversation he had with the Professor.

The Title IX Coordinator stated to OCR that he spoke via phone with the Complainant on [redacted content]. He told her that if she believed that she could complete the courses with academic adjustments that would not be considered fundamental alterations of the courses' learning objectives, they could discuss her requests further. He further stated that during the conversation with the Complainant, he did not explore or propose alternative academic adjustments that could meet the Complainant's needs and that would not constitute fundamental alterations of the courses' learning objectives. He also stated that he did not email the Complainant to formally deny the Complainant's request for academic adjustments, inform her that the College considered her requests to be a fundamental alteration of the courses' learning objectives, provide her with an explanation or statement of the College's decision, or inform her of any appeal rights that she might have.

The Complainant [redacted content] on [redacted content]. The College later refunded the Complainant's tuition for the courses.

Regarding the Complainant's assertion that the Professor discriminated against her because of her pregnancy, as described in her email to the Title IX Coordinator on [redacted content], the College states only that the Title IX Coordinator spoke with the Complainant and Professor and reviewed emails between the Professor and the Complainant. The Title IX Coordinator told OCR that he did not take or retain any notes that he took when discussing the alleged comments with the Professor or the Complainant because the Complainant had not asked him to investigate. The Title IX Coordinator stated that he therefore did not conduct a formal investigation.

Analysis and Conclusion

Allegation 1 – Failure to Respond Promptly or Equitably to Pregnancy Discrimination Complaint

On [redacted content], the Complainant twice emailed the College's Title IX Coordinator and stated that she believed the Professor had discriminated against her based on her pregnancy. In the first email, the Complainant described the physical effects of her pregnancy, noted her requests for academic adjustments, and asserted that the Professor had neither granted academic adjustments nor referred the Complainant to the DRC. In the second email, the Complainant asserted that when she sought academic adjustments because of her pregnancy, the Professor encouraged her to drop the course based on her pregnancy and told her that she "needed to take some responsibility for the things that were going on." The Complainant explained to the Title IX Coordinator that she believed the Professor "would rather help her drop out of the class or fail rather than try to help me succeed." Because Title IX prohibits recipients from discriminating against a student based on pregnancy, including taking action to exclude a student from the recipient's programs or activities based on pregnancy, *see* 34 C.F.R. 106.40(b)(1)-(3), the Professor's alleged comments, encouraging the Student to drop the course because of her pregnancy, could constitute pregnancy discrimination and therefore merited a prompt and equitable resolution under the Title IX grievance procedures that all recipients must have.

The Title IX Coordinator told OCR that he responded to the Complainant's emails by asking the Professor if she had made the alleged comments to the Complainant and that the Professor denied making the alleged comments. The Title IX coordinator also stated that he reviewed emails exchanged between the Professor and the Complainant. The Title IX Coordinator did not create an investigatory file, obtain written statements from the Professor and the Complainant, take and retain notes of his conversations with the Professor and the Complainant, or issue a notice of the investigation's outcome to the Complainant. The Title IX Coordinator told OCR that he rejected the Complainant's requests for academic adjustments because they would constitute a fundamental alteration of the Program, but there is no evidence that the Coordinator notified the Complainant of this outcome. The Title IX Coordinator also provided no response to the Complainant's allegation that the Professor was encouraging her to drop the class because of her pregnancy and that she perceived this as discriminatory.

Based on consideration of all the information gathered during the investigation, OCR concludes that the College violated Title IX as alleged in Allegation 1 in that the College failed to respond promptly and equitably to the Complainant's complaint that the Professor discriminated against her based on her pregnancy.

OCR also notes that although the College's Code of Student Rights and Responsibilities (Code) directs students to contact the College's Title IX Coordinator if they believe they have been discriminated against, the Code does not mention pregnancy. Similarly, the College's Title IX website contains no information regarding how a student may file a complaint alleging pregnancy discrimination.

Allegation 2 – Failure to Engage in Interactive Process

The Complainant informed the Professor of her pregnancy-based morning sickness, which had caused her [redacted content], and requested academic adjustments to the class attendance policy and additional time to turn in assignments based on her morning sickness by [redacted content], less than a [redacted content] of the way through the course semester. The Complainant sought academic adjustments from the College's DRC during the week on [redacted content], a little more than a week before [redacted content] of the semester.

The Title IX Coordinator did not approve the academic adjustments the Complainant requested, and he acknowledged that he did not discuss any alternative academic adjustments with the Complainant. Though the Complainant expressly requested academic adjustments based on her pregnancy-related sickness, the Title IX Coordinator did not inform the Complainant in writing that the request she had made had been denied.

Given the College's failure to explore or propose alternative academic adjustments with the Complainant, OCR concludes that the College did not engage in an interactive process with the Complainant to determine appropriate academic adjustments in light of her pregnancy and therefore violated Title IX as alleged in Allegation 2. See 34 C.F.R. §§ 106.40(b)(1), (4), (5).

To the extent that the College determined that the Complainant's requested academic adjustments would have constituted a fundamental alteration of the [redacted content] Program, OCR finds that the College did not engage in a proper deliberative process in making such a determination. Among other things, the College:

- mischaracterized the Complainant's written request for academic adjustments;
- made the decision based solely on the communication between the Title IX Coordinator and Professor, and not by a group of people who are trained, knowledgeable, and experienced in the area of when to grant academic adjustments or special services to pregnant students and students with other temporary medical conditions under 34 C.F.R. §§ 106.40(b)(4) and (5);
- did not consider alternative academic adjustments;
- did not document the bases for its decision;
- based its decision on the Complainant's current performance without academic adjustments based on her pregnancy, and speculation as to whether she could complete the courses requirements, and not a careful, thoughtful, and rational review of the academic program and its requirements; and
- did not consider whether retroactive academic adjustments would be warranted in light of the absence of information about services for pregnant students on its website and the fact that College staff did not refer the Complainant to the Title IX Coordinator on [redacted content], when she first requested academic adjustments based on her pregnancy.

In addition, OCR concludes that the College violated Section 504 when, after the Complainant reported the effects of her pregnancy to the DRC, the College did not consider whether her pregnancy had caused a temporary disability or engage in the interactive process with her to determine whether she required academic adjustments pursuant to Section 504.

Although pregnancy is not itself a disability, here the Complainant informed the College that her pregnancy was causing acute morning sickness, such that some days she could not eat or that her nausea impacted her the entire day. The Complainant also provided medical documentation of these conditions. The DRC, however, did not consider whether the Complainant suffered from a temporary disability, but rather only referred her to the Title IX Coordinator, who did not provide her with academic adjustments to accommodate her conditions caused by her pregnancy.

OCR concludes that the College violated the Section 504 regulation at 34 C.F.R. § 104.44(a), when it did not engage the Complainant in an interactive and informed process with respect to the provision of modifications to its Program. As a result of the College's failure to engage in the interactive process it also did not modify its academic requirements for the Program as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability.

Allegation 3 – Failure to Excuse Pregnancy-Related Absences

The Complainant sought academic adjustments related to attendance and tardy policies for the courses that impacted her potential grades in the courses. In addition, the Complainant provided medical documentation to the College that her pregnancy caused her to miss or be late for the courses. However, the College did not excuse the Complainant’s absences related to pregnancy, provide her the opportunity to make up work missed due to absences related to pregnancy, or provide alternatives to making up missed work (including classroom participation), such as remote attendance, extended time for assignments, or finishing the courses at a later date, as required by the Title IX regulation at 34 C.F.R. § 106.40(b)(5).

OCR concludes that the College’s failure to excuse the Complainant’s absence and tardies caused by her pregnancy violated Title IX as alleged in Allegation 3. Because the College did not excuse her pregnancy-related absences and did not allow her to submit work after pregnancy-related absences, [redacted content].

Conclusion

Upon being advised of the violation findings, the College entered into a Resolution Agreement (“Agreement”) to resolve the matter. A signed copy of the Agreement is attached with this letter. When the Agreement is fully implemented, the issue will be resolved consistent with the requirements of Title IX, Section 504, and their implementing regulations. OCR will monitor implementation of this Agreement through periodic reports from the College about the status of the Agreement’s terms. OCR will provide the College with written notice of any deficiencies regarding its implementation of the terms of the Agreement and will require prompt actions to address such deficiencies. OCR will provide the Complainant with a copy of its final monitoring letter. If the College fails to implement the Agreement, OCR will take appropriate action, as described in the Agreement.

The case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the College has fulfilled the term of the Agreement and is in compliance with the statutory and regulatory obligations at issue in this case. When the monitoring phase of this case is complete, OCR will close this case and send a letter to the College, stating that this case is closed.

This concludes OCR’s investigation of this complaint and should not be interpreted to address the College’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

OCR Reference No. 08-22-2021

Please be advised that the College must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, please contact Patrick Alexander, the OCR attorney assigned to this complaint, at 303-844-3473 or Patrick.Alexander@ed.gov.

Sincerely,

/s/

Sandra J. Roesti
Supervisory Attorney

Enclosure: Resolution Agreement

cc: David Jensen, Title IX Coordinator, David.Jensen@slcc.edu

**Resolution Agreement
Salt Lake Community College
Complaint Number 08-22-2021**

Salt Lake Community College (College) agrees to implement the following Resolution Agreement to resolve the pregnancy-related violations in Case Number 08-22-2021 that the Office for Civil Rights (OCR) of the U.S. Department of Education found under Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, its implementing regulation at 34 C.F.R. Part 106, Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. §794, and its implementing regulation at 34 C.F.R. Part 104.

The College will promptly and fully address OCR’s feedback with regard to each Item below until the College receives notice from OCR that no further reporting is required for each Item.

Policies, Procedures, and Training

1. **Nondiscrimination Statement**

The College will revise its Nondiscrimination Statement, including the Notice provided to Students, to include reference to actual or potential parental, family, or marital status, including pregnancy and related conditions.

REPORTING REQUIREMENTS:

By June 22, 2022, the College will submit to OCR a “department rule” (a written directive that applies to a specific department of the College), as an interim revision to its Nondiscrimination Statement, consistent with this Agreement Item and the Title IX Regulation.

By July 31, 2022, after responding to all OCR feedback regarding the proposed department rule, the College’s Vice President for Student Affairs will adopt and publish the approved department rule. The College will provide OCR sufficient documentation to show that the department rule has been adopted and published.

By November 30, 2022, the interim department rule and any subsequent revisions, as approved by OCR, will be adopted as the College’s formal Nondiscrimination Statement by the College’s Board of Trustees or Executive Cabinet. Within fifteen (15) calendar days of Board approval of the OCR-approved Nondiscrimination Statement, the College will widely publish the revised Nondiscrimination Statement, including but not limited to, on its website and in online student handbooks or any online Code of Student Rights and Responsibilities. The Nondiscrimination Statement should be discoverable with a search for “Nondiscrimination Statement” on the website. The College will provide OCR sufficient documentation to show that the Nondiscrimination Statement as described in this Item has been adopted and widely disseminated to the College community.

By July 31, 2023, the College will publish the Nondiscrimination Statement in printed and online versions of its student and employee handbooks. The College will provide OCR with documentation of where the Nondiscrimination Statement has been published.

2. Grievance Procedures

The College will revise its grievance procedures to include information regarding students' opportunity to file a grievance based on alleged pregnancy discrimination, including grievances related to different treatment based on pregnancy, exclusion from the College's programs or activities based on pregnancy, or the College's failure to excuse pregnancy-related absences or provide appropriate academic adjustments in the same manner as it provides academic adjustments to students with temporary disabilities.

REPORTING REQUIREMENTS:

By June 22, 2022, the College will submit to OCR a department rule, as an interim revision to its revised grievance procedures, consistent with this Agreement Item and the Title IX Regulation.

By July 31, 2022, after responding to all OCR feedback regarding the proposed department rule, the College's Vice President for Student Affairs will adopt and publish the approved department rule described in this Item. The College will provide OCR with sufficient documentation to show the department rule has been adopted and published.

By November 30, 2022, the interim department rule and any subsequent revisions, as approved by OCR, will be adopted as the College's formal grievance procedures by the College's Board of Trustees or Executive Cabinet. Within fifteen (15) calendar days of Board approval of the OCR-approved grievance procedures, the College will widely publish the grievance procedures on its website. The grievance procedures should be discoverable with a search for "discrimination grievance procedures" on the website. The College will provide OCR sufficient documentation to show the grievance procedures as described in this Item have been adopted and widely disseminated to the College community.

By July 31, 2023, the College will publish the grievance procedures in printed versions of its student and employee handbooks.¹ The College will provide OCR with documentation to show where the procedures have been published.

3. Web Page and Other Published Materials

The College will provide information on its Title IX and Disability Resource Center (DRC) webpages that describes the process under which pregnant students can seek academic adjustments. The webpages must contain information about:

¹ OCR notes that it is acceptable for the College to print an abridged version of the grievance procedure in these Handbooks provided it includes a link to the full version of the policies with the abridged version.

- (a) the rights of pregnant students under Title IX;
- (b) how to request academic adjustments, special services, excused absences, or leaves of absence;
- (c) the process the College follows to determine appropriate academic adjustments and special services;
- (d) the process available to students if the College denies requested academic adjustments or special services; and
- (e) the process the College uses to determine when a requested academic adjustment constitutes a fundamental alteration of a program or activity.

In addition, the College will revise, as necessary, any published procedures (e.g., its ADA and Reasonable Accommodation Policy, Code of Student Rights and Responsibilities, and Anti-Discrimination and Harassment policy) to include information about or a link to the process under which pregnant students can seek academic adjustments, special services, excused absences, or leaves of absence as described above.

REPORTING REQUIREMENTS:

By June 22, 2022, the College will submit to OCR a draft web page, consistent with this Agreement Item and the Title IX Regulation.

By July 31, 2022, after responding to all OCR feedback regarding the proposed web page, the College will widely publish it on both the Title IX and DRC web pages.

Within fifteen (15) days of the College's Board of Trustees or Executive Cabinet's approval of the Nondiscrimination Statement and grievance procedures described in Items 1 and 2 of this Agreement, the College will update the website to reflect any changes to either that occurred during the Board (or Cabinet) approval process.

4. Notice to College Community

After the College publishes the department rules and the Board (or Cabinet) approves the Nondiscrimination Statement and grievance procedures, the College will provide notice, via email, to all College employees and students of all the information required by Items 1 and 2. The email will contain a short description of the College's revisions to its Nondiscrimination Statement and grievance procedures and links to all related information published on its website.

REPORTING REQUIREMENTS:

By August 15, 2022, the College will provide OCR with a copy of the email issued to College employees and students regarding the adoption of the department rules described in this Agreement.

By December 15, 2022, the College will provide OCR with a copy of the email issued to College employees and students regarding the Board adoption and publication of the Items described in this Agreement.

5. Training for College Staff

The College will provide training to the Professor, all staff in the DRC, and all staff in the Title IX office about: (1) the revised Nondiscrimination Statement, grievance procedures, and webpage described above; (2) the applicability of Section 504 to pregnant and non-pregnant students, particularly with respect to temporary disabilities; (3) the DRC services and academic adjustments available to pregnant and non-pregnant students; and (4) Title IX's protections for pregnant students.

REPORTING REQUIREMENTS:

By October 31, 2022, the College will provide OCR with the qualifications of the proposed trainer who will provide the training required by this Agreement and a copy of the proposed training materials.

By January 31, 2023, the College will provide the OCR-approved training to the identified staff and provide OCR sufficient documentation to show that all staff received the training. To the extent that a staff member is absent on the day of training, the College will provide documentation to show that the staff member received the training at another time.

Individual Remedies

6. Investigation

Consistent with its grievance procedures related to complaints of sex discrimination, the College will promptly and equitably respond to the Complainant's allegations that the Professor discriminated against her on the basis of pregnancy when the Professor encouraged the Complainant to drop the Courses rather than engage in an interactive process with the Complainant about appropriate academic adjustments or refer the Complainant to the DRC. The College will promptly take any necessary steps to remedy any discrimination that is found.

REPORTING REQUIREMENTS:

By August 31, 2022, the College will provide OCR a complete copy of the case file related to the College's response to the Complainant's allegations regarding the Professor.

7. Courses and [redacted content]

The College will [redacted content] related to the Courses [redacted content]. In addition, the College will, consistent with all applicable law and through its [redacted content].

REPORTING REQUIREMENTS:

By August 31, 2022, the College will provide OCR with documentation to show [redacted content] and what steps, if any, the College took to [redacted content].

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. Sections 100.9-10), or judicial proceedings to enforce this Agreement, OCR will give the College written notice of the alleged breach and 60 calendar days to cure the alleged breach.

By signing this Agreement, the College understands and agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the College understands that, during the monitoring of this Agreement, if necessary, OCR may visit the College to interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with Title IX and its implementing regulation and Section 504 and its implementing regulation.

The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has demonstrated compliance with all the terms of this Agreement and is in compliance with Title IX and its implementing regulation and Section 504 and its implementing regulation.

This agreement will become effective upon the signature(s) of the representative for the College.

For Salt Lake Community College:

/s/

Dr. Denece G. Huftalin
President

06/13/2022 dgh
Date

OCR Announces Resolution of Pregnancy Discrimination Investigation of Salt Lake Community College

Jun 22, 2022

On June 14, 2022, the U.S. Department of Education's Office of Civil Rights announced they reached a resolution agreement with Salt Lake Community College regarding a student's complaint of pregnancy discrimination. At the crux of OCR's finding was that the College violated Title IX when it did not: (1) respond promptly and equitably to a student's complaint of pregnancy discrimination; (2) engage in an interactive process with the student to determine the appropriate special services and/or academic adjustments to provide in light of her pregnancy; and (3) excuse her absences related to pregnancy, provide her the opportunity to make up work missed due to pregnancy-related absences, or provide her with alternatives to making up missed work at a later date. Additionally, OCR found the College violated Section 504 for not engaging in an interactive process with the student and not considering whether her pregnancy caused a temporary disability requiring academic adjustments.

Campuses reading this resolution are reminded that employees, including faculty, must be aware of Title IX and Section 504 protections and processes for pregnant students, including academic adjustments and services available. Existing Title IX and harassment/discrimination policies should be clear that pregnancy and parenting is covered by those policies, and how a complaint of pregnancy discrimination can be filed. Also consider that pregnancy-related support under Title IX extends to pregnancy, false pregnancy, termination of pregnancy, or recovery from related conditions, and parental status, to both birthing and non-birthing parents.

Pregnant & Parenting Students

Students experiencing pregnancy or related conditions have equal access to education, employment, and other University programs and activities. If you are experiencing pregnancy or a related condition and are looking for resources, accommodations, or support, please complete this [form](#) and the Title IX Office will contact you.

Title IX Rights

- You have equal access to classes and activities.
- Your school/department cannot make you take time off if you don't want to.
- If you do take time off, your school/department must allow you to return to the same academic and extracurricular status you had before you left. They must also give you a chance to make up missed work.
- You cannot be excluded from a special program because you are pregnant or experiencing a related condition.
- Your school/department cannot make you change your major or degree program because you are pregnant or experiencing a related condition. They also cannot force you to attend an alternate program, like an evening program.
- You can take part in activities for as long as you want. Your school/department cannot stop you from joining clubs, going to events, or participating in research unless the same rules apply for all students who have a temporary medical condition.
- Any lactating student has the right to a clean and private lactation space on campus. For a list of available on-campus lactation spaces, [click here](#). If you do not see a convenient lactation space on this list, [contact the Title IX Office](#) for an alternative arrangement.
- If you feel any of the above rights have been violated, please [contact the Title IX Office](#) immediately.

Resources Related to Title IX Rights

- [OCR: Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination At School](#)
- [Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972](#)
- [Pregnancy-Related Accommodations](#)
- [NJ State Law Prohibiting Pregnancy Discrimination in Higher Education](#)

Reasonable Accommodations

Rutgers University is committed to providing a supportive environment for all students and employees, including those who are pregnant or experiencing pregnancy-related conditions. To help facilitate this, Rutgers University will provide reasonable accommodations to students and employees for pregnancy or related conditions (*inclusive of adoption/foster care/partners/loss/etc.*)

- **Examples of reasonable accommodations may include:**

- Excused absences
- Extra time on assignments
- Rescheduling exams missed due to pregnancy or childbirth
- Seating accommodations
- Considerations related to food, water, or restroom access
- Altering experiential requirements like clinical rotations, fieldwork, or internships
- Access to a clean and private lactation space on campus.

To request accommodations, please fill out this [form](#) and someone from the Title IX Office will contact you. If you want to learn more about available options but are uncomfortable disclosing information via this form, you can contact the Title IX Office at 848-932-8200, nbttitleix@rutgers.edu, or [schedule a meeting](#) on our booking page.

PREGNANCY & RELATED CONDITIONS

Pregnant or lactating students or employees may be entitled to support, protections, and/or accommodations under Title IX and other federal and state laws.

The following frequently asked questions provide general guidelines and information related to possible support and accommodations but are not intended to address or provide all relevant resources at UW. Additional resources and information sources are noted in the FAQs below.

Getting started

Are there protections or support if I'm pregnant or experiencing related conditions

Title IX prohibits discrimination based on sex; this includes prohibiting discrimination based on pregnancy and related conditions, including childbirth, loss or termination of pregnancy, lactation, and the recovery from any of these. Title IX also prohibits discrimination based on marital or parental status.

Title IX's goal is to ensure persons who are pregnant or experiencing pregnancy-related conditions are not denied or limited in their access to an educational program or activity. Thus, Title IX aims to help pregnant students remain in school, help pregnant employees remain at work, and/or ensure someone who recently gave birth can return to school or work. Title IX does not include protections for bonding with a child or for childcare.

If you are pregnant, experienced the end of a pregnancy, gave birth, are lactating, and/or experienced other pregnancy-related conditions, you may be entitled to modifications, adjustments, support, and/or accommodations related to attending class, participating in educational or academic activities, or performing your job responsibilities.

Are there protections or support if I'm parenting?

Other than providing for time away from class or work for the purposes of lactation, Title IX does not provide specific protections to parents who are not recovering from pregnancy, childbirth, or a pregnancy-related condition.

How do I request support or accommodations?

Students should work directly with their instructors to determine modifications and support related to their pregnancy, including requests for absences related to their pregnancy or breaks for lactation. Students should contact the disability resources office on their campus for assistance with parking, furniture, classroom relocation, lab support if working with chemicals, disability-related absences, and other possible complications related to pregnancy.

Pregnant employees may wish to review [UW's HR Pregnancy accommodation website](#). Absences related to pregnancy may be requested in Workday. Employees should contact UW's [Disability Services Office](#) with questions or concerns related to pregnancy.

What is the difference between support and accommodations?

An accommodation refers to a modification or adjustment to your academic or work environment that is based on a medically documented disability and is supported by paperwork provided by a healthcare provider. Support (and modification and adjustment, in these FAQs) refers to a change in an academic or work environment that may be made absent documentation from a healthcare provider.

If I believe I've experienced discrimination because of my pregnancy, what should I do?

If you've made a request of an instructor or supervisor that has been refused, you may contact the Office of the Title IX Coordinator for further assistance with that request.

If you believe a UW employee has discriminated against you and/or engaged in harassment because of your sex or gender, including because you are pregnant or experiencing a pregnancy-related condition, and you wish to make a complaint, please contact the [University Complaint Investigation & Resolution Office \(UCIRO\)](#). An investigator will meet with you to hear your concerns and determine whether an investigation is appropriate or whether the University has another process to address your concerns.

If you believe a student has discriminated against you and/or engaged in harassment because of your pregnancy or related condition, you may contact the student conduct office on your campus. On the Bothell campus, contact [Student Conduct](#); on the Seattle campus, reach out to [Community Standards of Student Conduct](#); and on the Tacoma campus, contact the [Office of Student Conduct and Academic Integrity](#).

If the accommodation requests I've made are denied, what can I do?

If you're a student who worked with the Disability Resources for Students office on the Bothell, Seattle, and/or Tacoma campuses and were denied a requested accommodation, you may request an accommodation reconsideration by following the steps outlined on the accommodation reconsideration webpage.

If you worked with the Disability Services Office as a student seeking a non-academic accommodation, email DSO with your request for reconsideration, and copy the Office of the Title IX Coordinator titleix@uw.edu. If you are an employee and wish to seek an accommodation reconsideration, you may contact the Human Resources Consultant (HRC) who supports your unit.

Types of support and accommodation

What accommodations may I request if I'm pregnant?

As parking is often requested, see the "Parking" section below.

If you have medical complications related to your pregnancy, you may contact Disability Resources for Students on your campus if you're a student or the Disability Services Office if you're an employee.

The review and approval of an accommodation request will depend upon your individual circumstances. Some possible accommodations may include, but are not limited to adjustable furniture, classroom or office relocation, lab support if you're working with chemicals, disability-related absences, disability-parking permit, and Dial-A-Ride (Seattle campus).

If I do not have medical complications, what support or help is available?

If you are pregnant or experiencing a related condition (including lactation) but do not have any specific medical complications, you may directly contact your instructor(s), supervisor(s), or department to request support or adjustments. These adjustments may include additional or longer breaks, the ability to eat/drink where doing so may not otherwise be permitted, or adjustments to project timelines and assignment deadlines.

To ask for these adjustments, you do not need to provide personal information to your instructor, supervisor, or department aside from letting them know the request is because you're pregnant or experiencing a related condition. If reasonable requests are denied, you may contact the Office of the Title IX Coordinator.

If you're a student and need assistance with furniture, classroom relocation, lab support if you're working with chemicals, or disability-related absences, contact your campus's Disability Resources for Students.

If you're an employee, including a student employee, you may have options for [leave](#) related to your employment. Information for full-time employees may be found [on the University's sick leave webpage](#); information for temporary or student hourly employees may be found [on the University's sick time off webpage](#).

How do I request leave time for childbirth/postpartum recovery?

If you're a student, work with your department to approve leave following childbirth and for the purpose of postpartum recovery. Any plan before you give birth will likely be tentative, as you will not necessarily know how much leave is medically necessary until childbirth. Once you give birth, you will need to obtain from your provider a letter stating how much leave is medically necessary.

Your department may refer you to the Disability Resources for Students (DRS) office on your campus. If DRS does not approve the amount of time your provider indicates is medically necessary for your postpartum recovery, contact the Office of the Title IX Coordinator.

The amount of leave for postpartum recovery will depend on your specific medical needs. How the leave impacts your trajectory as a student will depend, in part, on your program, its requirements, and when during the academic year your childbirth occurs. Depending on your coursework, any clinical components of your program, and the length of your excused absence, you may need to attend an extra quarter (or extra quarters) of classes to complete the work you missed following childbirth. You may also wish to consider the financial impacts of taking leave. For example, if childbirth/postpartum recovery leave will likely occur such that any incomplete(s) are not possible in your courses, you may wish to take leave for the entire quarter to avoid paying tuition if you're unable to finish and/or make up the required coursework. Regardless of the timing of your leave, you will be able to return to the same student status as you were at the start of your leave. If you're an employee, consult the [temporary disability leave for pregnancy and childbirth](#) webpage. Temporary disability leave for pregnancy and childbirth is an approved form of leave and can be requested following your department's typical leave requests procedures.

Is the University able to help with childcare?

Title IX does not apply to any childcare needs students or employees may have. If you're a student, the childcare assistance programs on the [Bothell](#), [Seattle](#), and [Tacoma](#) campuses provide information about help covering the costs of child care.

Employees and students are eligible for childcare programs coordinated by UW Human Resources. Consult the [childcare at UW](#) website for more information.

What rights do I have if I'm lactating?

Lactating students and employees are entitled to regular breaks for purposes of lactation. Healthcare documentation and/or working with a disability services office is not needed to request such breaks, and instructors and supervisors should accommodate a student or employee's need to express milk.

Does the University maintain a list of lactation stations?

Yes, the location of lactation stations can be found at the links below.

All locations

- [UW WorkLife lactation stations](#)

UW campuses

- [Bothell lactation stations](#)
- [Seattle lactation stations](#)
- [Tacoma lactation stations](#)

UW Medical Centers

- [Harborview](#)
- [UW Med – East Side](#)
- [UWMC – Montlake/Health Sciences](#)
- [UWMC – Northwest](#)

Additional locations

- [South Lake Union](#)

Parking

I need to park closer to the buildings where I attend class or work because of my pregnancy; is that possible?

Obtaining parking permits for specific lots may depend on availability; you also will be required to pay for the necessary parking permits. More detailed answers follow based on your status as either a student or employee and based on the campus where you work or study.

For students on the Seattle campus: You may contact [Transportation Services](#) to request a disability parking permit for up to six weeks; there is no need to explain or provide a rationale for this request, though you may need to mention it's based on a temporary disability. If you need a disability parking permit that extends beyond six weeks, please contact [Disability Resources for Students](#). Parking fees apply and cannot be waived.

For students on the Bothell campus: If you need a temporary parking permit, contact [Disability Resources for Students](#). If you need a temporary permit for more than three weeks, you will need to work with your medical provider to obtain documentation for a state-issued disability parking permit and register with the [Office of Planning and Administration](#).

For students on the Tacoma campus: You may contact [Disability Resources for Students](#) to receive help with parking; you will receive a code to purchase permit parking through the [UW-T Transportation Services](#) website. Additional information about parking permits is available there.

For all employees, regardless of campus or medical center: All pregnant employees may contact the [Disability Services Office](#) to receive further information about parking.

Information for pregnant students

What rights do I have as a student who is pregnant or experiencing related conditions?

As a student, you have the right:

- To continue participating in classes and extracurricular activities
- To reasonable adjustments (for example, a larger desk, elevator access, more restroom breaks, lactation breaks)
- To be excused for absences related to pregnancy or childbirth as long as your medical provider says it's medically necessary
- To return to the same academic and extracurricular status as before your medical leave began
- To make up work you missed while you were out, including any participation or attendance points/credits
- To access the same services other students with temporary disabilities may access
- To be free from harassment based on sex, including because of your pregnancy

How do I access accommodations if there are medical complications with my pregnancy

If your pregnancy involves health or medical complications, you may engage Disability Resources for Students (DRS) on the appropriate campus ([Bothell](#), [Seattle](#), or [Tacoma](#)) for academic accommodations.

As part of the process to request and receive accommodations, you will need documentation from your health care provider describing the impact and duration of the health or medical conditions accompanying the pregnancy.

DRS typically requires advanced notice—often four to six weeks—to process academic accommodation requests; if an accommodation is needed more quickly and is related to your pregnancy, you may want to first work with your instructor.

How do I access accommodations if there are no medical complications with my pregnancy?

If there are no health or medical complications:

STEP ONE: Work directly with your instructor(s) to discuss what you need and to understand what is possible and where flexibility exists.

STEP TWO: If you experience resistance or a refusal to have modifications made, you may reach out to the Office of the Title IX Coordinator, and we will work with Disability Resources for Students on your campus and/or your instructor(s) to understand where and if flexibility may reasonably exist. We can also reiterate the goal of ensuring all students maintain access to their education and the University's obligations under specific laws.

If my expected delivery date is during finals or intersects with course-related deadlines, can I receive accommodations related to childbirth or postpartum recovery?

We encourage you to work directly with your instructors or your campus's Disability Resources for Students office early, so a plan is in place for the quarter childbirth will occur. Because putting together an accommodation or plan may take some time, contact your campus's Disability Resources for Students office as early as possible.

The availability of accommodations depends, in part, on whether your childbirth occurs naturally, via Cesarean section, or involves known complications. The length of time for your recovery will differ based on these.

Information for pregnant employees

How do I access modifications or accommodations in my workplace?

Some modifications may be provided without medical documentation. You may directly ask your supervisor to allow short breaks, including for nursing. You may also ask for modifications such as allowing snacking while working if that is not otherwise permitted.

To request support or accommodations during pregnancy, you may contact the University of Washington's Disability Services Office. The Disability Services Office will assess your needs and refer you, if appropriate, to the additional offices and individuals who can provide assistance based on your specific situation.

For more information, see the University's pregnancy accommodation webpage.

If I want to discuss support or workplace accommodations, do I need to contact UW's Disability Services Office, or can I talk directly with my supervisor?

If your needs include support that may be provided regardless of whether you have medical documentation, you may speak directly with your supervisor. Supports that may be put into place with no medical documentation include more frequent, longer, or flexible restroom breaks, modifying a no food/drink policy, and providing seating or allowing for more frequent sitting. Following childbirth, you also are entitled to lactation breaks. If what you've requested is not something your supervisor may easily implement or if your request is denied, contact the Disability Services Office.

If you have medical documentation in connection with your needs, work directly with the Disability Services Office.

For more information, see the University's pregnancy accommodation webpage.

For instructors and supervisors

As an instructor, what obligations do I have to provide support or accommodations for a pregnant student?

Instructors have the responsibility and authority to make a variety of reasonable adjustments or modifications without requiring a student work with Disability Resources for Students. In general, the types of adjustments or accommodations you can grant include:

- Short breaks during class and final examinations (for pregnant or nursing parents);
- Adjusted timelines for completing work or assignments; and/or
- Other adjustments that are reasonable and will allow a student to continue accessing their education.

Because Title IX requires that pregnancy-related absences be excused, you may need to devise an alternate way of grading students. In some cases, a final may need to stand in for a midterm, or an exam may need to be offered at a later date. If a student is unable to participate in a group project or presentation (whether planned or unplanned) because of their pregnancy, you will need to come up with an alternative assignment or way for the student to make up that work.

Missing class due to a pregnancy cannot be held against a student for participation points or requirements. It may be necessary to allow a student to take an incomplete, so they may complete their coursework at a later time.

Do not ask students about their pregnancy or complications. If a student's specific request does not seem appropriate for your course or the learning environment given other students' needs, you may consult with the Office of the Title IX Coordinator. We will work together to determine whether there are alternative solutions or identify where flexibility may exist.

Instructors who have been contacted by Disability Resources for Students regarding implementation of accommodation(s) for specific students must do so. If you believe the specified accommodation would significantly change your classroom or course requirements, please contact DRS.

If a student offers you medical documentation, do not accept it. Instead, refer the student to Disability Resources for Students.

As a supervisor, what should I do if I've been asked to provide support and/or accommodations for a pregnant employee?

If the employee is requesting a reasonable modification such as the need for more frequent or longer restroom breaks, the modification of a food or drink policy, or providing seating, you should support and implement their needs. You should not ask employees about their pregnancy and/or any medical issues or complications.

If an employee makes a request that you do not believe is appropriate or reasonable, don't decline the request but instead refer the employee to the [Disability Services Office](#) for assessment. If you've received a request from a pregnant employee additional information may be found [through Human Resource's pregnancy accommodation webpage](#).

If an employee offers you medical documentation, do not accept it. Instead, refer the employee to the Disability Services Office.

Other Resources

[Student Parent Resource Center](#)

[Childcare at UW](#)

[Women's Center](#)

OFFICE OF THE TITLE IX COORDINATOR

206-221-7932

titleix@uw.edu

Pregnant Students

The University of Tennessee, Knoxville, is committed to creating and maintaining a non-discriminatory learning environment for all students, which includes students who are pregnant.

Accommodations

Accommodations provided under the policy include:

- Excused absences and medical leave that are deemed medically necessary related to pregnancy. The Office of Title IX will work with both the student and the student's faculty members to create a plan for completion of course work and continuation of the student's education. Individual plans may be adjusted as circumstances change.
- Opportunity to make up any work missed due to medically necessary absences for pregnancy
- Reasonable adjustments to an education program or activity which include, but are not limited to:
 - Accessible seating (i.e. a larger desk);
 - Appropriate restroom breaks;
 - Excused absences related to medically necessary appointments;
 - Academic adjustments related to childbirth; and
 - Mobility support (i.e. temporary access to the T van on campus)

Request an Accommodation

If you have questions or concerns about pregnancy accommodations or would like to request an accommodation related to pregnancy, please email [Sarah Thomas, Deputy Title IX Coordinator for Support](#), [Ashley Blamey, Title IX Coordinator](#), or call the Office of Title IX at 865-974-9600.

Documentation

A student seeking accommodations, adjustments, or requesting excused absences related to pregnancy will need to provide official documentation from the student's physician.

The Office of Title IX will request a letter from the student's physician providing dates on which the student's attendance must be excused and a statement that the absences are deemed medically necessary.

Documentation can be provided in the following ways:

1. In-person

2. Bring your documentation materials to the [Office of Title IX, 1817 Melrose Avenue](#).

3. Via email

4. Send an email with documentation attached to titleix@utk.edu or to [Sarah Thomas, Deputy Title IX Coordinator](#), and reference “Documentation for Pregnancy” in the subject line. Include your name and student ID number in the body of the email.

The [Student Pregnancy Accommodations Policy](#) defines “pregnancy” as pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. The policy applies to all aspects of the University’s education programs and activities. Discrimination against any student or the exclusion of any student from participation in any part of a University education program or activity, based on a student’s actual or potential pregnancy is prohibited.

Campus Facilities

Lactation Rooms and All Gender Restrooms On Campus

If you have concerns about a building that does not currently have a specified lactation room or space, contact [Sarah Thomas, Deputy Title IX Coordinator for Student Support](#), or [Ashley Blamey, Title IX Coordinator](#), or call 865-974-9600.

- [Find campus Lactation Rooms](#) on maps.utk.edu
- [Find campus All Gender Restrooms](#) on maps.utk.edu

Additional Resources and Information

- Read more about the U.S. Department of Education’s “[Supporting the Academic Success of Pregnant and Parenting Students](#)” under Title IX of the Education Amendments of 1972.
- Read more about the U.S. Department of Education’s “[Discrimination Based on Pregnancy and Related Conditions](#)” resource under Title IX of the Education Amendments of 1972.

PREGNANT STUDENTS AND NEW PARENTS

Pregnant Students and New Parents at UW

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in educational settings. This protection extends to students who are pregnant, have experienced a pregnancy-related condition, or are new parents.

Pregnancy-related conditions include:

- Pregnancy
- Childbirth
- False pregnancy
- Miscarriage
- Termination of a pregnancy
- Conditions arising in connection with pregnancy
- Recovery from any of the above conditions

Because support cannot be issued retroactively, students who have a pregnancy-related condition should contact DOS as soon as possible (<mailto:dos@uwyo.edu>) to request support. DOS can issue an initial support letter while waiting for medical documentation from the student. Information about your pregnancy-related condition is considered part of your educational record, is protected by FERPA, and will not be shared except with those UW personnel who need the information in order to provide academic support to you. Students with concerns about how their information will be shared within UW should schedule a meeting to discuss their questions.

Students can expect the following support:

- Faculty may not require medical documentation as a condition of participating fully in course activities unless they require medical documentation from all students who have disclosed that they are currently under medical care. This requirement should be outlined in the syllabus.
- Faculty may not prohibit you from participating fully in all course programs, projects, and activities solely due to your status as a pregnant student.
- Faculty are expected to allow reasonable adjustments for you upon request, such as a larger workspace and the ability to leave class to make a trip to the restroom.
- In partnership with DOS, faculty are expected to excuse absences related to pregnancy and childbirth, and allow you the opportunity to make up any work missed, as well as the opportunity to complete some or all of your work from home.

Pregnant students with certain pregnancy-related conditions (sometimes referred to as “complications”) may be eligible for additional support through the [Disability Support Services office](#). The Dean of Students Office can connect students with DSS, or [students can fill out a DSS application directly](#).

If you would like UW to be able to speak with anyone regarding your education (eg, a family member during or immediately after the birth of a child), please fill out and return a FERPA release.

DOS can provide you a letter for your medical provider, outlining the necessary information for any medical documentation for DOS.

FERPA Releases

Because academic support related to pregnancy is a protected part of your education record, you will need to sign [a FERPA release](#) if you would like DOS to be able to communicate with anyone else (a partner, friend, and/or family member) regarding your condition and related academic support. Students can stop by the Dean of Students Office in Knight Hall room 128 at their convenience to sign a release.

Graduate Students

Graduate students can request a leave of absence from their graduate program of study for certain pregnancy-related conditions. Contact DOS for more information.

Students who are also benefitted staff

DOS can only excuse absences related to pregnancy and delivery for as long as deemed necessary by a medical provider. This means that excused absences related to recovery from delivery may end sooner than approved family leave as a UW benefitted employee. Students who are also benefitted employees on family leave should maintain contact with DOS regarding excused absences from coursework, even if you are still away from work on family leave.

New parents

Parents can [request excused absences](#) from DOS for absences related to caregiving obligations, including a child’s medical appointments or a child’s need for care due to illness.

New parents who are nursing can request support to facilitate nursing when the parent has resumed their studies. Parents should contact DOS for more information.

Pregnancy-related discrimination

Students who believe they have experience discrimination at UW as a result of a pregnancy-related condition should [report the concern to the Equal Opportunity Report and Response Office.](#)

Non-Academic Support

The [Albany County Public Health Department](#) offers [several free programs](#) for pregnant individuals, low-income pregnant individuals and parents, and parents of young children (under 3 years old). These programs include basic medical visits and referrals to additional support resources. Anyone residing in Albany County is welcome and encouraged to [email Johnna French](#), an Albany County Public Health Nurse, call the Public Health office at 307-721-2561, or visit the Public Health office in person at [609 S. 2nd St., Laramie, WY.](#)

UW students living outside of Albany County can contact their [local county public health office](#) or the [Wyoming Department of Health Maternal and Child Health Unit](#) for information on similar programs available where they live.

[Student Health Services](#) does not provide obstetric or pediatric services, but they can offer basic pregnancy testing and refer pregnant students and new parents to appropriate medical resources off campus in Laramie.

Pregnancy and Parenting

Title IX is a federal law that prohibits discrimination on the basis of sex in an education program. Among the types of gender discrimination covered by this statute, Title IX protects against discrimination related to pregnancy or parental status. Protection extends to students who are pregnant or who have either had a false pregnancy, termination of pregnancy, have gone through childbirth, or are recovering from any of those conditions. Title IX regulations also prohibit a school from applying any rule related to a student's parental, family or marital status that treats students differently based on their sex. Below are some frequently asked questions and their answers about the University's compliance with this aspect of Title IX.

Where can a student seek assistance for pregnancy-related accommodations?

Pregnant students may contact the [Title IX Office](#) to request assistance with accommodations. Examples of accommodations include, but are not limited to, rescheduling tests or exams, excusing absences, submitting work after a deadline or providing alternatives to make up missed work. The Title IX Office may facilitate communications with the student's professors or assist with other University resources.

Pregnancy, childbirth, and related conditions may necessitate absences. Will those absences be excused?

Yes. Absences due to pregnancy, childbirth, or related medical conditions must be excused and cannot be treated or penalized like unexcused absences. Depending on the length of the absence and area of instruction, it may be academically necessary for the student to take a leave of absence. Professors must provide a leave of absence for pregnant students for as long as it is deemed necessary by their medical doctor. Professors may require a doctor's note for pregnancy-related absences only if a doctor's note is required to excuse other medically-related absences.

What happens when a pregnant student misses assignments, tests, exams etc. due to an excused absence?

After an excused absence due to pregnancy, childbirth, or any related medical conditions, professors must allow a reasonable time for the student to make up missed assignments and tests.

This is true regardless of the professor's typical makeup assignment policy. Depending on the nature of the course, making up the exact missed assignment might not be feasible. The makeup work does not have to be exactly the same as the missed work, but needs to be reasonably equivalent.

Can pregnant students be penalized for their absence if grades in a class are based on attendance or participation?

A student may not be penalized for absences known to be due to pregnancy, childbirth, or other related medical conditions. A professor cannot reduce a pregnant student's grade because of attendance or participation points that the student missed during excused absences due to her pregnancy-related conditions. The professor must give the student a reasonable opportunity to earn back the credit missed due to pregnancy.

Can a professor prevent a pregnant student from attending class?

No. Under Title IX, the University cannot exclude someone from class based on their pregnancy. The University can only require a pregnant student to provide a doctor's certification of fitness to continue in an education program or activity if the same requirement is imposed on all other students with medical conditions requiring a doctor's care.

Can a pregnant student participate in internships and other off-campus programs?

Yes. Pregnant students cannot be excluded from University-related off-campus programs, such as internships, off-campus activities, University-sponsored activities, and other extracurricular activities. A professor cannot require a doctor's note to show fitness to participate unless it is required for all students in the program.

Does the University have to provide special services to pregnant students?

The University must provide the same services to pregnant students that it provides to other students with temporary disabilities.

What if a student or professor makes an offensive or inappropriate remark about a student's pregnancy?

The University will not tolerate gender-based harassment, including harassment based on pregnancy and related conditions. If a pregnant student experiences harassment based on her pregnancy, she should let the Title IX Office know immediately. If a faculty or staff member witnesses or learns about harassment of a pregnant student, they should immediately notify the Title IX Office so that it can take prompt and effective steps reasonably calculated to end pregnancy-related harassment, prevent its recurrence, and eliminate any hostile environment created by the harassment. The same grievance procedures applicable to complaints of sexual misconduct also apply to discrimination based on pregnancy or parental status.

Title IX prohibits a school's retaliation against an individual for filing a complaint or raising concerns about the rights of a pregnant and parenting student.

Can a pregnant student lose her scholarship due to her pregnancy?

As long as the student remains in school and in good standing when the student is not medically required to be absent, the student will not lose the scholarship. Pregnant students will keep their status as a student for up to one year. If a student wants to take off more time than their doctor says is medically necessary, the student should contact the Title IX Office.

Does the University have designated areas for mothers to breastfeed, pump milk, or address other needs related to breastfeeding throughout the day?

Yes. The University has designated lactation rooms. For a list of the designated lactation rooms, see <http://hr.ua.edu/work-life-resources/new-parent/lactation-support>.

Does the University have other resources for parenting students?

Yes.

- The Parent Resource Library is located at the Child Development Resource Center. The library contains books on parenting, breastfeeding, and other resources for parents.
- The Parenting Assistance Line (866) 962-3030 is a toll free number providing support on many parenting topics. For more information about PAL and to obtain resources online, see <http://www.pal.ua.edu/>.
- [Graduate School Parent Support](#) supports students who have children. This program coordinates events with parents, provides opportunities for professional development, institutes programs and services to address the needs of student parents, and works to foster an environment that is receptive to children and their student parents.

Is a GTA/GRA who is pregnant or experiencing pregnant-related conditions entitled to reasonable accommodations in the workplace?

Yes. To request reasonable accommodations, contact the Title IX Office, who will recommend reasonable accommodations and work with the department in implementing them.

If you have any questions, please contact:

Title IX Office

107 Mary Burke West

Box 870300

Tuscaloosa, Alabama 35487-0114

(205) 348-5496

titleix@ua.edu

Report GENDER-based discrimination or harrasment based on gender, sexual orientation, pregnancy, gender identity and gender expression, or to receive assistance with reasonable accommodations related to pregnancy

Information & Questions

Title IX Compliance (<https://uact.ua.edu/information/titleix>)

Harassment (<https://uact.ua.edu/information/harassment>)

Support for Victims (<https://uact.ua.edu/information/support>)

Hazing (<https://uact.ua.edu/information/hazing>)

Threatening Behavior (<https://uact.ua.edu/information/threatening-behavior>)

Violation of Child Protection Policy (<https://uact.ua.edu/information/child-protection>)

Suicide Prevention (<https://uact.ua.edu/information/suicide-prevention>)

COLLEGES AND SCHOOLS

Arts and Sciences (<http://www.as.ua.edu/>)

Communication & Information Sciences (<http://www.cis.ua.edu/>)

Community Health Sciences (<http://cchs.ua.edu/>)

Continuing Studies (<http://continuingstudies.ua.edu>)

Culverhouse College of Commerce (<http://culverhouse.ua.edu/>)

Education (<http://education.ua.edu/>)

Engineering (<http://eng.ua.edu/>)

Graduate School (<http://graduate.ua.edu>)

Honors College (<http://honors.ua.edu/>)

Human Environmental Sciences (<http://www.ches.ua.edu/>)

School of Law (<http://www.law.ua.edu/>)

Nursing (<http://nursing.ua.edu/>)

Social Work (<http://socialwork.ua.edu/>)

ADMINISTRATION

The University of Alabama System (<http://uasystem.ua.edu/>)
President (<http://president.ua.edu/>)
Academic Affairs (<http://provost.ua.edu/>)
Community Affairs (<http://communityaffairs.ua.edu/>)
Finance and Operations (<http://financialaffairs.ua.edu/>)
Research & Economic Development (<http://ovpred.ua.edu/>)
Strategic Communications (<http://strategiccommunications.ua.edu/>)
Student Life (<http://sa.ua.edu/>)
University Advancement (<http://giving.ua.edu/>)

RESOURCES

Campus Map (<https://www.ua.edu/map>)
Directory (<https://www.ua.edu/directory>)
Distance Education (<http://bamabydistance.ua.edu/>)
Information Technology (<http://oit.ua.edu/>)
Libraries (<http://www.lib.ua.edu/>)
Museums (<http://museums.ua.edu/>)
Policies (<https://www.ua.edu/about/policies>)
Quick Facts (<https://www.ua.edu/about/quickfacts>)

SAFETY

University Police (<http://police.ua.edu/>)
Crime Advisories (<https://police.ua.edu/advisory/>)
Emergency Preparedness (<http://ready.ua.edu/>)
Reporting (UAct) (<https://uact.ua.edu>)

HELP

Find Websites (<https://www.ua.edu/site/>)
Find People (<https://www.ua.edu/directory>)
Search UA.edu (<https://www.ua.edu/search>)

Pregnancy and Related Conditions: Comparing Existing Title IX Regulations with the 2022 Proposed Rules

Andrea Stagg | Oct 19, 2022

Readers may recall that the May 2020 Title IX Final Rule does not include information about pregnancy or related conditions. The 2020 regulations covered a narrow set of conduct, specifically, sexual harassment and sexual and interpersonal violence.

Title IX has long included protections for pregnant people. Below, let's walk through what the existing regulations say about pregnancy and related conditions, and then look to the 2022 proposed regulations for what's new, specifically: a new definition of "pregnancy and related conditions," and regulations governing reasonable modifications, notice of rights, and lactation considerations.

Pregnancy and Parenting Rules Under the Existing Regulations

The current Title IX regulations prohibit treating students, employees, and applicants for those roles differently based on pregnancy, including excluding them from programs or activities. The current rules describe pregnancy as including "childbirth, false pregnancy, termination of pregnancy, or recovery therefrom."

The existing rules also require schools to treat disabilities related to pregnancy in the same manner and under the same policies as any other temporary disability or physical condition.

In addressing leave for students, the regulations say that if a school does not have a student leave policy, or if a student does not qualify for leave under that policy, the school must treat pregnancy as a justification for a leave of absence for so long a period of time as deemed medically necessary by the student's doctor.

For employees, if the school does not have a leave policy, or the employee doesn't qualify for the leave, the regulations require schools to treat the employee's pregnancy as a justification for a leave of absence without pay for a reasonable period of time. At the conclusion of such a leave, the employee must be reinstated to their previous status or a comparable position.

And schools must treat an employee's pregnancy (and related conditions) similarly to any other temporary disability for all job related purposes. This means that whether similarly situated employees are out on leave for back surgery or something pregnancy-related, they must be treated similarly.

2022 Proposed Regulations

Again, the 2022 proposed regulations includes some new rights and responsibilities related to pregnant and parenting people, and also restate and relocate some existing rights and obligations for readability and clarity. This section will focus on what's new.

Defining Pregnancy and Related Conditions

Where the current rules repeat the phrase "pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom," the proposed rules define "pregnancy and related conditions" as pregnancy, childbirth, termination of pregnancy, or lactation, as well as medical conditions related to any of the above, as well as recovery from any of the above. Including lactation specifically as well as "medical conditions" related to pregnancy, childbirth, termination, or lactation broadens the protections significantly from the current regulatory language.

And while the current regulations include "potential" parental status, the proposed regulations include past and potential pregnancy explicitly. While some may have interpreted the current regulations as including past and potential pregnancy, others recognize that parental status and pregnancy are not the same thing, and one can be pregnant (and give birth) without becoming a parent, and someone can be a parent or potential parent without being pregnant or giving birth. This specificity gives recipients clarity here about what is covered by Title IX and also highlights the need to develop inclusive policies that may factor in a broader range of people protected under the law.

Reasonable Modifications

The proposed rules also require schools to offer reasonable modifications to policies, practices, or procedures for students because of pregnancy or related conditions. The modifications would be implemented, coordinated, and documented by the Title IX Coordinator, although it is possible that the finalized rules will bring other appropriate officials, like the ADA Coordinator, into this process. These modifications would be provided on an individualized and voluntary basis, depending on the student's needs, when necessary to prevent discrimination and ensure equal access to educational programs and activities, unless it would fundamentally alter the program or activity.

This “fundamental alteration” language is reminiscent of language surrounding disability accommodations under Section 504 or the ADA.

The following is a non-exhaustive (but verbatim) list of reasonable modifications contained in the proposed regulations in section 106.40(b)(4)(iii):

- breaks during class to attend to related health needs
- expressing breast milk, or breastfeeding;
- intermittent absences to attend medical appointments;
- access to online or other homebound education;
- changes in schedule or course sequence;
- extension of time for coursework and rescheduling of tests and examinations;
- counseling;
- changes in physical space or supplies (for example, access to a larger desk or a footrest);
- elevator access.

Notice Requirements

The proposed rules also require schools to provide pregnant students with information about the school’s obligations regarding pregnancy and related conditions. This notice requirement is new, and it is aligned with the notice rules in Title IX and the VAWA amendments to Clery: When the institution knows something about someone (that they experienced harassment or violence, for example), the school must provide that person certain information about available applicable resources and options.

First, under the proposed rules, when any employee is informed of a student’s pregnancy or related condition (either by that student or by someone with the legal right to act on their behalf), the employee must promptly notify that person of how to inform the Title IX Coordinator about the pregnancy for assistance, including providing the Coordinator’s contact information. If the employee reasonably believes the Title IX Coordinator has already been notified, they do not need to provide this information.

And the Title IX Coordinator must promptly inform the student or their representative of the following school obligations:

- Prohibit sex discrimination, including sex-based harassment.
- Provide the student with the option of reasonable modifications,
- Allow access, on a voluntary basis, to any separate and comparable portion of the education program or activity,
- Allow a voluntary leave of absence,
- Ensure the availability of lactation space
- Maintain grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination.

Lactation

For the first time (under Title IX), the proposed rules refer to time and space for lactation, aligning with many state and local laws with similar requirements. Specifically, the proposed rules require the availability of lactation space that is not a bathroom, and that is clean and private, “shielded from view, free from intrusion from others.” And discrimination based on lactation or related medical conditions is prohibited, because lactation is part of the definition for “pregnancy and related conditions.”

Closing Thoughts

The proposed regulations offer clarifications and expansions of the rights of and protections for pregnant people in the existing Title IX regulations. The final version of the rules may offer more flexibility about who will provide the required information to pregnant students or their representatives; as written, it’s the Title IX Coordinator. Some institutions or school systems may prefer having an academic advisor or health professional to take on this responsibility. Employees with responsibilities in ADA and 504 compliance can lend knowledge and experience related to reasonable modifications; remember that the proposed rules require treating disabilities related to pregnancy in the same manner and under the same policies as any other temporary disability or physical condition.

Grand River Solutions Title IX and Equity experts will track the changes and additions between the proposed and final rule in this area and help revise your policies and procedures regarding pregnant students, employees, and applicants.

Other Resources:

[Resource for Students and Schools on Discrimination Based on Pregnancy and Related Conditions](#), Department of Education, October 2022

[OCR Announces Resolution of Pregnancy Discrimination Investigation of Salt Lake Community College](#), from Grand River Solutions

[Know Your Rights, Title IX and Pregnancy](#), Department of Education, last modified in 2020

[Supporting the Academic Success of Pregnant and Parenting Students](#), Department of Education, 2013



Discrimination Based on Pregnancy and Related Conditions

A Resource for Students and Schools

The Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination based on sex in education programs or activities that receive Federal financial assistance. The Department's Title IX regulations prohibit discrimination based on pregnancy and related conditions in institutions that receive Federal funds (referred to here as "schools"). These protections, which include a prohibition on discrimination based on termination of pregnancy, have been in place since 1975, when the Department's regulations implementing Title IX were first issued following Congressional review.* The regulations make clear that Title IX protects students and employees from discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom. Specifically, the regulations provide:

Discrimination and exclusion

Schools must not discriminate against any student, or exclude any student from their education program or activity, including any class or extracurricular activity, based on a student's **pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery** therefrom. 34 C.F.R. § 106.40(b)(1). A school also must not discriminate against or exclude from employment any employee or employment applicant on these bases. 34 C.F.R. § 106.57(b).

Medical and other benefits and services

Schools must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom **the same as any other temporary disability** with respect to any hospital or medical benefit, service, plan, or policy for students. 34 C.F.R. § 106.40(b)(4). For employees, schools must treat pregnancy and the same related conditions, including termination of pregnancy, as well as any temporary disability resulting therefrom, as any other temporary disability for all job-related purposes, including employment-based medical, hospital, and other benefits. 34 C.F.R. § 106.57(c).

* The Title IX statute can be found at 20 U.S.C. §§ 1681 - 1688. Section 1688 provides that nothing in Title IX requires or prohibits any person or entity from providing or paying for any benefit or service related to an abortion, and nothing in Title IX permits a penalty to be imposed on any person because the person is seeking or has received any benefit or service related to a legal abortion. In addition, § 1681(a)(3) provides an exemption for educational institutions controlled by a religious organization if the application of Title IX's nondiscrimination requirement would not be consistent with the religious tenets of such organization. This resource includes citations to relevant sections of the Department's Title IX regulations in the Code of Federal Regulations (C.F.R.).

Please note that on July 12, 2022, the Department published in the Federal Register a notice of proposed rulemaking that includes proposed changes to some of the Title IX regulations discussed in this resource. Any final changes to the Title IX regulations will be published in a subsequent final rule in the Federal Register.



U.S. Department of Education

Office for Civil Rights

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Leave policy

If a school does not have a leave policy for students, or the student does not otherwise qualify for leave under the policy, **a school must provide leave to a student for pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery** therefrom, for as long as the student's physician deems medically necessary. After that leave, the student must be reinstated to the status the student held when the leave began. 34 C.F.R. § 106.40(b)(5).

For employees, if a school does not have a leave policy, or if an employee has insufficient leave or accrued employment time to qualify for leave under the school's policy, the school must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time. After that time, the employee must be reinstated to the employee's pre-leave status or to a comparable position without reduction of compensation or loss of promotional opportunities or any other employment rights or privileges. 34 C.F.R. § 106.57(d). In addition, schools must treat pregnancy and the same related conditions and any temporary disability resulting therefrom as any other temporary disability for commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, along with other employment-based benefits. 34 C.F.R. § 106.57(c).

Additional information for students, parents and guardians, and schools

OCR's *Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972* (2013, first published in 1991) (OCR Pamphlet), www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf, also has useful information about the rights of students and the obligations of schools under Title IX to students who are pregnant or experiencing or recovering from pregnancy-related conditions, including termination of pregnancy. Examples include:



Title IX **protects students against harassment** by school employees or other students because of their pregnancy and related conditions. OCR Pamphlet at 8.



A school must ensure that its teachers' policies and practices do not discriminate against students because of pregnancy and related conditions. For example, **a teacher may not refuse to allow a student to submit work after missing a deadline because of absences due to pregnancy or childbirth.** Additionally, if a teacher's grading is based in part on class attendance or participation, the student should be allowed to earn the missed credits and be reinstated to the student's pre-leave status. OCR Pamphlet at 11.



U.S. Department of Education

Office for Civil Rights

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How to File a Complaint

Students, employees, or applicants for employment who believe they may have been discriminated against based on pregnancy or related conditions, including termination of pregnancy, **may file a complaint through their school's grievance procedures.** Every school district and postsecondary institution covered by Title IX is required to prominently display – on its website and in student and employee handbooks and catalogs – contact information for the Title IX Coordinator, who is responsible for overseeing all Title IX complaints, including for discrimination based on pregnancy and related conditions. 34 C.F.R. § 106.8(b)(2).

In addition, **anyone can file a complaint with OCR,** including students, parents and guardians, employees, community members, and others who experience or observe discrimination in education programs or activities based on sex, including pregnancy and related conditions, as well as based on race, color, national origin, disability, and age. To file a complaint, please use this online form: www2.ed.gov/about/offices/list/ocr/complaintintro.html. Under OCR's Case Processing Manual, complaints typically must be filed within 180 days of when the discrimination took place.

To ask OCR to provide language access services or resources, which may include oral technical assistance or written translation of a publicly available OCR document, free of charge, contact us at 1-800-421-3481 (TDD: 1-800-877-8339), or email us at OCR@ed.gov. If you would like more information about the Department's interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-437-0833) or email Ed.Language.Assistance@ed.gov.

To request documents in alternate formats such as Braille or large print, please contact the Department at 202-260-0852 or om_eeos@ed.gov.

Please note that this resource does not have the force and effect of law. OCR's enforcement of Title IX stems from Title IX and its implementing regulations.