

OIED NOTES:

Pregnancy Resources for Employees

The **Pregnancy Discrimination Act of 1978**, which amended Title VII of the Civil Rights Act of 1964, prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions.

- An employer may not terminate, deny assignments to, or deny promotions to an employee because of her pregnancy, childbirth, or related medical conditions.
- A pregnant employee must be permitted to do her job for as long as she is capable of performing the job.
- While an employer has a duty to protect employees "health and safety," it has no extra duty to protect pregnant or potentially pregnant employees from dangerous work conditions. Therefore, policies that exclude members of one sex from a workplace for the purpose of protecting fetuses cannot be justified under Title VII.

PREGNANCY RELATED LEAVE

- When an employee goes on leave due to pregnancy, childbirth, or a related medical condition, the employer must keep her job open for the same period of time that it keeps jobs open for employees who go on disability or sick leave.
- An employer may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.
- Employees may have additional rights and obligations under the Family Medical Leave Act of 1993 (FMLA), which permits an employee to take up to 12 weeks of leave (unpaid or paid if the employee has earned or accrued it) that may be used for care of a new child, if the employee has worked for the agency for at least 12 months (or 1,250 hours) prior to taking the leave.

WHAT IF A PREGNANT EMPLOYEE NEEDS ACCOMMODATIONS?

Employees who are temporarily unable to perform their jobs due to pregnancy, childbirth, or related medical conditions must be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work.

Under the Rehabilitation Act, pregnancy itself is not considered a disability. However, a physical or mental

impairment that occurs as a result of or during the course of pregnancy or childbirth may be a disability under the law if it substantially limits a major life activity.

If an employee has been absent from work as a result of a pregnancy-related condition and recovers, the employer may not require the employee to remain on leave until she has given birth.

NURSING MOTHERS ALSO HAVE EMPLOYMENT PROTECTIONS

Employers must provide nursing mothers with:

- a reasonable break time to express breast milk for their nursing child each time such employee has need to express milk for one year after the child's birth; and
- a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

Periodically, you will receive information from the Office of Inclusion, Equity, and Diversity (OIED) regarding various policies, procedures and resources applicable to UTHSC students and employees. The heading of the email will be "OIED NOTES."



Pregnancy Resources for Students

TITLE IX: PREGNANT AND PARENTING STUDENTS

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) is responsible for enforcing laws prohibiting discrimination in federally assisted educational programs and activities.

Title IX specifically prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

Additionally, Title IX regulation prohibits a school from applying any rule related to a student's parental, familial, or marital status that treats students differently based on their sex, and protects students in all of the academic, educational, extracurricular, athletic, and other programs or activities of schools. This includes prohibiting discrimination against pregnant and parenting students.

PREGNANCY RELATED LEAVE FOR STUDENTS

Title IX requires educational institutions to excuse a student's absences due to pregnancy or related conditions, including recovery from childbirth, for

as long as the student's doctor deems the absences medically necessary.

WHAT IF A PREGNANT STUDENT NEEDS ACCOMMODATIONS?

Title IX requires educational institutions to provide the same special services to a pregnant student that it provides to students with temporary medical conditions. For instance, if tutoring or at-home instruction is provided to students who miss school because of temporary medical conditions, it must do the same for a student who misses school because of pregnancy or childbirth.

To ensure a pregnant student's access to their educational program, when necessary, educational

institutions must make adjustments to the regular program that are reasonable and responsive to the student's temporary status. For instance, a school might be required to provide a larger desk or workspace for the student.

Pregnant students and those with related medical conditions may also be eligible for disability protections and services under the ADA, depending on their condition.

HOW DO I ENFORCE MY RIGHTS UNDER TITLE IX?

Staff, faculty, students, medical residents, post docs, applicants for employment or patients may raise complaints of discrimination, harassment, and violations of policy with the Office of Inclusion, Equity, and Diversity (OIED). Information regarding the UTHSC complaint process can be found [here](#).

If you wish to file a complaint of discrimination with OCR, you may use the online complaint form available at ed.gov/ocr/complaintintro.html. Complaint must be filed with OCR within 180 days from the date of the incident that is the basis of your complaint, although there may be limited exceptions that would allow additional time.

APPLICABLE UT POLICIES

HR Policy 0280

Sexual Harassment Policy

HR Policy 0220

Equal Employment
Opportunity, Affirmative Action
and Diversity Policy

HR Policy 0338

Family Medical Leave Policy

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA/V institution in the provision of its education and employment programs and services.

For more information, please contact:

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