

2024 Title IX Education Series: Translating the New Regulations into Your Title IX Policies and Procedures

Session 4: Protections for Pregnant & Parenting
Students and Employees

June 18, 2024

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Meet Your Speaker Panel



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**learning
OUTCOME**


Learn how the new regulations will expand protections and rights related to pregnancy and parenting.

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Disclaimer

The information provided in this training does not, and is not intended to, constitute legal advice. Instead, all information, content, and materials available during this training are for training and general informational purposes only.

 **ACADEMIC
IMPRESSIONS**

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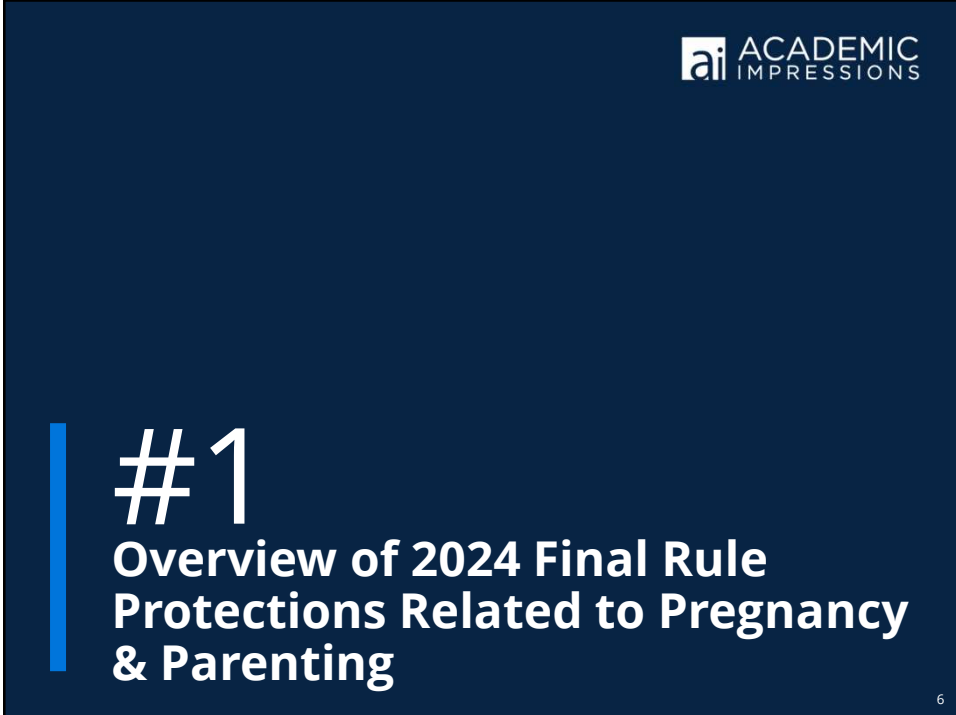


AGENDA

- 1) Overview of 2024 Final Rule Protections Related to Pregnancy and Parenting
- 2) Reasonable Modifications
- 3) Pregnancy Protections in Employment - Title IX and Related Law

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ai ACADEMIC IMPRESSIONS

#1

Overview of 2024 Final Rule Protections Related to Pregnancy & Parenting

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Overview: How Did We Get Here?

1991

- OCR pamphlet on teenage pregnancy

2013

- OCR [DCL/Guidance on Supporting the Academic Success of Pregnant and Parenting Students](#)
- OCR [Know Your Rights: Pregnant or Parenting? Title IX Protects You](#)

2022

- OCR [Discrimination Based on Pregnancy Resource for Students and Schools](#)

2024

- [Title IX Final Rule](#)

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Title IX Definition of Sex Discrimination

- Sex stereotypes
- Sex characteristics
- **Pregnancy or related conditions**
- Sexual orientation
- Gender identity

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■ What's New?

- TIXCO and designees have new responsibilities to pregnant students
- Training requirements for all employees related to pregnancy – 106.8(d)

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■ “Pregnancy or Related Conditions” 106.2, p.1510

Definition:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

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■ Specific Actions 106.40(b)(3)(i)-(vi)

1. **NOTIFICATION:** Inform the student of the school's obligations under 106.40(b)(1)-(5) and 106.44(j) and the school's notice of nondiscrimination
2. **MODIFICATIONS:** The school "must make reasonable modifications" to policies, practices, or procedures

106.40(b)(3): "The Title IX Coordinator must coordinate these actions." See [2024 Final Rule](#).

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■ Notification 106.40(b)(2)

Responsibility to provide Title IX Coordinator contact and other information. A recipient must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, *unless the employee reasonably believes that the Title IX Coordinator has been notified*, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the recipient's education program or activity.

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■ Notification considerations

1. Do
 - Reasonable modifications
 - Private lactation space
 - Voluntary access to separate & comparable
 - Voluntarily leave of absence
 - Treat pregnancy like any other temporary medical condition
2. Don't
 - No supporting documentation unless necessary to determine reasonable modification
 - No certification required, with exceptions
 - Do not disclose personally identifiable information obtained in the course of complying with this notification requirement
3. Training Opportunity
 - What to do upon disclosure; avoid assumptions; don't ask
 - Enforcing modifications

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■ “Parental Status” 106.2, p.1509-1510

Definition: The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- A biological parent;
- An adoptive parent;
- A foster parent;
- A stepparent;
- A legal custodian or guardian;
- In loco parentis with respect to such a person; or
- Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

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■ Some considerations on parental status

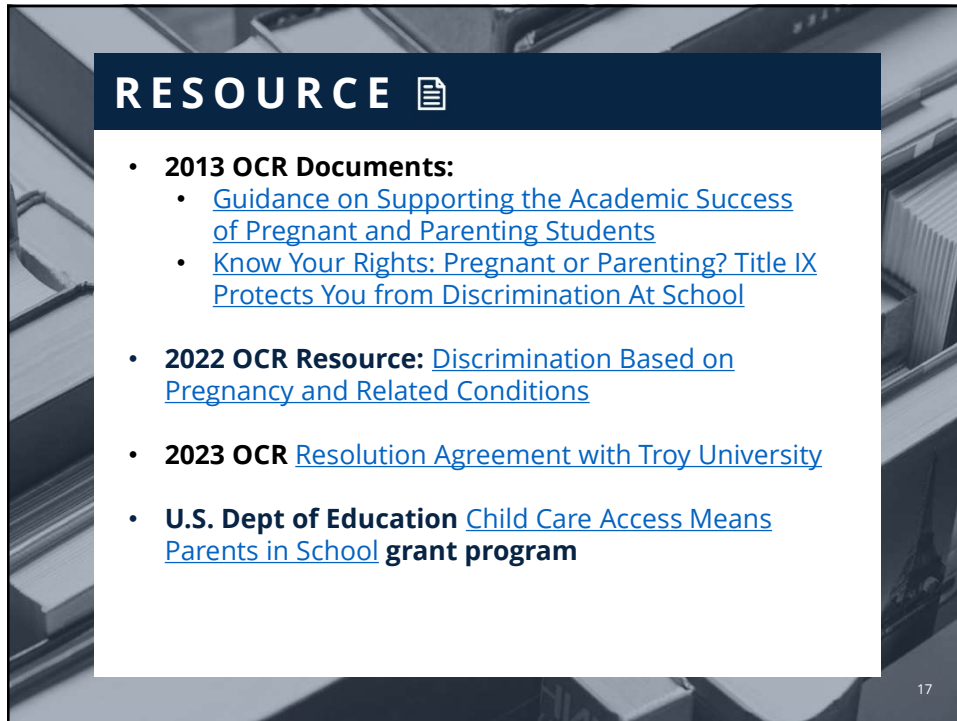
1. Schools do not have to provide students with childcare.
2. Schools do not have to provide remote class or work options for childcare purposes.
3. Schools can not treat student parents differently based on their parental status. This includes fathers.
4. Schools must not adopt any policy, practice, process or procedure concerning the current, potential, or past parental, family or marital status of a student or applicant that treats persons differently on the basis of sex.
5. Schools may not make a pre-admission inquiry about the marital status of applicants, such as whether they are "Ms" or "Mrs."

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■ Parenting Considerations

- Programs designed to support parenting students stay in school
- Campus-wide committees to address childcare
- Create information hub
- Lactation map
- Partner with campus and community organizations

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RESOURCE

- **2013 OCR Documents:**
 - [Guidance on Supporting the Academic Success of Pregnant and Parenting Students](#)
 - [Know Your Rights: Pregnant or Parenting? Title IX Protects You from Discrimination At School](#)
- **2022 OCR Resource:** [Discrimination Based on Pregnancy and Related Conditions](#)
- **2023 OCR** [Resolution Agreement with Troy University](#)
- **U.S. Dept of Education** [Child Care Access Means Parents in School grant program](#)

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CHAT

What is your greatest barrier, if any, in implementing any of these requirements for your pregnant/parenting members of your community?

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#2

Reasonable Modifications

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Reasonable Modifications 106.40(b)(3)(ii)

- Schools must make **reasonable** modifications to policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access
 - Based on student's individualized needs
 - Requires consultation with student
 - Must not fundamentally alter the nature of the educational program
- Student has discretion to accept or decline each modification
 - If student accepts, school must implement
- Reasonable modifications may include...

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■ **Modification Examples 106.40(b)(3)(ii)(C)**

1. Breaks for lactation, breastfeeding, health needs
2. Intermittent absences for medical appointments
3. Access to remote education
4. Changes in schedule or sequence
5. Time extensions
6. Rescheduling of tests/exams
7. Allowing sit or stand
8. Carry or keep water nearby
9. Counseling
10. Changes in physical space or supplies
11. Elevator access
12. *Or other changes to policies, practices, or procedures **

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■ **“Other changes to p/p/p”**

- Providing a larger uniform if one is needed for the program or activity
- General restroom breaks
- For student workers, changes in work schedules
- Parking and transportation access
- For co-op/placements/internships: may require adjustment in placement, schedule, or duties
- An in-person option where computer use exacerbates a pregnancy-related condition
- A paper option where a computer exacerbates a condition

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■ Modifications vs. Accommodations

Same: Interactive process

- Schools must work with pregnant and parenting students individually and come up with an academic plan tailored to each student's needs and academic success
- Advise pregnant and parenting students of the availability of programs and services to help them stay in school and maintain their educational progress
- Schools must treat conditions related to pregnancy in the same way as any other temporary impairment of physical condition

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■ Additional Modifications related to:

1. Housing
2. Facilities
3. Clinical Placements
4. Athletics

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TAKEAWAYS



Modification Takeaways:

- It's up to the student.
- Have a process.
- Be creative.
- Be consistent.

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 **ACADEMIC
IMPRESSIONS**

#2

**Pregnancy Protections in
Employment – TIX and Related Law**

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Pregnancy Discrimination in Employment

Covered:

- Pregnancy (past, current, potential)
- Childbirth
- Breastfeeding
- Abortion
- Miscarriage
- Birth control
- Other medical conditions related to pregnancy

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Examples of Discriminatory Actions in Employment

- Refusing to hire a job applicant due to pregnancy
- Firing or demoting a pregnant employee
- Denying the same or a similar job to an employee after they return from a pregnancy-related leave
- Harassment
- Denying reasonable modifications

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■ Modifications for Employees

- Breaks for lactation, breastfeeding, health needs
- More frequent breaks and trips to restroom
- Time off for medical appointments
- Allowing sit or stand
- Carry or keep water nearby
- Changes in physical space or supplies
- Elevator access
- Flexibility in work assignments
- Limits on lifting
- Light duty
- Ergonomic furniture
- Parking and transportation assistance
- Medical leave of absence

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■ Federal Laws – Pregnancy Protections

- Title VII
- Pregnancy Discrimination Act
- Pregnant Workers Fairness Act
- PUMP Act
- Family Medical Leave Act
- Americans with Disabilities Act

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■ Title VII of 1968

- Institutions “shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.” 34 C.F.R. § 106.57
- See also 29 C.F.R. § 1604.10: Employment Policies Relating to Pregnancy and Childbirth

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■ The Pregnancy Discrimination Act of 1978

- Amends Title VII
- Defined 'because of sex' or 'on the basis of sex' to include on the basis of pregnancy, childbirth, or related medical conditions
- Required that women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work

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■ PUMP Act

- Became law on December 29, 2022
- Right to break time and a private space to pump during the workday
- Covers employers of all sizes

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■ The Pregnant Workers Fairness Act

- Became law on June 27, 2023
- Final regulation goes into effect on June 18, 2024
- Requires employers to provide reasonable accommodations to workers for pregnancy and related conditions

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■ Americans with Disabilities Act

- Prohibits disability discrimination
- Pregnancy and related medical conditions may qualify an employee as temporarily disabled under the ADA

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■ Family Medical Leave Act

- Guarantees certain employees the right to 12 weeks of unpaid leave per year for medical conditions affecting themselves or their family members
- This includes leave for pregnancy, childbirth, and caring for a new child

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■ State Law?

- The [EEOC has a website](#) that maps out different states' employment protections for workers who are pregnant or nursing.

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RESOURCE

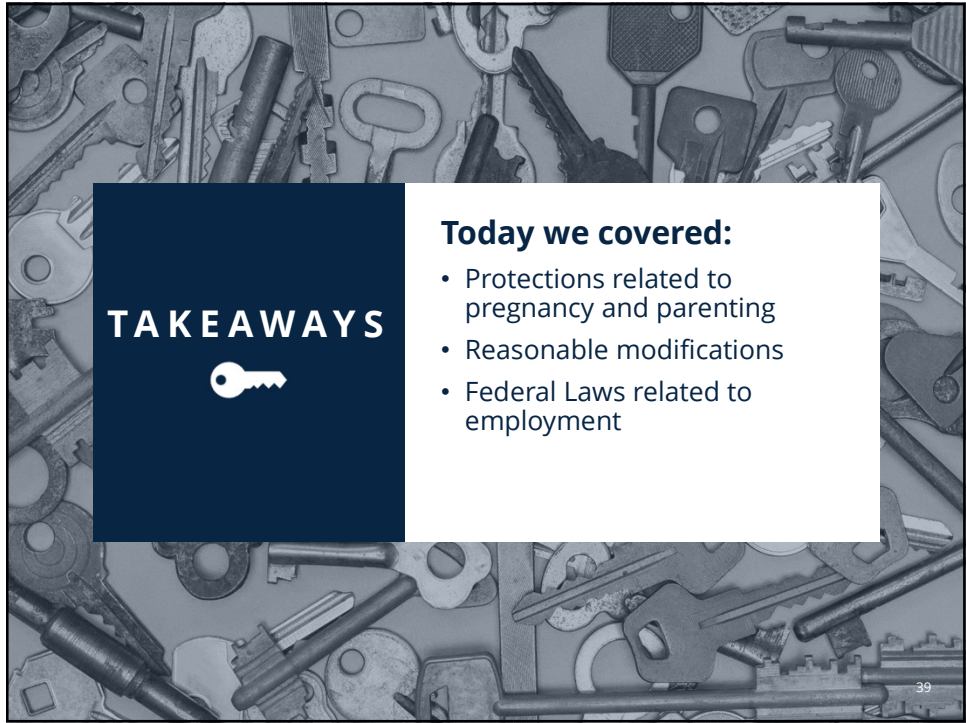
EEOC Resources

- [Pregnancy Discrimination Act of 1978](#)
- Overview on [Pregnancy Discrimination and Pregnancy-Related Disability Discrimination](#)
- [What You Should Know About the Pregnant Workers Fairness Act](#)
- [PWFA training video](#)


FLSA [Fact Sheet: Protections for Employees to Pump Breast Milk at Work](#)

U.S. Breastfeeding Committee resource:
[The PUMP Act Explained](#)

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TAKEAWAYS



Today we covered:

- Protections related to pregnancy and parenting
- Reasonable modifications
- Federal Laws related to employment

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POLL



Will your institution:

1. Keep pregnancy within the Title IX policy?
2. Create a separate pregnancy policy?
3. Not sure what we will do.

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