

Clarifying Schools' Title IX Notice Obligations and Best Practices for Protecting Pregnant Students

Pregnant students deserve to know their Title IX rights and have access to the support they need to thrive in school. This resource is intended to provide clarity around schools' obligations, as well as best practices, to ensure pregnant students are aware of their rights under the current Title IX landscape while maintaining students' right to privacy. Appropriate implementation is crucial, as there are more than 180,000 pregnant students in the United States each academic semester (elementary to graduate school) who will continue their pregnancies to term¹ and privacy violations may have significant consequences.

Background: Which Rule Governs and the 2024 Title IX Rule's Notice Requirement

In 2024, the U.S. Department of Education released a [final rule](#) implementing Title IX—the federal law prohibiting sex-based discrimination in education.² The 2024 Rule included updated requirements that were aimed at prevent discrimination against pregnant, postpartum, and parenting students. One new provision in the 2024 Rule was a **notice requirement** meant to help ensure that pregnant students are aware of their Title IX rights and the accommodations, supports, and resources that their schools offer.

Following the release of the 2024 Title IX Rule, litigation resulted in patchwork implementation among states and schools. Ultimately, the 2024 Rule was vacated in a nationwide order in early 2025,³ and the Trump administration announced that it would enforce the 2020 Title IX Rule.⁴ Now, the pre-2024 Title IX regulations, as amended by the 2020 Rule, set the minimum obligations for compliance.⁵

2020 Title IX Rule	Vacated 2024 Title IX Rule
The 2020 Rule contains no clear notice requirement pertaining to pregnant students. There is a basic requirement that schools must have a Title IX coordinator and publish their contact information. ⁶ However, there is no specific role outlined for employees and Title IX coordinators about mandatory steps to take when informed of a student's pregnancy.	Under the vacated 2024 rule, when school employees were informed of a student's pregnancy or related conditions by the student or their legal representative, they had to promptly provide the student with the Title IX coordinator's contact information . ⁷ The Title IX coordinator would then help students access any necessary accommodations or leave.

Importantly, neither the 2020 Rule or the 2024 Rule require any of the following:

- Employees **are not** required to ask students unprompted or make assumptions about a student's pregnancy or related condition.
- Employees **are not** required to give a Title IX coordinator's information to a student if they are not informed *directly* by the student — for example, if a teacher merely overhears two students talking about discrimination experienced by a pregnant peer.⁸
- Employees **are not** required to directly inform the Title IX coordinator of a student's pregnancy or related condition.
- Schools **are not** required to document their proactive steps taken to prevent discrimination against students who are pregnant or have a related condition, such as offering leave or pregnancy-related accommodations.

Best Practices: Application of the 2024 Title IX Rule's Notice Requirement

Although the text of the 2024 Title IX Rule required only that school employees provide students with the Title IX coordinator's contact information upon being informed of the student's pregnancy, many misunderstandings arose.

Some schools misinterpreted the notice provision and informed their employees that they were required to alert Title IX offices or school officials of any student pregnancies.⁹ At one school, a Title IX coordinator incorrectly informed employees that they could opt out of the notice requirement and instead report pregnant students to a campus office — even if students have not given permission for their personal information to be shared.¹⁰

To clarify: school employees are **not required**, under either the 2020 or 2024 Title IX Rules, to report a student's pregnancy or related condition to the Title IX coordinator or any other school official. The 2024 Title IX rule required employees to give *students* the Title IX coordinator's information, empowering the student to acquire more information about their rights as needed while also giving the student the autonomy to decide when and whether to provide information about their private health condition. This update was intended to ensure students had clear notice of their right to accommodations, leave, and nondiscrimination.¹¹

As a **best practice**, institutional employees should continue, upon learning of student pregnancies or related conditions, to notify students that the Title IX coordinator can assist with the student's needs. This practice will make it easier for students to get assistance *and* will allow schools to ensure their legal compliance with their Title IX duties, as students will be referred to trained, qualified employees before problems can arise.

Schools are not required to document their compliance with Title IX when taking actions to *prevent discrimination* against students who are pregnant in order to protect their privacy.¹² This means employees and Title IX coordinators **do not have to document** when a student informs them of their pregnancy or related condition, or when they provide a pregnant student with reasonable modifications, a leave of absence, or lactation space.



Preventing Criminalization of Pregnant Students

Misinterpretation of the 2024 Title IX rule’s notice provision can have serious consequences, even now that the rule is vacated. A school requirement that employees report pregnant students to campus officials is a violation of students’ privacy.¹³ Such interpretations conflict with the intent behind the notice provision, which is to ensure pregnant students are aware of their Title IX rights against discrimination. Pregnant students should not have to fear that a passing comment about their pregnancies could result in them being reported to their institution. Further, such policies may have a chilling effect, with pregnant students feeling uncomfortable asking for assistance due to fear of pregnancy information being revealed to others — including law enforcement.

When employees report students or when schools create lists of students who are pregnant, potentially pregnant, or have related conditions, they open those students to privacy violations and potential criminal liability. A Pregnancy Justice research study found that in the first year after the *Dobbs v. Jackson Women’s Health Organization* decision, at least 210 women were prosecuted for “crimes” related to pregnancy, abortion, pregnancy loss, or birth.¹⁴ This was the highest number of pregnancy-related prosecutions documented in a single year since researchers began tracking cases in 1973.

The Supreme Court’s overturning of *Roe v. Wade* has emboldened aggressive prosecution strategies in a time when pregnant people are facing extreme hostility, including being denied emergency abortion care that has cost people their lives or fertility, increases in maternal mortality, and massively expanded barriers to abortion. Surveillance by schools (including middle and high schools, colleges, and universities) of pregnant students will only open them to greater scrutiny and dissuade students from getting the accommodations to which they are entitled under Title IX.

This is why it is incredibly important to follow best practices around the 2024 Title IX Rule’s notice provision. Though it is no longer mandatory, when informed of a student’s pregnancy, school employees should promptly provide the student with the Title IX coordinator’s contact information. However, to respect students’ privacy and combat the risk of criminalization, it is imperative that schools do not keep lists of pregnant or potentially pregnant students, or report student pregnancies within or outside of their institutions. Following these best practices ensures that every student—including pregnant students—can learn in a supportive school environment.



Endnotes

¹ See Theresa Anderson, et al., *The New Title IX Regulations Will Help More Than 180,000 Pregnant Students Every Semester and Millions of Parenting Students Long Term* (Apr. 19, 2024), <https://www.urban.org/urban-wire/new-title-ix-regulations-will-help-more-180000-pregnant-students-every-semester> (noting that 180,000 is an undercount because students who terminate or lose their pregnancies, leave their education program during pregnancy, or do not claim their babies as dependent children are not captured).

² Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 Fed. Reg. 33474 (Apr. 29, 2024) (codified at 34 C.F.R. pt. 106) (vacated January 2025), <https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

³ See National Women's Law Center, *Students Still Have Title IX Rights Even Without the 2024 Biden Title IX Rule* (Feb. 2025), <https://nwlc.org/resource/students-title-ix-rights-without-2024-biden-rule/>. For additional context on the litigation and advocacy for the 2024 rule, see National Women's Law Center, *Respect Students*, <https://nwlc.org/respect-students/>.

⁴ Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30026 (May 19, 2020) (codified at 34 C.F.R. pt. 106), <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

⁵ See The Pregnant Scholar, *Summary of Key Changes to the Title IX Regulations on Pregnancy and Parental Status* (updated Jan. 2025), <https://thepregnantscholar.org/wp-content/uploads/Title-IX-2024-and-2020-Rule-comparison-with-best-practice-summary.pdf>; National Women's Law Center, *Chart of Changes to the Title IX Rules* (June 2024), <https://nwlc.org/resource/bidens-new-title-ix-rule-fact-sheet-and-chart/>.

⁶ 34 C.F.R. § 106.8(a)–(b) (2020).

⁷ 34 C.F.R. § 106.40(b)(2) (2024) (vacated).

⁸ Examples are noted in the preamble to the 2024 Title IX Rule, see 89 Fed. Reg. at 33767 (2024) (vacated).

⁹ See, for example, Ruby Mesas, *New Title IX Regulations Spark Confusion and Concern Across Sarah Lawrence* (Dec. 12, 2024), <https://sarahlawrencephoenix.com/past-issue/2024/12/12/new-title-ix-regulations-spark-confusion-and-concern-across-sarah-lawrence>; Lyz Lenz, *It's not safe to be pregnant in America* (Sept. 25, 2024), https://lyz.substack.com/p/kirkwood-pregnancy-rule?utm_source=publication-search#footnote-anchor-1-149371541.

¹⁰ Emma J. Nelson, *Hello, Pregnant Stranger: LCC's new Title IX Procedure raises questions about student privacy* (Sept. 12, 2024), <https://eugeneweekly.com/2024/09/12/hello-pregnant-stranger/>.

¹¹ See Proposed Rule, 87 Fed. Reg. 41390, at 41519–21 (2022), <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-13734.pdf>.

¹² 89 Fed. Reg. at 33778; see also § 106.8(f) (2024) (recordkeeping requirement applies to §§ 106.44, 106.45, and 106.46, but not § 106.40).

¹³ See The Pregnant Scholar, *Summary of Key Changes* at 6 (*supra* note 5) (noting that pregnant students frequently “report feeling violated due to unauthorized disclosures of their pregnancy status and related health information”).

¹⁴ Wendy A. Bach & Madalyn K. Wasilczuk, *Pregnancy as a Crime: A Preliminary Report on the First Year After Dobbs* (Sept. 2024), <https://www.pregnancyjusticeus.org/wp-content/uploads/2024/09/Pregnancy-as-a-Crime.pdf>.

