



Association of  
Title IX Administrators

# ADA and Section 504 Foundations for Higher Education

Training and Certification Course

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# Introduction



The primary focus of this training is to provide Title IX Coordinators and administrators with a comprehensive overview of disability laws that govern the institution's work.



Practitioners must ensure that the institution's policies and processes are inclusive of ADA and Section 504 protections and grievance processes.



Our goal is to provide an orientation to the intersections between Title IX and disability work, as well as training for Title IX Coordinators who also serve as an ADA/Section 504 Coordinator.

# 2024 Title IX Regulations Litigation

- Opponents of the 2024 Title IX Regulations sought, and were granted, **injunctions** to delay or halt implementation of the Regulations
  - **Injunction:** A court order requiring an individual or entity to either perform or stop performing a specific action
- Generally, courts granted injunctions based on questions around the validity of the gender identity provisions and the hostile environment definition
- If the 2024 Regulations are not enforceable as a result of an injunction, schools, districts, and institutions in those states should continue to follow the **2020 Regulations**
  - The 2024 Regulations also are not enforceable in some individual schools and institutions

# 2024 Title IX Regulations Litigation

- Implementation will be unsettled for the foreseeable future
  - Appeals will continue and, eventually, trials
  - Consult legal counsel to determine implementation plans and risk strategy
- **Note:** Some states also have “Do Not Implement” directives from state officials
  - Independent from any federal lawsuits or injunctions
- Track developments on ATIXA’s Regulations website, [www.atixa.org/regs](http://www.atixa.org/regs)
  - State-by-state information on injunctions and Do Not Implement directives
  - Lists of individual schools or institutions impacted by the Kansas injunction

# Group Introductions

- Gather in small groups (3-5), ideally from different institutions
- Share the following information:
  - Your role regarding Title IX
    - Are you the Disability/Accessibility Services Coordinator as well as the 504/ADA Coordinator?
- Discuss your responsibility regarding disability/accessibility services, accommodations, and grievance processes
- As a group, list your issues/concerns related to addressing disability challenges (to be shared with the larger group)

# Introduction to Core Concepts

Section 504, Americans with Disabilities Act, and Other Disability Laws



# Core Concepts

- The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (504) are designed to provide qualified individuals with a disability an **equal opportunity to access programs and activities, not to ensure equal results**
- Institutions may provide an available and equally effective, different or separate benefit or service than one that is requested
- **Universal design** aims to make products, environments, and systems accessible and usable by all people, to the greatest extent possible, without the need for adaptation or specialized design, regardless of their age, size, or ability
- **The interactive process is key**

# Who is a Qualified Individual with a Disability Under Section 504/ADA?



## Has a Physical or Mental Impairment

- Which substantially limits one or more major life activities



## Record of Having an Impairment

- Mental or physical



## Regarded as Having an Impairment

- Mental or physical

# Qualified Individual

- **Qualified** means someone who, with or without reasonable modifications to rules, policies, or practices or provision of auxiliary aids and services:
  - Meets the academic and technical standards required for admission or to participate in programs or activities of the educational entity
  - Is able to perform the essential functions of the job
- All qualified individuals with a disability must be provided with aids, benefits, or services that provide an equal opportunity

# What is a Physical or Mental Impairment?

- Many federal and/or state laws provide non-exhaustive lists of impairments
- Disability services staff often review documentation for appropriateness (i.e., was the disability diagnosis made by a clinician with appropriate qualifications):
  - **Physical examples**
    - Vision, hearing, mobility
  - **Mental examples**
    - Depression, anxiety, learning differences, neurodivergence
  - **Distinction between “impairment” and “disability”**
    - Not all impairments result in a substantial limitation of a major life activity
- Disability services staff should **not engage in diagnosing** or determining validity of documented diagnoses

# What is a Major Life Activity?

- Physical or mental impairment **must substantially limit** one or more major life activities
- Daily functioning and everyday life experiences, including:
  - Seeing, hearing, eating, sleeping, talking, walking, sitting, concentrating, thinking
  - Interacting with others
  - Caring for oneself and the ability to perform manual tasks
- ADA provides a non-exhaustive list of major life activities

# “Record of” and “Regarded as” Having an Impairment

**Record of  
Having an  
Impairment**

Person has a history of having a mental or physical impairment that substantially limits one or more major life activities

**Regarded as  
Having an  
Impairment**

Person may or may not have a qualifying impairment but is treated as having an impairment that qualifies as a disability

# Four Key Laws to Know

Section 504 of the  
Rehabilitation Act

Fair Housing Act

Americans with  
Disabilities Act

State Laws

# Section 504 of the Rehabilitation Act (1973)

- **Prohibits discrimination** on the basis of disability in **all programs or activities** that receive federal financial assistance
- Forbids institutions from excluding or denying individuals with disabilities an **equal opportunity** to receive program benefits and services
- Enforced by the U.S. Dept. of Education's Office for Civil Rights (OCR)



# Americans with Disabilities Act

- Expansive federal civil rights law that addresses protections for those with disabilities in public life
- Applicable to all institutions regardless of whether they receive federal funding



# Title I, Title II, and Title III of the ADA (1990)

## Title I

Prohibits discrimination on the basis of disability in **employment**

## Title II

Prohibits discrimination on the basis of disability by **public entities, including public institutions**, regardless of whether they receive federal financial assistance

## Title III

Prohibits discrimination on the basis of disability in **private education facilities and in the activities of places of public accommodation**

# Section 504 vs. ADA

- Between the two laws, all government-funded programs are covered

## Section 504

- Created to protect individuals with disabilities from discrimination for reasons related to their disabilities
- Applied protections to programs or businesses that receive federal funds

## ADA

- ADA Titles I-III strengthened 504 by:
  - Requiring accommodations for individuals with a disability
  - Extending it to private institutions, workplaces, and to state and local government-funded programs

# Fair Housing Act (FHA)

- Language of the law applies to “dwellings,” including housing operated by colleges and universities
- FHA makes it unlawful to discriminate on the basis of disability in dwellings
- Enforced by the U.S. Department of Housing and Urban Development (HUD)



# State Law

- States also typically have laws that address and prohibit discrimination on the basis of disability
- ATIXA recommends consulting with local legal counsel
- It is important to be familiar with the intersection between state laws and the institution's grievance procedures



# Roles and Responsibilities

ADA/504 Coordinator vs. Disability/Accessibility Services Coordinator

# ADA/504 Coordinator Role and Responsibility

## ADA/504 Coordinator Responsibilities

- Primary Grievance Officer for disability related accommodation challenges and discrimination grievances
- Publish non-discrimination notice
- Train faculty and employees regarding ADA and 504
- Oversee the grievance process
- Investigate grievances
- Should not serve as the Disability/Accessibility Services Coordinator
- Can be the same person as the Title IX Coordinator (TIXC)

# Disability/Accessibility Services Coordinator

## Disability/Accessibility Services Coordinator Responsibilities

- Primary administrator that oversees disability verification and addresses accommodation requests
- Verify accommodation intake requests
- Identify appropriate accommodations
- Liaise with faculty, staff, and supervisors
- Should not serve as ADA/504 Coordinator



# Intersection with Other Institutional Standards

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# Important Intersections

- **Students** are responsible for meeting:
  - Academic and technical standards
  - Student conduct standards
- **Employees** are responsible for meeting:
  - Employment essential job functions
  - Employee conduct standards
- **Reasonable accommodations should not change these core standards**



# Academic and Technical Standards

- Institutions need clear, operationalized standards for academic programs
  - Reflected in the syllabus as goals and learning outcomes
- All students need to be aware of standards prior to program admission
- All students are held to defined standards



# Conduct Standards

- Applicable to student or employee issues
- Hold individuals accountable:
  - Apply the applicable conduct code, regardless of disability related issues
  - Early conduct meetings and interventions for low-level violations will help mitigate escalation and promote accountability and behavior change
  - Adjust sanctions to match the situation and document accordingly

# Essential Job Functions (Employees)

- Typically applied to employees, but can apply to student employees
- Detail in written job description
- Create distinction between “essential job functions” and “marginal job functions” in the job description
- Employers must discern whether reasonable modifications enable an employee to complete essential job functions



# “Qualified” Takeaways

- Qualified individuals must meet the standards of their academic program or job
- Institution must have:
  - Clear definitions of degree requirements, courses of study, and course requirements
  - Clear job descriptions that explicitly state essential job functions



# Accommodation Process Overview

# Process Overview

- Institution receives accommodation request from student or employee
- Individual provides required **documentation** of diagnosis and impact on major life activity from health care provider to establish disability
- Individual discusses functional limitations and barriers presented by disability
- Institution engages in **interactive process** to establish reasonable accommodations





# Documentation

- Typically comes from student/employee's medical or mental health provider, or another relevant clinician
- Should provide needed information on the diagnosis and nature of the substantial limitation on a major life activity
- May require follow-up with clinician with student/employee written consent
- May help disability/accessibility services staff analyze and resolve any disagreement between the institution and individual about a specific accommodation request



# Documentation Review

- Disability/Accessibility Services Coordinator typically reviews documentation
- **Review includes:**
  - Document(s) that describe(s) the nature of the disability
  - Documentation of the underlying impairment
  - Identification of functional limitations and barrier(s) resulting from disability
  - Accommodations needed
- Allows institution to evaluate what accommodations may be necessary



# Interactive Process

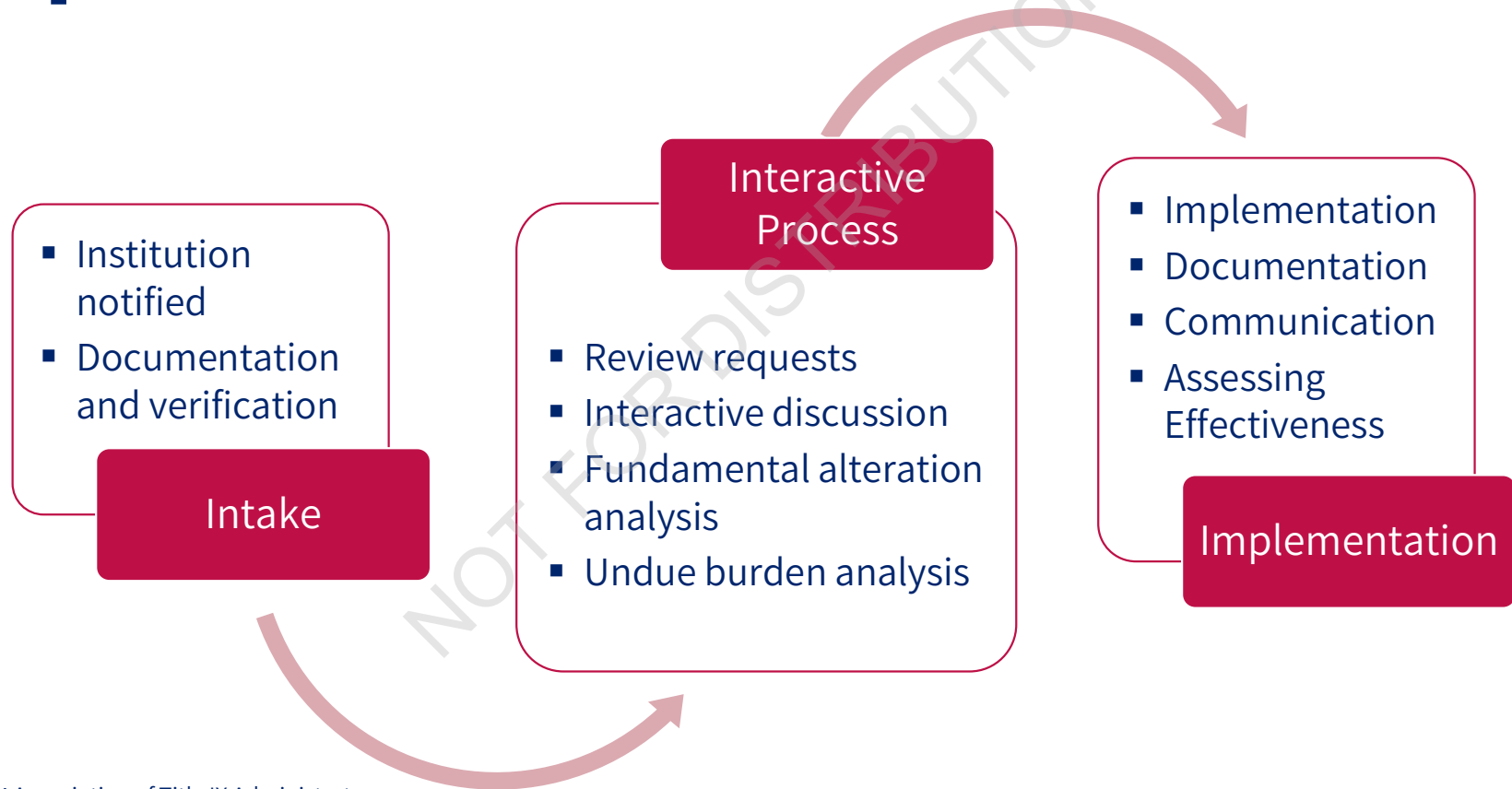
- Institutions must engage in the interactive process to determine the most appropriate reasonable accommodations
- Always a **case-by-case assessment**
- Back-and-forth communication with the individual to “get it right”
- May put same/typical accommodations in place for like situations, but always **remain flexible** and **follow interactive process each time**



# What is an Adequate Interactive Process?

- Reviewing requests and working through the interactive process can be quick or might take some back-and-forth
- Disability/Accessibility services staff may need to work with other staff, supervisors, and faculty to determine possible accommodations
- Institution not required to adopt a specific requested accommodation if institution provides an equivalent alternative
- Accommodations must be provided in a timely and prompt manner
- Documentation of each step of the interactive process is key

# Interactive Process to Implement Accommodations



# K-12 Individualized Education Plans (IEP)

- Higher education institutions are not obligated to follow a student's IEP/504 plan from a K-12 school/district
- However, an IEP/504 plan can provide confidence in underlying diagnosis
- May provide insight into appropriate accommodations
- Suitable for new students during initial transition, but permissible to seek updated documentation

# Other Considerations

## Institutions are not required to provide:

- Personal devices, such as wheelchairs
  - Individually prescribed devices such as hearing aids
  - E-readers for personal use or study
  - Services of a personal nature including assistance in eating, toileting, or dressing
- Institutions **should not prevent the use of these aids**



# Key Exceptions

Fundamental Alteration and Undue Burden

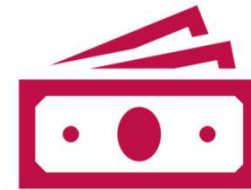


# Key Exceptions to Specific Requests



## Fundamental Alteration

Change to the nature of program,  
service, or job



## Undue Burden

Financial or administrative burden

# Fundamental Alteration

- A specific accommodation is **not required** when it would result in a fundamental alteration of the nature of the program, service, or job function
  - A fundamental alteration:
    - Changes a course or course of study so significantly that it alters the **essential nature** of a course or content of the curriculum
    - Changes an approved job description so significantly that it alters the **essential elements** of the job
- Students and employees are required to meet applicable defined academic, technical, and conduct standards or essential job functions



# Assessing Fundamental Alterations in Academic Coursework

- Consult with faculty who teach course (and possibly department chair)
- Work with faculty to identify the course's essential academic and technical standards, the learning outcomes, and the goals for reaching those outcomes
- Determine modification options
- Understand why an essential standard cannot be altered
  - Would an alteration lower the academic standards of the course or program?
- Not a decision to take lightly; high bar to defend

# OCR Fundamental Alteration Guidance

## Considerations for determining whether an academic and technical standard is essential:

- Nature and purpose of the program
- Relationship of the standard to the functional elements of the program
- Whether exceptions or alternatives are permitted
- Whether the standard is required in similar programs at other institutions
- Whether the standard is essential to a given vocation for which the program is preparing students
- Whether the standard is required for licensure or certification in a related occupation or profession

# Undue Burden

- Undue burden can be a financial or an administrative burden
- Fact-specific inquiry; very high bar
- Significant difficulty or expense to provide
- Administrative burden is easier to support if documented
- Financial burden assessed against entire institutional budget
  - This is rarely met



# Activity: Fundamental Alteration

# Case Study 1

- An employee has diabetes and has recently been having substantial difficulty with neuropathy (pain or numbness) in their arms and hands
- Their job involves data entry, some paper file organizing, and filing in the student financial aid office
- They have asked to hire a work-study student or administrative assistant to do the data entry and filing for them, or to create a new position that doesn't require using their hands

**Is this a fundamental alteration?**

# Case Study 2

- A student tells you they cannot complete writing assignments in their English literature course, with or without accommodations
- Written assignments make up 75% of students' grades for the course
- The student requests that writing assignments not be included in their grade

**Is this a fundamental alteration?**

**What questions should be asked to make this determination?**



# Case Study 3

- A student with a learning disability requests the use of a calculator and a multiplication table in an introductory arithmetic class
- The course instructor is adamant that the accommodation should not be allowed
- In the instructor's opinion, the ability to perform the actual calculations is a basic requirement of the class
- The student asserts that they can do the analytical work, but the sheer memorization is a disability-related problem for them

**Is this a fundamental alteration?**

# Pulling It All Together

- Individualized interactive process identifies reasonable accommodations
- Communicate with student/employee and others who need to provide accommodations
- Support student/employee in navigating issues that arise
- Over time, return to the interactive process to update and adjust accommodations as needed



# Accommodation Disputes

- The requesting individual may disagree with the disability/accessibility services staff's accommodation recommendations
- Institutions should have a process in place for the requesting individual to address accommodation disputes that may arise:
  - The dispute could include faculty
  - Should be overseen by the ADA/504 Coordinator
- Disputes related to offered or provided accommodations are not themselves a basis for discrimination, though they could become one in the future
- There should be a separate published process to address accommodation disputes

# Documentation and Communication Issues

- Clear, detailed documentation is necessary
- OCR has noted that many institutions grapple with poor communication practices, including:
  - Failing to document accommodations provided
  - Failing to document the interactive process
- Communication is key
  - Nuance and soft skills to navigate accommodations conversations with faculty and/or supervisors



# Accommodating Temporary Disabilities

## Must accommodate temporary disabilities:

- Short timeframe
- Not a permanent need
- Informal approach permissible for a few days up to a few weeks
  - Example: Residential Life gives a student on crutches access to an elevator
  - Example: Student needs to miss class for an outpatient procedure

# ADA/504 Grievance Process

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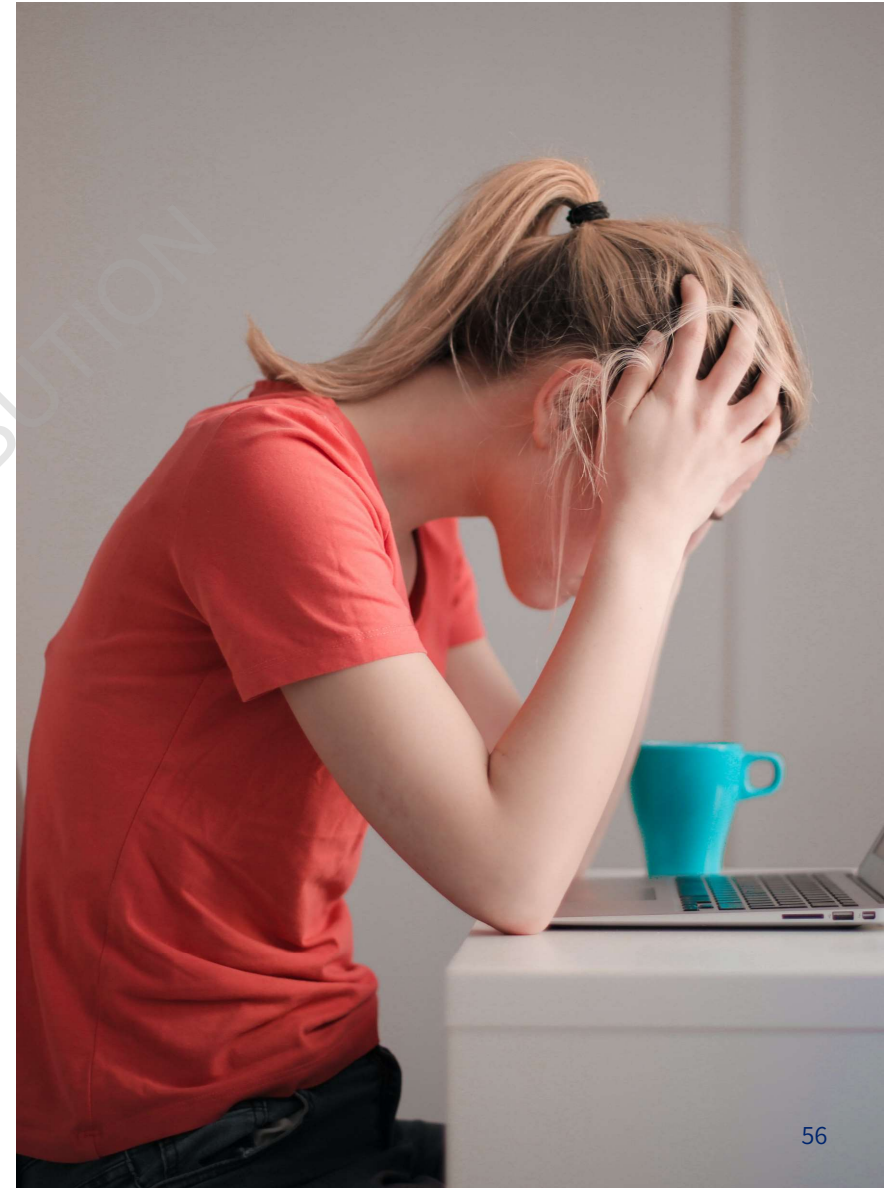
# Overview of Grievance Process

- Notice of non-discrimination must identify the ADA/Section 504 Coordinator by name and include:
  - Office address
  - Contact info
- ADA and Section 504 require a grievance process for allegations of discrimination on the basis of disability for both students and employees
- ADA/Section 504 Coordinator oversees the grievance process and ensures prompt and effective response



# Basis for ADA/504 Grievance Process

- Discrimination on the basis of disability
- Harassment on the basis of disability
- Violations of ADA/Section 504 resulting in an inability to access the education program or activity
- Provided accommodations had a discriminatory effect





# Key Grievance Process Policy Elements



How and where to file a grievance



Timeframe and processes to be followed, including appeal



Time limit to complete investigation (typically 30 days)



Statement on how long and where files are retained

# Investigation Process

- ATIXA recommends requiring written complaints
- Gather **relevant evidence**, including any interviews (investigation):
  - Investigation may be formal or informal
  - A single person can investigate and make determination
  - Completed by the ADA/504 Coordinator, an institutional designee, or an external contractor
- Provide **written documentation** of investigation and decision with rationale

# Appeal of Discrimination Determination

## An appeal process is required by law

- Written outcome should provide information about how to appeal an ADA/504 grievance decision
- ADA/504 Coordinators must identify the following, and specify in policy:
  - Appeal Decision-maker(s)
  - Timeline for appeal
  - Process for considering appeal
- Decision by the Appeal Decision-maker is final
- Individual may still file a complaint with a federal or state agency

# Recordkeeping Recommendations

- Retain files consistent with other records retention schedules at the institution
- Store records related to ADA/504 grievance processes separate from standard student and/or employee records
- Use an electronic database for ease of access and data collection



# Pregnancy and Related Conditions

# Overview

- Pregnant students **and** employees are protected by Title IX, in addition to other applicable federal and state laws
- Pregnant and individuals experiencing pregnancy related conditions should be supported by providing reasonable modifications to access their education and workplace
- Ensure individuals know and understand their rights under Title IX, including the role of the TIXC
- Pregnancy and related conditions are considered from the lens of sex discrimination under Title IX



# Institutional Obligation

- Must not **adopt** or **apply**
  - Any **policy, practice, or procedure**, or
  - Take any employment action,
    - Concerning a student or employee’s potential parental, family, or marital status
    - Which treats students or employees differently on the basis of sex
- Must not discriminate in its education program or activity against any student or employee based on **current, potential, or past pregnancy or related conditions**
- Applies to applicants for admission and employment

# Pregnancy or Related Conditions

**Includes the full spectrum of processes and events connected with pregnancy:**

- Pregnancy, childbirth, termination of pregnancy, or lactation
- Related medical conditions
- Recovery therefrom





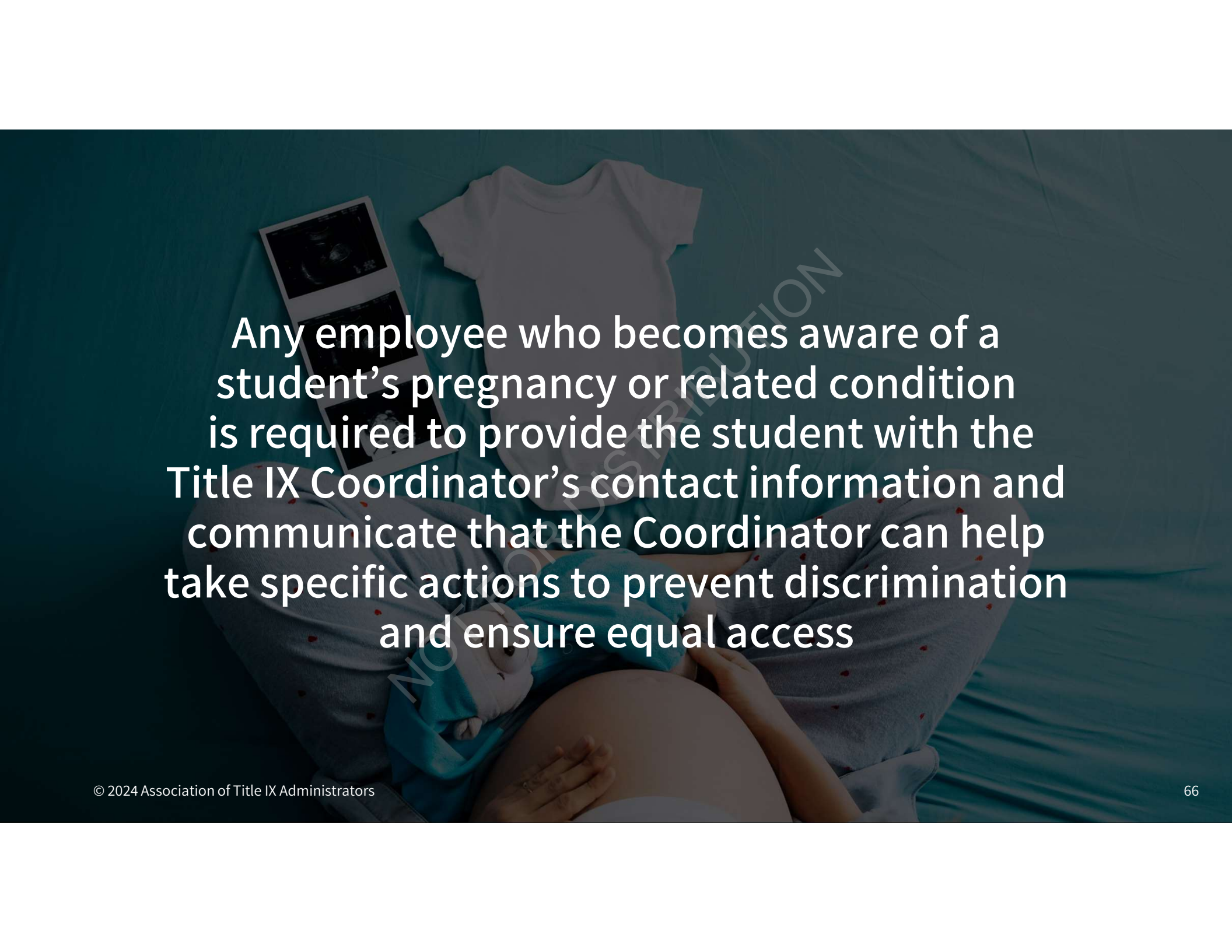
# Protecting Rights of Parents

A parent is defined as: **the status of a person with respect to another person who is under the age of 18\*, who may be:**

- A biological parent
- An adoptive parent
- A foster parent
- A stepparent
- A legal custodian or guardian
- *In loco parentis* with respect to such a person
- Actively seeking legal custody, guardianship, visitation, or adoption of such a person

\*Or who is 18 or older but is incapable of self-care because of a physical or mental disability



A pregnant woman is sitting on a bed, wearing a grey patterned nightgown. She is holding a white t-shirt and a smartphone. The smartphone screen displays several ultrasound images. The background is a teal-colored bedsheet. The text is overlaid on the image in a white, sans-serif font.

Any employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access

# Outreach and Intake

## **TIXC must inform the individual of the institution's obligation to:**

- Prohibit sex discrimination
- Provide reasonable modifications
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity
- Allow a voluntary leave of absence
- Ensure lactation space access
- Maintain grievance procedures for alleged discrimination
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes

# Reasonable Modifications

- Reasonable modifications to the Recipient's policies, practices, or procedures to prevent discrimination are:
  - **Individualized:** must consult with the student before offering
  - **Voluntary:** student may accept or decline each reasonable modification offered
    - If accepted, institution must implement
  - Fundamental alteration of education program or activity is **NOT** reasonable
- OCR emphasizes the importance of consulting with a student to meet their individualized needs in a prompt and effective manner

# Reasonable Modification Examples

Not all reasonable modifications are appropriate for all contexts, some examples include:

**Breaks During  
Academic  
Activities**

**Excusing  
Intermittent  
Absences**

**Online or  
Homebound  
Participation**

**Providing  
Course  
Flexibility**

**Accessing  
Alternate  
Parking**

**Counseling**

**Adjusting  
Physical Space**

**Arranging  
Elevator Access**

# Supporting Documentation

- Medical documentation is typically unnecessary to determine reasonable modifications
- Proceeding based on a student's attestation of their needs will be the least burdensome for the student and enable the institution to promptly meet the student's needs
- Can only be required in limited circumstances when:
  - **Necessary** and **reasonable** under the circumstances to determine:
    - Reasonable modifications to offer
    - Other specific actions to take

# Supporting Documentation

## Not necessary or reasonable when:

- Student's need is obvious, such as:
  - Expressing breast milk or breastfeeding
  - Carrying or keeping water nearby and drinking
  - Using a bigger desk
  - Sitting or standing
  - Taking breaks to eat, drink, or use the restroom
  - Needing a larger uniform
- Specific actions are available to students for other reasons without supporting documentation

# Certification to Participate

- May **not** require health care provider or other certification that the student is **physically able to participate** in the program or activity, unless:
  - The certified level of physical ability or health is necessary for participation;
  - The institution requires such certification of all students participating; **and**
  - The information obtained is not used as a basis for pregnancy-related discrimination



# Voluntary Leaves of Absence (LOA)

## Students

- Must permit voluntary LOA for, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider
- May take LOA under another policy if that policy provides a longer time period for LOA than medically necessary (Title IX rights remain intact)
- Must be reinstated to the academic status and (as practicable) the extracurricular status they held before LOA

## Employees

- Only applicable under Title IX if:
  - Institution doesn't have another leave policy;
  - Employee doesn't have enough leave under the other policy; or
  - Employee has not been employed long enough to qualify
- Employee must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right

# Intersection of Pregnancy and Disability

- Pregnancy itself is not a disability under ADA/504, but some pregnancy-related conditions could manifest as temporary disabilities
- TIXC should collaborate with disability/accessibility services staff to determine reasonable accommodations for individuals with temporary disabilities
  - Ensure compliance with Title IX, ADA, and Section 504



# Title IX vs. ADA/Section 504 Obligations

## Title IX

- Prohibits sex discrimination against students and employees
- Provides the student/employee with the option of **reasonable modifications**
- Allows access, on a voluntary basis, to any separate and comparable portion of the program or activity
- Allows voluntary leaves of absence
- Ensures lactation space access

## ADA/Section 504

- Prohibits discrimination against individuals with disabilities (including temporary ones)
- Applies when someone has a physical or mental impairment that substantially limits one or more major life activities
- Follows institution's interactive process
- Provides **reasonable accommodations** using the interactive process

# Athletics, Pregnancy, Section 504, and Title IX

- Most athletic governing bodies follow NCAA's lead
- Follow the direction of the student-athlete's health provider and don't institute restrictions or demand documentation, no matter how well-intentioned
- Student-athletes must be provided with the same types of supports and modifications provided to other students



# Activity: Pregnancy Case Study

# Sasha

- Sasha is a gifted athlete
- Her specialty is the 100m hurdles
- The institution always fields a very competitive women's track and field team and often wins conference and national championships
- Sasha is seven months pregnant
- She did not make the cut for the 50m hurdles for the indoor track season, and that greatly decreases her chances of being considered for the 100m hurdles once outdoor season starts
- She has come to you to complain that just because she is currently pregnant and not quite as fast, she won't be pregnant once outdoor season competition starts, and you know what a good athlete she is

**What are some possible solutions?**

# Service vs. Emotional Support Animals

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# Animals in Schools

- Schools receive requests to bring animals into schools to make schools more accessible:
  - Service animals (ADA)
  - Emotional support animals (FHA)
  - Other animals for therapy, comfort, or emotional support
- Confusing mosaic of disability-based laws that impose differing obligations and apply differently to various locations within a school





# ADA Covers Service Animals

- **For students or visitors:**

- Service animal is an animal that has been individually trained to do work or perform tasks for the benefit of an individual with a disability
- Dog or miniature horse
- No documentation is required or may be requested related to the individual's disability or the animal's training

- **For employees:**

- Animals in the workplace should be treated as a request for a reasonable accommodation, and the employer **may** ask for appropriate documentation

# Service Animal Work or Task Examples

- Guiding people who are blind
- Alerting people who are deaf
- Pulling a wheelchair
- Alerting and protecting a person who is having a seizure
- Reminding a person with mental illness to take prescribed medications
- Preventing or interrupting impulsive or destructive behavior for those with a psychiatric disability

Source: U.S. Department of Justice (February 2020), *ADA Requirements: Service Animals*.



# ADA Service Animal Guidelines

- Service animals are working animals, not pets:
  - Work or task must be directly related to the person's disability
  - Professional training not required
  - Cannot just be a “service animal-in-training” unless required by state law
  - Animals whose sole function is to provide comfort or emotional support do not qualify under ADA
- Institution cannot require documentation that the animal has been:
  - Certified,
  - Trained, or
  - Licensed as a service animal

# Guidelines for Service Animals

- Only dogs or miniature horses that perform work or a task for an individual with a qualifying disability are considered service animals
- Must be individually trained to do the work or task
- Must be housebroken
- Must remain under the care and supervision of the owner at all times via a leash or harness unless it would interfere with their work
- May not create a disruption to the environment
- May not pose a direct threat to the health or safety of the campus

# Service Animal Tips

## May only inquire about:

- Whether the animal is required because of a disability and/or
- What work or task the animal has been trained to perform
  - The inquiry is limited to only the two topics; may ask relevant clarification questions about the animal's training and description of the trained task
  - May **not** ask for the animal to demonstrate the task
- May **not** inquire about the nature or the extent of a person's disability
- A service animal is an extension of their handler
  - Permitted to accompany their handler in all areas of the school/institution unless their presence poses a health or safety risk

# Assistance, Emotional Support, Therapy, and Companion Animals

- Federal laws have no provisions requiring that emotional support, therapy, or comfort animals be allowed in places of public accommodation:
  - FHA allows for emotional support animals in “dwellings”
  - Could be a reasonable accommodation to a “no pets” policy, but only for the dwelling itself
- They are usually the personal pets of their handlers and provide comfort or emotional support
- As long as the **animal alleviates the “effects” of the disability** and the animal is reasonably supported, they are acceptable
- May be an animal other than a dog
- Can request documentation; evaluate how the animal alleviates the disability
- Therapy animals, sometimes hosted by school counselors, are usually not service animals

# Emotional Support Animal (ESA) Documentation

- Confirmation of mental health diagnosis from a medical professional trained to diagnose mental health conditions
- How the animal helps alleviate the condition
- Potential negative effects of the person not having the animal with them
- Whether the animal has any training to do what is needed to alleviate the disability

# Emotional Support Animal (ESA) Owner Obligations

- The animal cannot interfere with the reasonable use of others living in the same dwelling
- The animal must be caged when the owner is not in the room
- The animal must always be under the control of the owner, either on a leash or harness, or in a crate or carrier
- The owner may not leave the animal for extended periods of time or overnight
- The owner may not leave the animal in the care of another resident overnight



# Additional Considerations

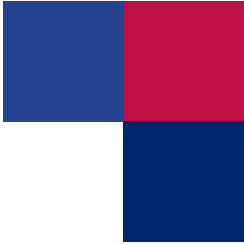
- Roommates or neighbors with allergies
  - Not all allergies create a disability; apply common sense to addressing
- Allergies or fear of dogs are not valid reasons for denying access or refusing service to people using service animals
- Dogs may not be excluded based on breed
- A person with a disability does not have superior rights to the person without a disability



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**Questions?**

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## [Advanced ADA/Section 504 for Higher Education](#)

We will provide additional training and case studies on:

- Pregnancy and Related Conditions
- Mental Health and Involuntary Removal
- Website Accessibility
- Issues in Housing and Dining Facilities
- Universal Design



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