

Title IX and Pregnancy

In April 2024, the Department of Education released updated Title IX regulations which go into effect on August 1, 2024, clarifying some information related to Title IX's protection of individuals who are pregnant or have pregnancy-related conditions (pregnancy, childbirth, termination of pregnancy, lactation, and all related medical conditions or recovery). Title IX prohibits discrimination on the basis of sex in educational institutions that receive federal financial assistance. This includes discrimination against an individual because they are pregnant or have a pregnancy-related condition (see below).

The new regulations also created specific requirements for institutional employees to provide information when a student discloses their pregnancy, to ensure that the student has access to important information about their rights to continue their education. The information in this document is intended to be a resource for employees to understand their obligations under the regulations and highlight key factors for consideration.

Overview:

CSU employees are now obligated to take specific steps when a student informs the employee that they are pregnant or have a pregnancy-related condition:

- o **Do:** Give the student the Title IX Coordinator's contact information or direct them to the online reporting tool. Here are the instructions to provide to students:
 1. Visit the [online reporting tool](#) (also located at the bottom of the CSUMB website as Report Concerning/Discriminating Behavior);
 2. Select: Sexual Misconduct and & Discrimination/Harassment Report (Title IX/DHR);
 3. Enter your information and select "Pregnancy and Pregnancy Related Condition Modifications Under Title IX."
- o **Do:** Tell the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure their equal access to the university's education program.
- o **Do not:** Report the student's pregnancy to the Title IX Coordinator. The regulations are intended to allow a pregnant student to choose whether to seek further assistance from the Title IX Coordinator.

Title IX prohibits discrimination on the basis of sex including pregnancy and related conditions, including but not limited to:

- Pregnancy and pregnancy-related illness (i.e., excessive morning sickness, fatigue, nausea, prenatal depression, etc.)
- Miscarriage
- Abortion
- IVF Treatments
- Childbirth, including recovery from childbirth
- Lactation and lactation related conditions (i.e., mastitis)
- Treatment for postnatal/postpartum depression

This new requirement does not change an employee’s existing reporting obligations under the Nondiscrimination Policy to report all instances of discrimination, harassment, and retaliation.

If an employee becomes aware that a pregnant student is facing discrimination or harassment, the information should be reported to the Title IX Coordinator following normal reporting procedures.

Pregnant students are entitled to reasonable modifications for continued access to their education program or activity, which are based on the student’s individualized needs. These modifications may include, but are not limited to:

- Breaks during class to express breastmilk, use the restroom, or attend to other pregnancy or related needs;
- Rescheduling of tests or examinations;
- Access to an elevator or changes in physical space, such as a desk and chair large enough to accommodate a pregnant student;
- Excusal for pregnancy-related absences;
- To return to their academic program in the same status that they left.

Q & A:

Q: Do these regulations change the protections of Title IX?

A: Title IX has always prohibited pregnancy discrimination since its inception in 1972. The 2024 regulations have added clarification about what steps schools must take to ensure they are working to proactively prevent pregnancy discrimination on campus and responding to it when it occurs. This includes the new obligation for all employees to provide the Title IX Coordinator’s information and a statement that the

Title IX Coordinator can coordinate specific actions to students who disclose their pregnancy or related condition to employees.

Q: What do I need to do, if a student discloses pregnancy or a related condition to me?

A: First, provide the person with the Title IX Coordinator's name and contact information. This can be done in a variety of ways and your Title IX Office may have brochures, a specific website, or other information that you can keep on hand should the need arise to share it with a student. Second, inform them that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure their equal access to the university's education program. For sample language, see "Sample Communications" below.

Q: What triggers this responsibility?

A: The responsibility is triggered at the time a student discloses to any employee that they are pregnant or have a pregnancy-related condition. That responsibility includes to provide the student with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can help ensure the student will have equal access to the university's education program and activity during their pregnancy and for pregnancy-related conditions. In the preamble to the Title IX regulations, the department wrote, "A student or a person who has a legal right to act on behalf of the student 'informs' an employee of a student's pregnancy or related conditions when the student or such person tells the employee that the student is pregnant or experiencing pregnancy-related conditions, either verbally or in writing. For example, if a student tells a teacher, 'I am pregnant and will be late to class on Wednesday due to a doctor's appointment,' the student has informed the teacher of the pregnancy and the teacher's obligations under § 106.40(b)(2) are triggered."

In summary, ALL employees are obligated to provide students with the Title IX Coordinator's information after a student (or their legal representative) discloses to the employee their pregnancy or related condition.

Q: After speaking with the student, do I need to make a report to the Title IX Coordinator?

A: The short answer is, **no**; employees do not need to report information they learn about a student's pregnancy to the Title IX Coordinator. In the preamble to the Title IX regulations, the Department said that by providing the Title IX Coordinator's contact information, employees will "give students the information they need to choose whether to seek reasonable modifications, voluntary leave, or access to a lactation space as necessary, and will help prevent potential disruptions to their access to education." (Emphasis added).

The exception to the above is when the student discloses to an employee that they are not only pregnant, but they have experienced conduct that could reasonably constitute sex discrimination. In cases where a student discloses that they have experienced sex discrimination (for example, being prohibited from participating in a university-sponsored event due to their pregnancy or being told to withdraw from a class and take it the following semester), the employee should report the allegations to the Title IX Coordinator as they would any other allegations of sex discrimination.

Q: What do I do if I am informed indirectly about a student’s pregnancy or suspect that a student is pregnant?

A: The regulations only require you to **provide** the student with information about the Title IX Coordinator when the pregnant student or their legal representative has disclosed their pregnancy or related condition directly to you. In the preamble to the regulations, “...the Department clarifies that § 106.40(b)(2) does not require a school employee to approach a student unprompted, ask a student about their pregnancy or any other subject, or make assumptions about the student’s needs or medical status.” The Department further stated, “It is not enough for an employee to be informed indirectly, or by someone other than the student or their legal representative, or to merely suspect that a student may be pregnant or experiencing pregnancy-related conditions.”

Resources

Sample Syllabus Statement

Pregnancy and Pregnancy Related Condition Modifications Under Title IX

Cal State Monterey Bay (“CSUMB”) is committed to compliance with Title IX, and to supporting the academic success of pregnant students and students with pregnancy related conditions (pregnancy, childbirth, termination of pregnancy, lactation, and all related medical conditions or recovery).

If you are pregnant, or have a pregnancy related condition, and would like to request reasonable, related modifications from the University under Title IX, please file your request following these directions:

1. Visit the [online reporting tool](#) (also located at the bottom of the CSUMB website as Report Concerning/Discriminating Behavior;
2. Select: Sexual Misconduct and & Discrimination/Harassment Report (Title IX/DHR);
3. Enter your information and select “Pregnancy and Pregnancy Related Condition Modifications Under Title IX.”

The Title IX Coordinator will work with your professors and academic unit to provide reasonable modifications needed to be supportive of your education while pregnant or due to related medical conditions or recovery under Title IX. More information can be found at the [Interim CSU Nondiscrimination Policy](#).