

PREGNANCY UNDER TITLE IX

Overview of requirements regarding pregnancy

with Andrea Stagg

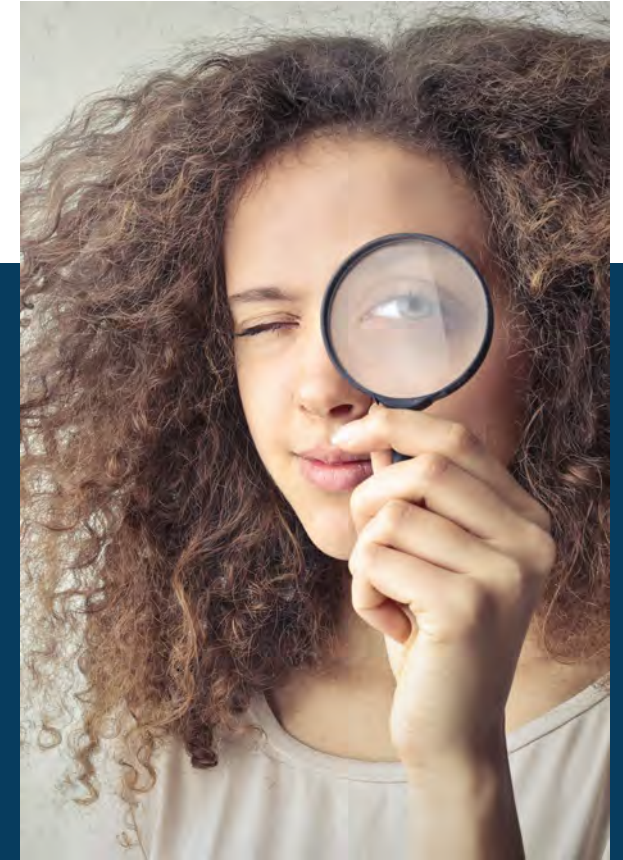


PREGNANCY UNDER TITLE IX OVERVIEW

Title IX
protections

What's in the
regulations

Best practices



AGENDA

- | Title IX protections
- | What's in the regulations
- | Best practices



OVERVIEW OF REQUIREMENTS REGARDING PREGNANCY

Title IX prohibits discrimination on the basis of sex in a recipient's education program and activities.

- Specifically, it prohibits discriminating against students, employees, and applicants on the basis of pregnancy or pregnancy-related conditions.

- Pregnancy
- Childbirth
- False pregnancy
- Termination of pregnancy or recovery therefrom

WHAT DO THE REGULATIONS SAY ABOUT PREGNANCY RELATING TO ADMISSIONS?

Must treat disabilities related to pregnancy in the same matter they would as any other temporary disability or physical condition.

Example

If a student recovering from back surgery requests an extension on submitting application materials, and is approved, such an extension should also be approved for a student recovering from childbirth.

WHAT DO THE REGULATIONS SAY ABOUT PREGNANCY RELATING TO EMPLOYMENT?

- **Protections exist for both employees and applicants for employment.**
- **Employers must treat employees or applicants in the same manner and under the same policies as other temporary disabilities for job-related purposes.**
- Typically related to leave, disability income, seniority accrual, or other services/fringe benefits.
- Pregnancy can often qualify for a leave of absence regardless of whether the employee would qualify under the institution's written policy.
 - Can be as long as deemed necessary by their doctor.
 - Must be reinstated to the same status or comparable position without a decrease in pay, promotional opportunities, or other employment privileges.

STUDENT PARTICIPATION

Student can request to participate in separate portion of program/activity.

Treat them similarly to students with a temporary disability, to include requests for medical documentation

EXAMPLE

If you ask a student to show medical documentation before returning to class after a hospitalization for childbirth, your institution must also consistently require other students who take a leave for hospitalization to provide medical documentation to return.

STUDENT LEAVES OF ABSENCE

Can permit a leave of absence whether an institution has a written policy or not and regardless of whether the student would qualify under such policy.

Leave can be as long as deemed necessary by the student's doctor.

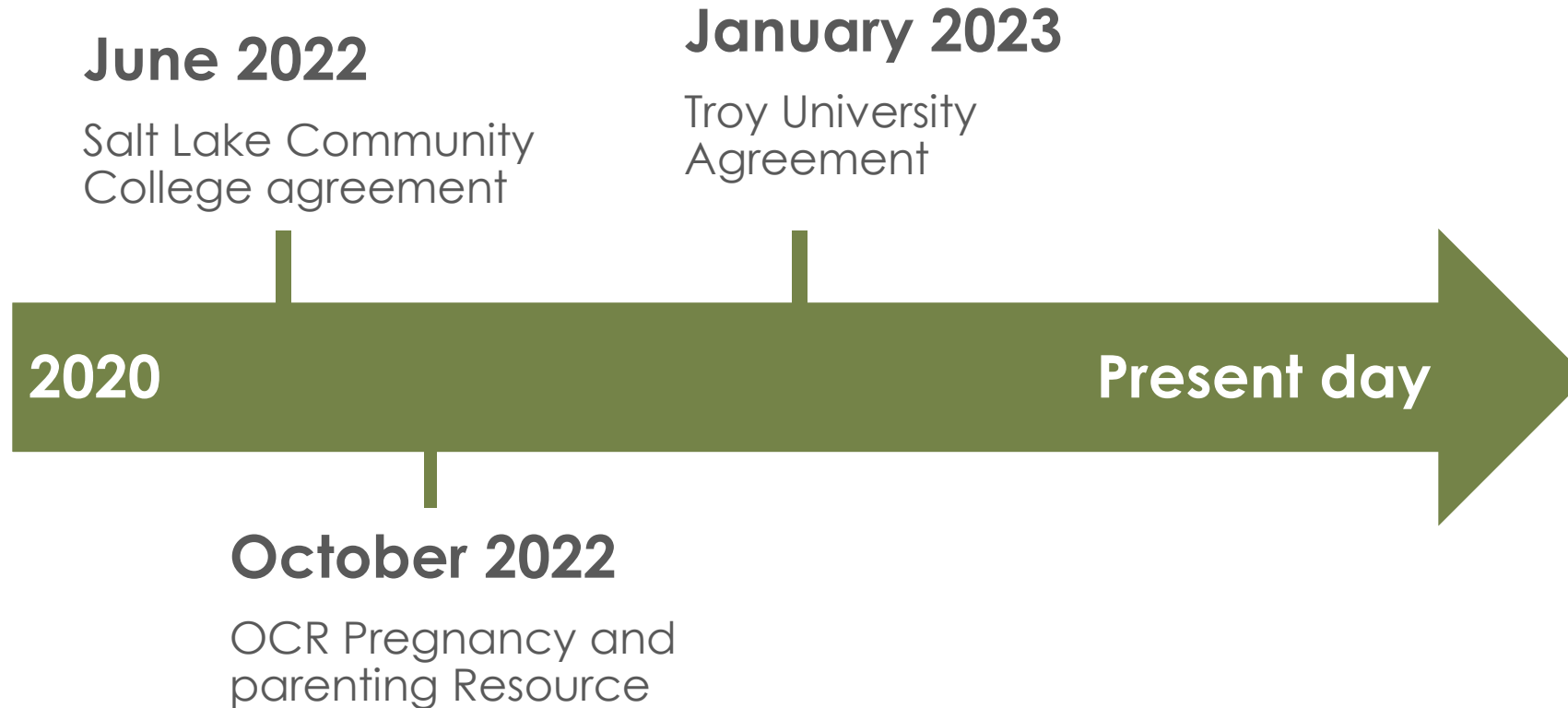
Student to be reinstated to same status.

DEPARTMENT OF EDUCATION GUIDANCE

- Modifications and adjustments are intended to ensure equal access when a student is impacted.
- ED states that an institution "must provide reasonable adjustments, like a larger desk, elevator access, or allowing you to make frequent trips to the restroom, when necessary, because of your pregnancy."



RECENT RESOLUTIONS AND OCR GUIDANCE



Recall that Title IX is enforced by the Department of Education's Office for Civil Rights.
There are a few cases regarding pregnancy that are instructive.

REASONABLE ADJUSTMENTS AND MODIFICATIONS



ADJUSTMENTS UNDER TITLE IX

Housing
changes

Furniture
size, shape and
position

Parking access

Elevator
access

Periods of
approved
remote or
hybrid
learning

Breaks and
access to
restrooms, foo
d or hydration

Rescheduling
assessments

Excused
absences

Late submissions of
expected work

Alternative
makeup work
of a similar
nature

Lactation
breaks/space

BEST PRACTICES

What we've learned from recent resolution agreements and OCR guidance documents:

Offer reasonable responsive adjustments

Designate a central contact for centralized response

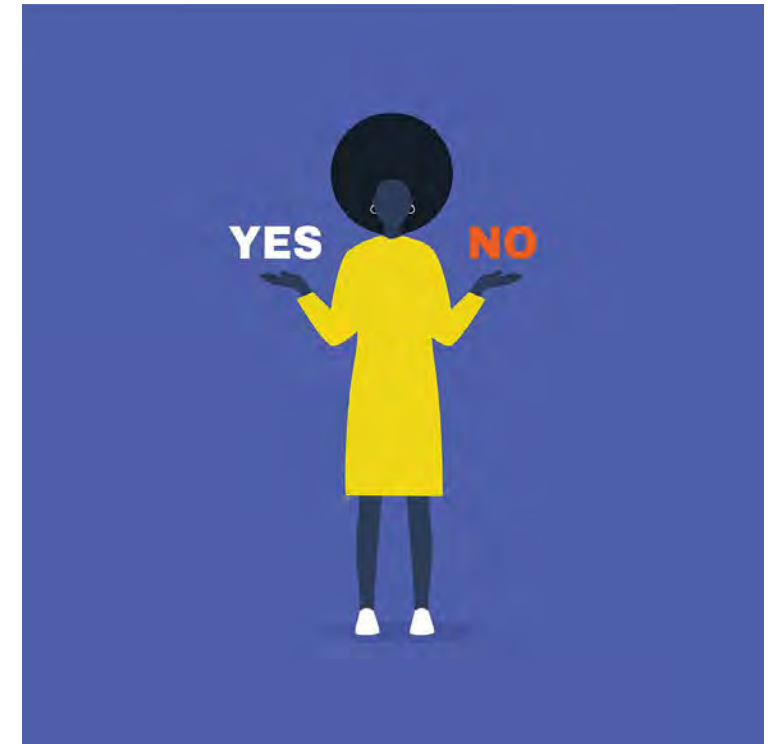
Engage in interactive process; create a SOP

Consider whether there is a temporary disability

Train employees on your rules and process

CONSIDERING CREATIVE SOLUTIONS

- A school should not make assumptions about a student's needs.
- A school should not decline an adjustment unless the request has been explored.
- What other possible adjustments might there be?
- Recognize their needs may change over time.
 - Institutions are limited only by their creativity.



EDUCATING STUDENTS ABOUT RESOURCES AND RIGHTS

Where do we share?

- Handbook
- Website
- Other materials for students

What to include?

- Information about support and adjustments
- How to report concerns
- Information about the prohibition of discrimination on the basis of pregnancy

TRAINING FACULTY AND STAFF

**Tailor for groups
who need to
know**

**Training not
required, but
recommended**

**Educate on
obligations to
support
students**



info@grandriversolutions.com



/Grand-River-Solutions



/GrandRiverSolutions



/GrandRiverSolutions



/GrandRiverSolutions.com



@titleixandequity.bsky.social

CONNECT WITH US