

# HIGHER EDUCATION

## INFORMATION MEMO

SEPTEMBER 17, 2024

### U.S. Department of Education Releases Additional Guidance for the 2024 Title IX Regulations

On Sept. 12, 2024, the U.S. Department of Education's Office for Civil Rights (OCR) released two new resources aimed at helping schools (including colleges and universities) and school administrators comply with the 2024 amendments to the Title IX Regulations, which went into effect on Aug. 1, 2024. The resources explain how the 2024 Title IX Regulations clarify and update longstanding obligations related to Title IX coordinator duties, as well as prohibitions on sex discrimination based on pregnancy or related conditions and parental, family or marital status. These resources complement other previously released guidance documents and indicate OCR's pointed attention to these issues. Below are some of the key points contained in each resource<sup>1</sup>.

The first resource, [2024 Title IX Regulations: Impact on Title IX Coordinator Duties](#), focuses on new and updated duties specific to Title IX Coordinators. The document addresses the following questions:

- What training must be provided to a Title IX Coordinator?
- How must a Title IX Coordinator monitor for barriers to reporting sex discrimination?
- What steps must a Title IX Coordinator take in response to possible sex discrimination?
- When is a Title IX Coordinator not required to respond?
- What actions must a Title IX Coordinator take with regard students who are pregnant or experiencing pregnancy-related conditions?
- What are the recordkeeping responsibilities related to a Title IX Coordinator's role?

The second resource, [2024 Title IX Regulations, Nondiscrimination Based on Pregnancy or Related Conditions & Parental, Family, or Marital Status](#), clarifies prohibitions on sex discrimination on these bases for students, employees and applicants for admission or employment (collectively the "protected groups").<sup>2</sup> Schools must not (1) discriminate against individuals in the protected groups based on pregnancy or related conditions; (2) treat those in the protected groups differently based on their parental, family or marital status; or (3) punish or retaliate against those in the protected groups for exercising a right under Title IX, such as seeking pregnancy-related leave or access to a lactation space.

In regard to applicants for admission and in addition to the above prohibitions, a school must not treat an

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<sup>1</sup> This document is provided as general guidance and does not provide a comprehensive summary of the requirements of the 2024 Regulations. Institutions should confer with legal counsel to ensure full compliance with the law.

<sup>2</sup> Pregnancy or related conditions is defined as: (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. Title IX also prohibits discrimination based on menstruation, perimenopause, menopause or their related conditions.

applicant's pregnancy or related conditions differently than any other temporary medical condition.

Concerning students, schools have additional duties under Title IX. Upon proper notice of a student's pregnancy or related conditions, a school must take specific actions, such as providing reasonable modifications, allowing voluntary leave, reinstatement and/or access to a lactation space. The school must also tell the student about its responsibilities to pregnant students, including its obligations to respond to sex discrimination and limit sharing of private information, and provide the school's notice of nondiscrimination. Schools are required to allow the student voluntary access to other parts of the school's education program or activity that are separate and comparable to the general program or activity. Schools must also allow a student to take a voluntary leave of absence and be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the leave began. A school must also allow a student access to a lactation space. Notably, Title IX does not require a student to provide documentation of their pregnancy or related conditions for their school to take specific actions, unless doing so is necessary and reasonable to determine modifications or other steps. The resource includes information about (1) reasonable modifications, (2) the duration of a leave of absence and a student's return, (3) participation in another portion of the school's program, and (4) lactation spaces.

For employees, a school must treat pregnancy or related conditions the same as any other temporary medical condition for all job-related purposes. A school must also treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time if the school does not have an employee leave policy or if an employee has insufficient leave or accrued employment time to qualify for such a leave under the applicable policy. At the end of a voluntary leave of absence, the school must reinstate the employee to the status held when the leave began or to a comparable position without a decrease in the rate of compensation, loss of promotional opportunities, or any other right or privilege of employment. Additionally, a school must provide an employee reasonable break time to express breast milk or breastfeed and ensure access to a lactation space. Regarding marital status, a school cannot ask an applicant about their marital status during the hiring process.

Please note that as of Aug. 28, 2024, pursuant to federal court orders, OCR is currently enjoined from enforcing the [2024 Final Rule](#) in certain states<sup>3</sup> and schools. Accordingly, the 2024 Final Rule and the recent guidance documents do not strictly apply in those states and [schools](#), but may still be useful to help understand OCR's enforcement priorities since the 2020 regulations contained similar prohibitions on sex-based discrimination.

On Sept. 18, 2024, Bond is hosting a complimentary Zoom webinar discussing pregnant students' rights under Title IX Regulations and will be presented by attorneys [Jane Sovern](#), [Barbara Lee](#) and [Alison Roach](#).

If you would like access to the webinar or have questions about the material covered in this memorandum, please contact [Christopher Cruz-Sierra](#) or any attorney in Bond's [higher education](#)

<sup>3</sup> Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia and Wyoming.

