

Title IX Protections for Pregnant and Parenting Students

Student-Parent Families at the Center

Autumn R. Green, Jessica Lee, and Theresa Anderson

Title IX of the Education Amendments of 1972 (Title IX) is a federal civil rights law that protects students from educational discrimination based on sex or gender. Every college that receives federal funding is required to designate a Title IX officer. Although Title IX is often referenced regarding sexual assault and harassment on college campuses, many college faculty, staff, and even some Title IX coordinators remain unaware that the law also protects pregnant students and includes some protections related to parenting status.

TITLE IX REPORTING AND ENFORCEMENT PROCESS

Typically, complaints pertaining to pregnancy and parenting status discrimination are first fielded by a college's Title IX officers. Although every college is required to have at least one Title IX officer, the scope of each institution's office can vary dramatically. Some have large offices that employ deputy officers, while others assign an existing administrator to act as the required officer on a part-time basis. New Title IX regulations released in 2022 require colleges to tell pregnant students about Title IX and for Title IX officers to inform students of their rights.

The Title IX grievance process is initiated when a student registers a complaint or request for accommodation to the Title IX officer, who works on behalf of the university to investigate. A student is not required to file a complaint at school first, and they may opt to take their complaint directly to the Department of Education's Office of Civil Rights (OCR) or file a lawsuit, regardless of whether they filed a grievance with the Title IX Office beforehand. But if they have already filed a complaint directly with their school, OCR may require them to wait for the school to issue a finding or for the student to withdraw the complaint before intervening. If OCR finds the college's response inadequate, a corrective directive can be issued. Colleges that do not comply with OCR directives can lose all federal funding.

PROTECTIONS FOR PREGNANT AND PARENTING STUDENTS

Although Title IX itself is a single sentence, it has heavily affected sex and gender equity in education (<https://urban.is/3fwpwh3>). OCR interprets Title IX protections with guidance from the Department of Justice and the courts and with input from legal scholars and advocates. Educational programs governed by Title IX must provide equal services regardless of students' sex or gender identity. In general, pregnant and parenting students can expect the following protections through Title IX:

In 2013, OCR sent a **"Dear Colleague" letter and pamphlet** to officials at every US college and secondary school clarifying that **pregnancy and parenting status discrimination can be illegal under Title IX.**

The OCR pamphlet primarily addressed K-12 systems. Some college **administrators did not realize it also applied to colleges.**

In 2022, **OCR released proposed revisions to Title IX regulations**, which would extend and clarify protections for pregnant and parenting students (<https://urban.is/3SWctmV>).

These protections **would require institutions to inform students about Title IX protections**, prevent discrimination in program admission, support lactation, accommodate participation in academic and extracurricular activities, allow protected leaves of absence, and address harassment.

Protections for Pregnant Students

The federal implementing regulations for Title IX require colleges to allow pregnant and postpartum students to take leave of their academic obligations without penalty because of medically necessary absences associated with pregnancy, childbirth, or postpartum recovery. Following time off, postpartum students must regain the status they previously held, including (if practicable) in extracurriculars and athletics. Pregnant students are entitled to accommodations or adjustments following an interactive process similar to the disability accommodation process. If a student requires accommodations to participate fully in the classes or extracurriculars and the accommodations are reasonable, they must be provided.

Breastfeeding Students' Rights

In the past, the full scope of protection for lactating students has been unclear. The 2022 Title IX regulations require educational institutions to provide students and employees with a lactation space that is not a bathroom and is clean, shielded from view, free from intrusion, and may be used for expressing breastmilk or breastfeed as needed. In addition, educational institutions must provide break time for lactation as a pregnancy-related condition and may not discriminate on the basis of lactation. These provisions apply in addition to existing protections under state laws.

Parenting Status Protections and Rights

Often, Title IX regulations can be challenging to interpret, and OCR's current interpretation of parenting status discrimination protections offers only limited guidance (<https://urbn.is/3Dv0gjp>). Title IX protects pregnant and parenting students from policies or practices in curricular and extracurricular educational programs and activities that treat students differently by sex or gender. This protection applies to policies that do not intentionally exclude parents of a certain sex but have that effect in practice. Although there is minimal interpretation or legal precedent to clarify the scope of protection student parents have, prior research has found widespread and frequent examples of exclusion based on parenting status. Student-fathers from our Leadership Council discussed how they were often denied parental accommodations or services, and students are often told they may only attend school through a special—often unequal—program. Students cannot be mandated to participate in alternate programs or special services for pregnant and parenting students as a condition of enrollment, but schools and colleges may offer these programs and services as an option to students (<https://urbn.is/3SUIQDI>).

LIMITATIONS OF PROTECTIONS AND BEST PRACTICES FOR INSTITUTIONS

Although OCR has published strong guidance on pregnancy and childbirth-related protections, enforcement on parenting status discrimination has been minimal. Current legal interpretations have left colleges unclear about the extent of Title IX protections and how they should be applied to ensure educational equity for parenting students. Some college officials wrongly believe that parenting status discrimination is outside the scope of Title IX. Until these protections are clarified or expanded, legal advocacy opportunities will remain limited. For now, colleges can adhere to the following best practices to ensure that pregnant and parenting students have equitable protections:

- Become familiar with the 2022 revised regulations.
- Include clear information about protections on colleges' Title IX websites.
- Include language about Title IX and pregnant and parenting students in college syllabus templates.
- Make resources available for training faculty about pregnant and parenting students' rights and protections.