

# PATH TOWARDS INCLUSION FOR PREGNANT, PARENTING, AND LACTATING COLLEGE STUDENTS

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**WESTERN CENTER**  
ON LAW & POVERTY

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# HOUSEKEEPING

- Meeting is being recorded
- There is a live closed caption provider adding closed captions
- We will have designated time for questions and answers at the end
  - Please utilize the chat function to ask questions
  - If a question is asked that cannot be answered immediately, we will make note of it and follow-up

# INTRODUCTIONS

- Chelsea Mutual, Senior Staff Attorney, California Women's Law Center
- Antoinette Dozier, Senior Attorney, Western Center on Law & Poverty



## THE PROBLEM

WHY IS PROVIDING ACCOMMODATIONS IN A SCHOOL SETTING IMPORTANT?

# PROBLEMS PREGNANT, PARENTING, AND LACTATING STUDENTS EXPERIENCE

## BREAKING DOWN EDUCATIONAL BARRIERS FOR CALIFORNIA'S PREGNANT & PARENTING STUDENTS



A REPORT BY THE ACLU OF CALIFORNIA

- Stigmatizing behavior
- Prevented from taking the courses necessary or desired
- Forced to withdraw or prevented from successfully finishing courses
- Leave college without meeting educational goals
- Restricted from activities
- Denied a secure and private place to breast/chestfeed or pump milk
- Do not meet their personal goals for breast/chestfeeding because they lack institutional support

## CONSEQUENCES FOR STUDENTS

- Higher dropout rate
- Lower probability of earning a college degree
- Decreased opportunity to be hired for higher paying jobs
- Perpetuates cycle of poverty
- Exacerbates racial and ethnic disparities in outcomes



# WHAT'S THE STATE OF POLICIES FOR PREGNANT, PARENTING, AND LACTATING CALIFORNIA COMMUNITY COLLEGE STUDENTS?

A recent survey of more than 100 California community college students revealed that:

- 66% of students did not know that there are laws protecting students who are pregnant, parenting, and/or lactating from discrimination by college officials
- Almost 10% of students believed they had been discriminated against by a college official
- 82% did not know they had the right to request certain accommodations due to pregnancy, parenting obligations, or lactation
- 25% of students have requested accommodations due to pregnancy, parenting obligations, or lactation, some of which were not approved
- 42% of students have dropped a class, withdrawn from a class, or received a lower grade in a class due to pregnancy, parenting obligations, or lactation

# WHAT'S THE STATE OF POLICIES FOR PREGNANT, PARENTING, AND LACTATING CALIFORNIA COMMUNITY COLLEGE STUDENTS?

“Because of taking care of my babies (breastfeeding), I did not have enough time to complete my test on time and received lower grade.”

“Due to my pregnancy I had to drop a class. I was high risk at the end of my pregnancy which result[ed] in a W. I got a low grade in English as well. I received my first F due to my children being home and unable to concentrate. And during covid I had to drop other classes because of school closure.”

“My request were denied. I missed class because of lack of child care. I asked to submit missing assignments via email instead of in person and I was denied. Professors make it very well known that they do not make exceptions for any students. No matter their circumstances.”

“I missed the [assignment] deadline for pregnancy and medical appointments and had no transportation. I did not [t]ell them why. The teachers closed the assignment with no exceptions, and I was too embarrassed to ask.”

# PREGNANT AND PARENTING STUDENTS – TITLE IX

## Title IX

- Part of the Education Amendments of 1972, which are amendments to the Civil Rights Act of 1964
- Bars discrimination based on sex in educational programs that receive any federal funding
- Sex = pregnancy = pregnancy, false pregnancy, termination, miscarriage, childbirth, lactation, recovery, and other related conditions
- Any special services or accommodations provided to students with temporary medical disabilities must be provided to pregnant students (and those with pregnancy-related conditions)
- Applies to both students and employees within schools

# BREAKING DOWN TITLE IX REQUIREMENTS

Under Title IX, schools:

- Cannot exclude pregnant students from participating in any educational program, including sports, honor societies, or extracurricular activities.
- Can have special instructional programs or classes for pregnant students, but they must be completely voluntary and comparable to those offered to other students.
- Must return students to the same extracurricular status, including in athletics (scholarship and play), after they return from leave.
- Must provide reasonable accommodations to pregnant and parenting students.

# BREAKING DOWN TITLE IX PROTECTIONS

Common accommodations for pregnant and parenting students include:

- Class attendance accommodations such as
  - Excusing absences
  - Allowing bathroom breaks and/or rest or water breaks
  - Providing bigger desks and/or chairs
  - Providing parking spaces
- Providing delayed deadlines and/or opportunity to make up work
- Rescheduling tests or providing modified testing and/or accommodations during tests and exams
- Offering special academic services

# PREGNANT AND PARENTING STUDENTS – CALIFORNIA STATUTES RELATED TO TITLE IX

- **SB 1375 (2016)** requires California schools subject to Title IX to post certain information relating to Title IX, including contact information for the Title IX coordinator, “in a prominent and conspicuous location” on their websites.
- **AB 809 (2019)** requires public postsecondary institutions to post notifications of protections under Title IX for pregnant and parenting students on their websites.

# PREGNANT AND PARENTING STUDENTS – CALIFORNIA STATUTES

- The **Sex Equity in Education Act** requires schools to provide pregnant students, and those recovering from childbirth-related conditions, with the same accommodations and support services available to other students with temporary medical conditions.
- **California Labor Code § 1034(a)** requires postsecondary education institutions have a written pregnancy discrimination policy for their graduate students.
- The **California Fair Employment and Housing Act** prohibits harassment and discrimination based on many protected categories.

# CALIFORNIA'S FAIR EMPLOYMENT AND HOUSING ACT

FEHA prohibits harassment and discrimination on the basis of:

- Age (40 and older)
- Ancestry
- Color
- Religious creed (including religious dress and grooming practices)
- Denial of family and medical care leave
- Disability (mental and physical) including HIV and AIDS
- Marital status
- Medical conditions (cancer and genetic characteristics)
- Genetic information
- National origin (including language use and restrictions)
- Race
- **Sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding)**
- Gender, gender identity, and gender expression
- Sexual orientation

LEAVE

TAKING TIME OFF



# LEAVE AND ABSENCES FOR STUDENTS

Leave permitted “for so long a period of time as is deemed medically necessary”

34 CFR § 106.40(B)(5)

As determined by student’s physician and may include:

- Medically necessary doctor’s appointments
- Leave during pregnancy
- Time off for childbirth and recovery
- Time off for miscarriages, abortions, or pregnancy-related illnesses or conditions
- Post-birth absences related to pregnancy/childbirth (such as for breast/chestfeeding)



# RETURN FROM LEAVE AND ABSENCES



Following the absence “...the student shall be reinstated to the status which she held...”

34 CFR § 106.40(B)(5) (emphasis added)

Includes:

- Guaranteed re-admittance to program
- No penalties or grade deductions
- Must be allowed to make up assignments
- Stop-the-clock on time to degree policies

Note: the law provides no exceptions

# LACTATION ACCOMMODATIONS



WHAT ACCOMMODATIONS ARE  
BREAST/CHESTFEEDING STUDENTS ENTITLED  
TO RECEIVE?

# WHY ARE LACTATION ACCOMMODATIONS IMPORTANT?

## Breastfeeding is a public health imperative:

- Breastfeeding protects babies from infections and illnesses including diarrhea, ear infections, and pneumonia
- Breastfed babies have a lower risk for asthma, obesity, diabetes, sudden infant death syndrome (SIDS) and other conditions
- Parents who breastfeed have a decreased risk of breast and ovarian cancers, among other conditions
- When nursing parents can't express breast milk on schedule, they risk infection, illness, and decreased milk supply



# WHY ARE LACTATION ACCOMMODATIONS IMPORTANT?



Research shows that individuals who receive support in expressing milk at work or school:

- Are more likely to return from maternity leave and not extend their leave
- Have improved morale and productivity
- Take fewer sick days and have reduced healthcare costs

# LACTATION BREAKS



Duration of lactation breaks: the length must be a reasonable amount of time to express milk

Additional variables to consider:

- Time to reach the lactation space
- Time to prepare
- Time to store milk
- Time to clean up/pack up

Remember: quality and availability of lactation space directly impacts time

# LACTATION SPACE FOR STUDENTS



**AB 302** (effective Jan. 1, 2016) requires schools to provide:

- Permission to breast pump on campus
- A separate (non-bathroom) space for breastfeeding
- Access to a power source for a breast pump or any other equipment used to express breast milk
- Access to a place to store expressed breast milk safely
- That complaints about lactation accommodations be handled through the uniform complaint procedures process

**AB 2785** (2018) made these requirements applicable to California Community Colleges and California State Universities

# LACTATION SPACE FOR EMPLOYEES



**SB 142 (2019):** Employer must ~~make reasonable efforts to provide~~ a private space that is not a bathroom (if regular workspace isn't suitable).

This space should:

- Be shielded from view and free from intrusion by others
- Be in close proximity to employee's work area
- Have a place to sit and a surface for a pump
- Provide electrical outlets
- Be near running water and have easy access to a refrigerator

# CONSEQUENCES FOR SCHOOLS/ EMPLOYERS

Failing to provide a lactation break carries a penalty fine of \$100 for each violation

(Labor Code § 1033)

Failure to follow federal and state law relating rights of pregnant and parenting students could result in:

- Compensatory damages, money for lost wages, unpaid wages, medical costs
- Punitive damages
- Legal expenses
- Bad publicity and reputational damage

# CONSEQUENCES FOR SCHOOLS/ EMPLOYERS

Students and employees may resolve the dispute by:

- Using internal Title IX process
- Using internal HR or union grievance policy
- Filing a Title IX complaint with Department of Education's Office of Civil Rights
- Filing a complaint with another administrative agency
- Filing a civil lawsuit



# ABCs OF BREASTFEEDING

**BREAST/CHESTFEEDING ACCESS AT  
CALIFORNIA COLLEGES**

## 5 QUESTIONS SCHOOLS SHOULD BE ASKING

1. Does the school have a pregnant and parenting student policy?
2. Does the school have a lactation accommodation policy for students?
3. Does the school have a lactation accommodation policy for employees?
4. Does the school have their pregnant, parenting, and lactating policies accessible online?
5. Is there an easily identifiable Title IX Coordinator whose contact information is posted on the school's website?



# LA COUNTY HIGHER EDUCATION REPORT CARD

- First in 2017 and then again in 2021, CWLC, ACLU SoCal, and BreastfeedLA set out to identify whether higher education institutions in Los Angeles County have accessible policies to protect the rights of pregnant and parenting employees and students.
- This study graded each institution on the five related issues we discussed on the previous slide, which represent recommended best practices for policy accessibility.
- The 2021 findings identified some improvements compared to the 2017 baseline data, but we found that many institutions continue to lack accessible employee and student policies.
- Failing to protect the rights of employees and students with adequate and enforceable policies places institutions at risk of facing legal action and sex discrimination lawsuits.
- Fortunately, these gaps remain correctable.

# COMMON PROBLEMS FACED



Title IX policies do not explicitly include parenting students, do not explicitly prohibit discrimination against lactating students, and do not address accommodations

No maps or instructions online or in student materials about lactating rooms

Not high on the list of priority during the COVID-19 pandemic

College and professor lack of awareness of protections for and rights of students

Student lack of awareness of their own rights

Failure to provide dignified process for requesting accommodations

# SAMPLE POLICY – PREGNANT AND PARENTING STUDENTS

**California State  
University,  
Northridge**

## CSUN Pregnant and Parenting Student Rights and Resources

We recognize the unique challenges pregnant and parenting college students face. The WRRRC is here to support your success! The resources listed below serve as a guideline for the changes and challenges during your college experience.

Pregnant and/or parenting students who have general questions about their rights to continued education should contact the Title IX office. Why?

Academic accommodations for pregnant, parenting, and lactating students are available. Accommodations commonly include:

- Adjusted attendance requirements
- Adjusted assignment deadlines
- Exam accommodations
- Modified assignments
- Access to lactation spaces on campus

Note: Parenting student rights are applicable to all gender identifying parenting students.

Title IX contact information: <https://www.csun.edu/eqd/title-ix-gender-equity-and-sexual-misconduct>

Title IX Coordinator	+
Title IX Rights	+
Health Choices	+
Financial Aid	+
Housing Options	+
Early Education and Childcare	+

# SAMPLE POLICY – LACTATION ACCOMMODATION

## CSUN Lactation Accommodation

### Lactation Accommodation

#### Normalizing Breastfeeding at CSUN and Beyond

Breastfeeding significantly improves health outcomes of the breastfeeding mother and her baby. The American Academy of Pediatrics reaffirms its recommendation of exclusive breastfeeding for about 6 months, followed by continued breastfeeding as complementary foods are introduced, with continuation of breastfeeding for 1 year or longer as mutually desired by mother and infant.

Many barriers currently exist preventing women from being able to provide their infants with recommended amounts of breastmilk. Aiming to tackle some of these barriers, faculty, staff and students at CSUN are engaged in a variety of activities focused on tackling barriers preventing women from reaching their breastfeeding goals. CSUN faculty, staff and students current work towards normalizing breastfeeding on campus, the local community and beyond, includes:

#### Creating On-Campus Lactation Accommodations thereby:

- Providing students and staff with support to continue breastfeeding when they return to work or go to school at CSUN.

[Click here for more info on CSUN's Institute for Community Health and Well-Being and Lactation Spaces Map](#)

[Click here for FAQ for breastfeeding and lactating students](#)

#### Offering undergraduate and graduate students the opportunity to take a course in lactation education thereby:

- Providing future parents with accurate knowledge about breastfeeding; and
- Training future healthcare professionals by providing them with the knowledge and skills to integrate lactation education into their future healthcare profession

[Click here to learn more about lactation education at CSUN](#)

[Click here to learn more about being a lactation educator](#)

# SAMPLE – TITLE IX INFORMATION

## CSUN Title IX Information

### Who to Contact for Help

California State University, Northridge has designated the Director for the Office of Equity and Diversity as its campus Title IX Coordinator to monitor and oversee issues of sexual misconduct and gender-based discrimination and harassment. Your campus Title IX Coordinator is available to explain and discuss:

- Your right to file a criminal complaint;
- The University's administrative complaint and investigation process;
- How confidentiality is handled; available resources, both on and off campus; and other related matters.

**For emergencies, please call the police immediately by dialing 9-1-1.**

Campus Care Advocates:

Suzanne Mendez

Alexis Mendoz

Klotz Student Health Center, 2nd Floor, Room 201

(818) 677-7492

Title IX Coordinator:

Barrett Morris  
Office of Equity and Diversity  
University Hall 285  
Phone: (818) 677-2077 or <http://www.csun.edu/eqd/>  
Hours: Monday – Friday, 8:00 a.m. to 5:00 p.m.

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# RESOURCES

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- Western Center on Law & Poverty
    - Antionette Dozier
    - [adozier@wclp.org](mailto:adozier@wclp.org)
    - 213-235-2629
  - California Women's Law Center
    - Chelsea Mutual
    - [chelsea.mutual@cwlc.org](mailto:chelsea.mutual@cwlc.org)
    - 323-951-9276





QUESTIONS