

PREGNANCY & RELATED CONDITIONS

KATHRYN STATZ





INTRODUCTION

The new regulations outline a higher level of expectation of care and awareness, not only for students but also for employees who become pregnant or experience other conditions relative to pregnancy. Institutions have decisions to make as to how they plan for and respond to these expectations.

DEFINITION *

Pregnancy or related conditions means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

* Slightly revised



DISCLAIMER

This is an overview of pregnancy- related Title IX changes only (Section 106.40). Team members also should have awareness of and consult with others charged with supporting pregnancy and related conditions in light of the federal Pregnant Workers' Fairness Act, effective this June (applicable to employees), as well as state statutes that may provide more specific protections.

(Only 4 states do not have their own protections and defer to federal law.)

TRAINING RESPONSIBILITY



TRAINING ON CAMPUS-WIDE SHARED RESPONSIBILITY FOR PREGNANCY-RELATED ELEMENTS OF NEW REGS HAS TO START NOW

- New expectation for employees to inform students who they learn are pregnant or experiencing related conditions
 - Contact information for the Title IX Coordinator
 - That the Title IX Coordinator can help them access leave and accommodations if needed.
- Very clear that the employee training must be **taken**, not just offered
 - Institutions must find a way to push this new expectation out widely, giving at least this notice, to all employees
 - Ideally, fold in with other online training that is documentable as taken



“ALL-IN-ONE” OUTREACH



1



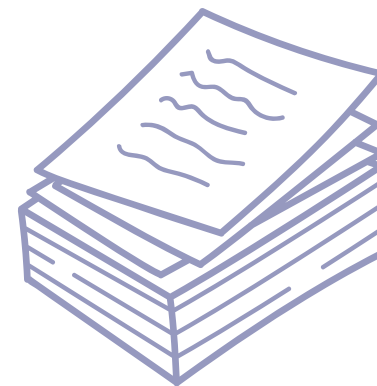
Provide **notice of non-discrimination** and let them know **Title IX** is a **resource** for them.

2



Offer to consult with the student to assess that student's individualized **needs**.

3



Reference documentation requirements and expectations

4



Offer reasonable modifications

5



Access to resources (i.e. **lactation Spaces**)

“ALL-IN-ONE” OUTREACH



1



Provide the notice of non-discrimination and let them know you as the Title IX Coordinator are there to coordinate specific actions to ensure their access to their education

If the person who notified the employee has a legal right to act on behalf of the student, include them in this communication.

“ALL-IN-ONE” OUTREACH

2



Offer to consult with the student to assess that student’s individualized **needs**.

Must provide reasonable modifications to policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the education program or activity.

“ALL-IN-ONE” OUTREACH



3



**List
documentation
requirements and
expectations**

Limitation on supporting documentation

- Must not require supporting documentation unless it's necessary and reasonable to determine the modifications to make, or
- Would inform whether to take additional specific actions
- Documentation may come from any healthcare provider, not exclusively a physician.



EXAMPLE SITUATIONS

WHEN REQUIRING SUPPORTING DOCUMENTATION IS NOT NECESSARY AND REASONABLE



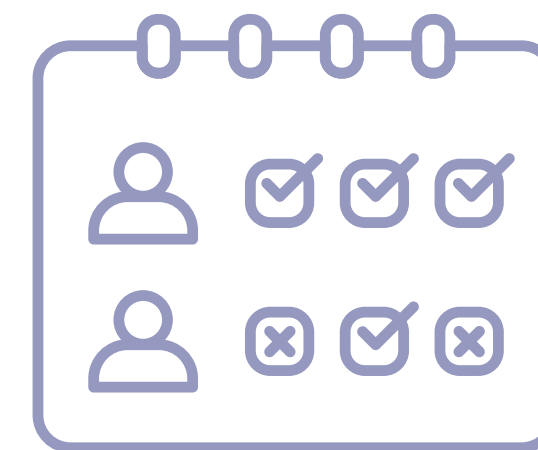
When the student's need for a specific action is **obvious** (e.g. bigger uniform, carry or keep water nearby, use a bigger desk)



When the student has previously provided sufficient supporting documentation



When the student has lactation needs



When the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation

“ALL-IN-ONE” OUTREACH



4



Offer
**reasonable
modifications**



Voluntary access to **separate and comparable** portion of program or activity.

- Must allow the student to voluntarily access any separate and comparable portion of the recipient's education program or activity, if there is one.

Voluntary **leaves of absence**

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



EXAMPLES OF REASONABLE MODIFICATIONS



Breaks during class to express breast milk, breastfeed, or attend to associated health needs , including eating, drinking, or using the restroom



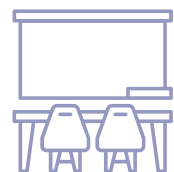
Intermittent absences to attend medical appointments



Access to online education, changes in schedule or course sequence, extensions of time for coursework, or rescheduling of tests and examinations



Allowing a student to sit or stand, or carry or keep water nearby



Changes in physical space or supplies (for example, access to a larger desk or a footrest)



Elevator access

“ALL-IN-ONE” OUTREACH



5



Access to
resources
(i.e. **Lactation
Spaces**)

Access to a lactation space,
which must be a space other than
a bathroom, that is clean, shielded
from view, **free from intrusion**
from others, and may be used by
a student for expressing breast
milk or breastfeeding as needed.

“ALL-IN-ONE” OUTREACH



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Access to resources (i.e. **lactation spaces**)

TO DO LIST

To help move the needle forward this summer



Contact campus partners including Provost's office, College Deans on the academic side to "front" this new lens for consideration of accommodations.



Review current TIX letters of notice to faculty to ensure they remain appropriate, especially for other related medical conditions scenarios.



Connect with any affinity or similar group for adult/parenting students to provide information about these changes.



Learn whether your institution has programs for which virtual learning is no longer permissible and have discussions with those decision-makers about what alternatives can be for pregnant students.



Initiate outreach to campus partners to brainstorm about compliant lactation spaces that meet expectations.





QUESTIONS?

Head over to our **2024 New Regulations Thinkific Community** to ask your questions, connect with fellow Title IX Administrators and experts, and see what questions others have!

Can't find the community? Check out our *Community Guidelines* PDF in the Introduction chapter or email Cara Kuhn at cara@titleixsolutions.com.