

## **Purpose of Guidelines**

The San Diego Community College District (the “District”) does not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student’s pregnancy, childbirth, or related medical issue. These guidelines provide supplemental information regarding appropriate accommodations for affected students and discuss appropriate considerations for District employees in evaluating what accommodations are appropriate to a given situation.

## **Overview**

Pregnancy is covered under Title IX’s prohibition of discrimination based on sex:

“A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.” 34 C.F.R. § 106.40(b)(1).

Department of Education (“ED”) regulations and guidance clearly state that this prohibition of discrimination means that an institution should treat pregnancy in the same manner as any short term disability. § 106.40(b)(4).

In addition to treating pregnancy in the same manner as any other disability (for example, with respect to the need to provide accommodations), Title IX regulations and guidance explicitly state that schools must: Excuse absences due to pregnancy or childbirth for as long as the student’s doctor says it is necessary and allow them to return to the same academic and extracurricular status as before the medical leave began. This includes giving the opportunity to make up any work missed while they were out.

## **Considerations**

What academic accommodations are required to enable a student to return to the “same academic status” or “make up any work missed while out” should be interpreted expansively (i.e., the District is required to take significant steps):

- a. The plausibility [of an accommodation] is not governed by an individual faculty member’s class rules or policies, but by the **nature of the work or activities** per the Course Outline of Record. Whenever the class work or activity is of a type that it can be completed at a later date or in an alternative manner — such as papers, quizzes, tests, and presentations—that option **must** be made available to the student.
- b. Extended deadlines, makeup assignments, and incomplete grades that can be completed at a later date, should all be employed.
- c. In order to determine what accommodations are required in a given case, DSPS faculty may need to consult with the applicable course instructor and/or other instructional supervisor (e.g., Chair, Dean, etc.) and/or student to understand academic considerations in addition to and/or independent from review of the Course Outline of Record. While consultation may be necessary and appropriate, the final decision regarding the appropriate accommodation is to be made by the DSPS faculty member in accordance with AP 3105.1.
- d. In evaluating whether an accommodation is reasonable, think about whether the accommodation is *theoretically available*, rather than whether it is *onerous* or *difficult*.

- e. A student's prior knowledge of their pregnancy is irrelevant to an institution's obligations—the District cannot decline to make accommodations by saying the student "should have known" she was pregnant and not signed up for a given course.

### **Accommodations Frequently Necessary in Situations Involving Pregnancy, Childbirth, or Related Medical Issues**

- Permitting a student to take frequent bathroom breaks or breaks to walk around;
- Seating modification (to move closer to exit or closer to/further from heat/cold);
- A separate table and chair;
- Permitting a student to leave class suddenly (e.g., in the event of morning sickness);
- Excused medical absences;
- Allowing a student to avoid prolonged standing;
- Permission to eat/drink in class;
- Opportunity to make up missed work (e.g. papers, quizzes, tests and presentations);
- Extended deadlines;
- Remote learning options (e.g. independent study, online course completion);
- Incomplete grades that can be completed at a later date;
- Late drops/withdrawals;
- Course section alterations;

### **Example Situations**

- 1) A student with a full class schedule informs the District following registration that she is pregnant with a due date six weeks following the completion of her finals.
- a) Minimum (i.e., in all cases):
- i) The student should be granted any and all accommodations relating to her physical comfort/health (e.g., permission to take short breaks, seating modification, opportunity to avoid standing, etc.) that she can then use throughout the semester as need/applicable; the student should be granted the opportunity to make up work missed due to medical appointments and have such absences excused.
- b) Additional considerations applicable to certain cases:
- i) The student should be recommended that she advise her instructors of the pregnancy and discuss what options may be available to enable the student to complete the course if a medical issue or childbirth were to occur prior to the termination of the class (e.g., a grade of Incomplete, electronic submission of assignments, etc.).
- (1) ***NOTE: In such a situation, the student is entitled to any accommodation that is not unduly burdensome, and does not include any change to curriculum or course of study that is so significant***

*that it alters the required objectives or content of the curriculum in the approved course outline, thereby causing a fundamental alteration.*

- 2) A student delivers four days prior to her final, which is scheduled for the last day of finals period.
  - a) Minimum
    - i) The student should be excused from taking an in-class final during its originally scheduled window. Instructors who are not comfortable administering the same final (or assessment) used in class may develop and administer an alternative or modified assessment so long as it does not require the student to demonstrate more than their peers or would be considered more difficult.
  - b) Additional considerations
    - i) If the student is willing and able, and it is practically accomplishable, the student might be permitted to complete a final online either during the originally scheduled final window or soon after. If the student is not willing or able, the student should be granted an Incomplete and permitted to take the final (via whatever means is convenient and that does not impose an undue burden on the student) once she is medically fit to do so and has been given a reasonable period to prepare. See above for alternate formats available to the instructor or department.
- 3) A student is prescribed 3 months' bedrest 5 weeks into a course.
  - a) Minimum
    - i) The student should be excused from all absences resulting from the bedrest.
  - b) Additional considerations
    - i) If the student is able to complete work online from home, and the structure of the class would support such a learning modality, the student should be given the opportunity to complete the course in that manner. If available, a transfer to an online section of the course should be considered, approved and coordinated through the applicable instructional department and/or DSPS. In all cases, including if an online option is not available (either due to the student's condition or the nature of the course), the student should be given the option to withdraw/drop from the course and receive a refund without academic penalty. The student should be readmitted to another section of the course at the next opportunity. If, due to the nature of the course, there is no academic reason for the student to repeat material she covered during the five-week period, she should not be forced to repeat such work (e.g., if during the five weeks the student was completing externship hours that do not need to be repeated under licensure rules).

In accordance with the requirements of federal and state law, the San Diego Community College District (the "District") does not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, or related medical issue, unless the student requests voluntarily to participate in a separate portion of the program or activity of the District. Pregnancy, childbirth, and related medical issues are treated as a justification for a leave of absence for any amount of time deemed medically necessary, and after which time the student shall be reinstated to the status the student held when the leave began. Reinstatement includes the reasonable opportunity to complete make-up coursework, receive full credit for make-up work, credit for attendance points if absent due to a medical reason, and any reasonable accommodations necessary to facilitate completion of make-up coursework.

The District will provide pregnant students with special services or accommodations equivalent to those provided to students with temporary disabilities. These services should be requested of, and are coordinated by, Disability Support Programs & Services ("DSPS") in accordance with the procedures detailed in Part 1 of AP 3105.1. Specifically, requests for accommodations should be made according to the following procedure:

#### **REQUEST FOR ACADEMIC ACCOMMODATION**

1. Students who request academic accommodations are responsible for contacting the DSPS office. Students who make a request directly to the faculty should be referred to DSPS.
2. Students are responsible for providing professional documentation of their condition (i.e., pregnancy, childbirth, or a related medical issue) to DSPS.
3. If the student does not have appropriate verification of their condition, contact DSPS to refer or initiate an assessment to determine and document a qualifying condition.
4. The DSPS office, in consultation with the student, shall recommend appropriate accommodations and act as a liaison with the faculty and students. The recommendations shall be documented by DSPS and a copy provided to the student. The student will provide this documentation to his/her instructors. Faculty must notify DSPS promptly of any related complaint.

The District will provide accommodations that are reasonable, but is not required to provide an accommodation that would be unduly burdensome, would fundamentally alter the nature of a course or would interfere with the school's operations. In situations where restoration to the same course section would be unduly burdensome, require a

fundamental alteration of the nature of the course, or interfere with the school's operations, the District will, at minimum, permit the student to receive a late drop from the course without impact to the student's cumulative GPA and a refund.

The District is not obligated to provide the student's preferred accommodation and may provide an alternative accommodation. A student may dispute the accommodation granted by a DSPS faculty member acting within the scope of the procedures detailed above by contacting the District Title IX Coordinator, who will convene a meeting involving the student, an advisor to the student if desired, the DSPS faculty member and/or DSPS coordinator within 5 business days. The Title IX Coordinator will issue a written determination regarding the accommodation within 3 business days of that meeting.

A faculty member may dispute the accommodation granted to a student by following the procedures following procedures:

a. Informal Resolution Procedure

1. An instructor who has questions or disagrees with an accommodation requested by a student with a verified disability shall promptly contact the DSPS faculty who authorized the accommodation(s).
2. A student who is not provided an approved DSPS reasonable accommodation by the instructor shall notify the DSPS Office promptly so that an interactive meeting is scheduled for resolution.
3. The DSPS manager/coordinator shall convene an informal meeting of appropriate representatives (i.e. student, DSPS counselor, instructor and/or discipline department chair) within five (5) instructional days following the notification of the disputed accommodation(s). Every effort shall be made to resolve the matter informally.
4. Student will be notified in writing of next steps if not resolved to the student's satisfaction. DSPS will notify the appropriate administrator when it is unable to resolve a student complaint to provide an accommodation.

b. Formal Resolution Procedure (when not resolved during informal process)

1. If there is no agreement with the informal resolution, the student, the instructor or the DSPS faculty may provide a written complaint to the Title IX Coordinator within 10 instructional days of notification of the informal resolution.
2. The Title IX Coordinator will review the written complaint and carefully research the facts. Written notification of his/her decision will be provided to the student within 10 instructional days of receipt of the complaint.

All accommodations will remain in effect while the dispute is resolved.

Notwithstanding the above process specific to disputed accommodations, a student or staff member may at any time make a report of sex- or gender-based discrimination directly to the Title IX Coordinator or by completing the online Title IX reporting form available on the District's Title IX webpage.