

MEMORANDUM

TO: Title IX Coordinators/Disabled Student Program Services (“DSPS”) Personnel

FROM: Andrea Medina, Acting Associate Vice Chancellor of Human Resources,
Contra Costa Community College District

DATE: November 2, 2021

RE: Reminder on Protections Afforded to Pregnant Students Under Title IX of the
Education Amendments of 1972 (“Title IX”)

BACKGROUND:

This memorandum serves as a reminder to all IX Coordinators and Disabled Students Program Services (“DSPS”) Personnel of the Contra Costa Community College District (the “District”) of certain protections that are afforded to pregnant students under Title IX of the Education Amendments of 1972 (“Title IX”).

These rights under Title IX that protect pregnant students of discrimination are distinct from and complementary to other federal and state antidiscrimination protections provided to pregnant students based on certain qualifying criteria, such as those protections provided under Title II of the Americans with Disabilities Act (“Title II”), 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation of 1973 (“Section 504”), 29 U.S.C. § 794, and their implementing regulations.

Title IX Coordinators and DSPS Personnel should work together to ensure that all federal and state antidiscrimination laws are followed when determining whether a pregnant student is entitled to certain rights and services.

TITLE IX:

Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal Financial assistance.

20 U.S.C. § 1681. The Title IX regulations clarify that educational entities, such as the District, “shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.” 34 C.F.R. § 106.40(b)(1). These regulations further provide:

In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of

pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is *deemed medically necessary by the student's physician*, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

34 C.F.R. § 106.40 (b) (5)(emphasis added). A complicated pregnancy might trigger protections and reasonable accommodations under Title II and Section 504 and, as such, should be evaluated by DSPS Personnel when presented by a pregnant District student to determine what services and/or reasonable accommodations might be available. However, Title IX, as noted above, requires the District to treat pregnancy and recovery therefrom as a justification for a leave of absence only if it is “deemed medically necessary by the student’s physician” whether or not a student has a disability, as defined under Title II or Section 504.

For more information about the rights of District students who are pregnant under Title IX, please visit:

- **Dear Colleague Letter (June 25, 2013), Dear Colleague Letter (June 25, 2013),** <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201306-title-ix.pdf>
- **Pamphlet: Supporting the Academic Success of Pregnant and Parenting Students,** <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.html> (First published in July 1991 and reprinted in June 2013); and
- **Know Your Rights: Pregnant or Parenting? Title IX Protects You from Discrimination at School,** <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.pdf>