

# **NAVIGATING PREGNANCY ON CAMPUS**

January 2023

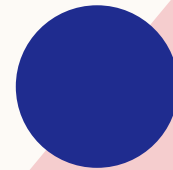
Cecily Hicks, System-wide Title IX Director and Deputy Equal Opportunity Officer  
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# **AGENDA**

Your Rights

Accommodations

Absences & Leave





# **DISCLAIMER**

We are not providing legal advice.  
Reach out to OGC regarding how best to handle a specific situation.

## TITLE IX

“No person in the United States shall, on the basis of **sex**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

*Title IX of the Education Amendments of  
1972*

## TITLE VII

...prohibits employment discrimination based on race, color, religion, **sex** and national origin.

*Title VII of the Civil Rights Act of  
1964*



# THE BASICS

- All students, staff, faculty, and visitors, not just women, are protected from discrimination on the basis of sex, including pregnancy, childbirth, false pregnancy, abortion, or related conditions (including recovery)
- Any rules or policies related to marital, family, or parental status must not be applied differently based on sex; **must be applied in gender-neutral way**

# ACCOMMODATIONS

- Individual in need must disclose pregnancy or related condition
- Medical documentation may be required
- Requested accommodation must be reasonable (case-by-case analysis)
- Interactive process is required
- Process will be very similar to CRR 600.070 (students) and 600.080 (employees)

# **ADA / SECTION 504**

The background features a large white circle on the left and a large light pink circle on the right, both overlapping a dark blue background. The pink circle contains several thin, white, concentric curved lines that create a ripple effect.

# ADA AND 504

- Prohibits discrimination on the basis of a disability.
- Applies to employees, students and visitors.
- Requires institutions to make reasonable accommodations for qualified individuals with a disability.
- A typical pregnancy without complications generally isn't protected by the ADA/504, but pregnancy can be covered if the pregnancy has complications/creates substantial limitations.
  - A few examples: hyperemesis, preeclampsia, gestational diabetes, severe mobility impairments that require bedrest



# ADA - EMPLOYMENT

- Institution must engage in an interactive process to determine what accommodations are reasonable.
- Medical documentation to support accommodations may be requested.
- Must be able to perform essential functions either with/without reasonable accommodations
- Employers do not have to provide accommodations that would cause an “undue hardship”
  - Requires an individualized assessment that the specific request would cause significant difficulty or expense
  - Consider the overall financial resources of the facilities (not a specific unit/department)

# EXAMPLES OF COMMON PREGNANCY ACCOMMODATIONS

Temporary parking accommodations to minimize walking, particularly in extreme weather.

Temporary remote work, particularly in the last 4-8 weeks of pregnancy or in extreme weather.

A later work start time, particularly if morning sickness is severe.

Temporarily reassigning lifting/physical tasks/tasks requiring substantial walking to coworkers.

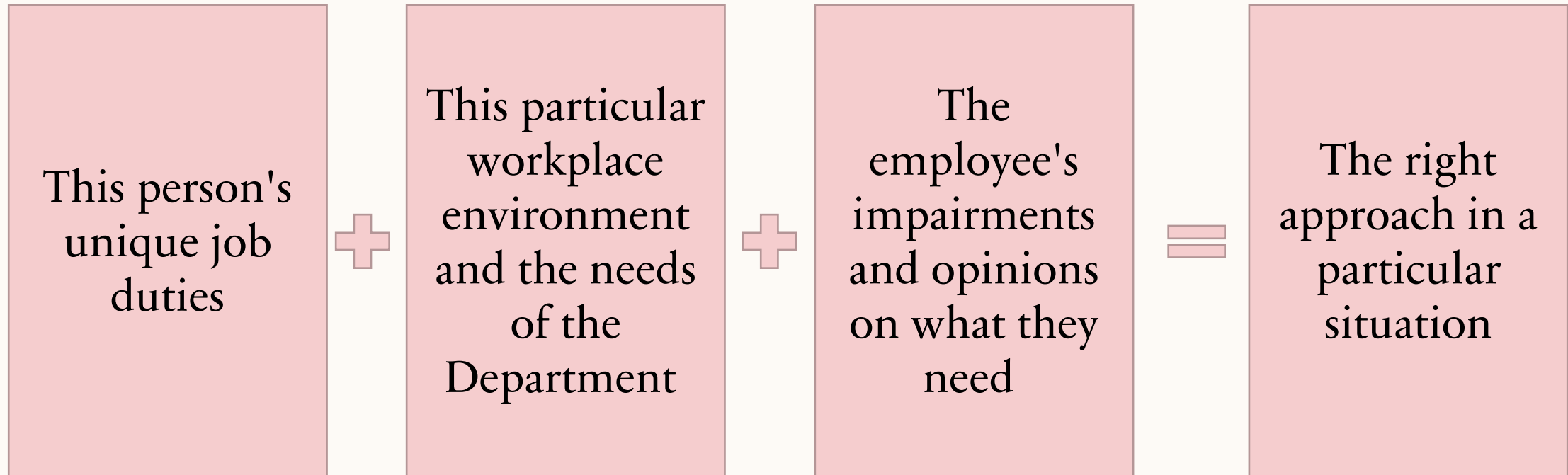
Changes to workstation to allow for repositioning (adjustable chair, ability to prop up feet).

Temporarily avoiding substances and chemicals that could pose health risks to pregnant employees.

Implementing reasonable social distancing measures to assist with preventing spread of COVID-19.

Assignment to a workstation near a restroom.

# THIS IS A CASE-BY-CASE ANALYSIS – EVERY SITUATION IS UNIQUE



# LACTATION NEEDS

## Students:

- Permitting reasonable breaks for expression of breast milk is recommended

## Employees:

- Reasonable breaks must be given to all employees to express breast milk for a nursing child for one year after the child's birth, "as frequently as needed"
- Employee must be provided a private space, other than a bathroom, shielded from view and free from interruption
- HR-521 – Break Time for Nursing Mothers
- UMSL – Five designated spaces available and others upon request

# ABSENCES & LEAVE

- Generally speaking, a student or employee will have right to excused absences or to take leave because of pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom
  - Ex: medical appointments, longer leave of absence for high-risk pregnancy, childbirth
- Student or employee must be reinstated to the same or comparable status they held when the leave began



**FAMILY MEDICAL  
LEAVE ACT  
(FMLA)**

# WHAT IS THE FMLA?

The Family Medical Leave Act entitles eligible employees to take 12 weeks of unpaid, job protected leave for specified family and medical reasons

# Who Is Eligible?

To be eligible for FMLA leave, an employee must:

Have 12 months of service

Have worked 1,250 hours in the last 12 months

*Definition of employee includes: benefit eligible/non-benefit eligible staff, faculty, and student employees.*



# WHAT IS A SERIOUS HEALTH CONDITION?

- Illness, injury, or impairment due to a physical or mental condition involving:
  - Inpatient care
  - Continuing treatment by a healthcare provider

# QUALIFYING REASONS FOR LEAVE

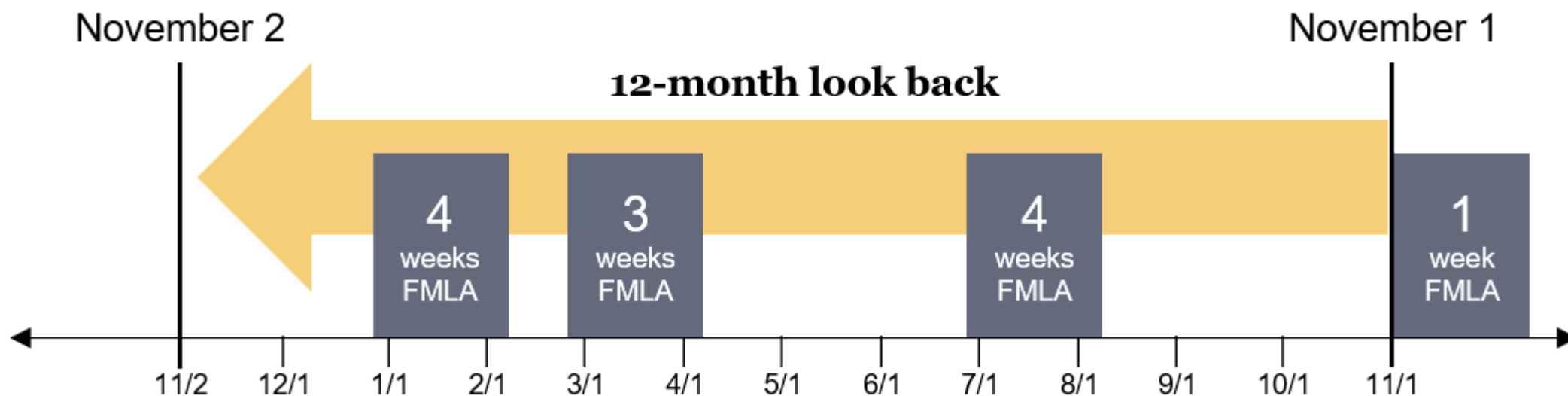
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- The birth or adoption, or foster care of a child
  - Can be taken intermittently
  - Available for the first 12 months of the child's life
- To care for a spouse, child, or parent who has a serious health condition
- For an employee's serious health condition that makes them unable to perform the essential functions of their job
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call covered active-duty status

# 12 MONTH MEASURING PERIOD

The FMLA provides 12 weeks or 480 hours in a 12-month period of job protected leave.

The University calculates the 12-month period by measuring backward from the date an employee uses FMLA.



# UM LEAVE TEAM'S ROLE

Serve as a liaison, assisting employees, managers, and HR with the FML process.

Entering ePAF's and PTO for employees who have an approved, continuous leave

Receive fit for duty forms, and enter ePAF when employees return from leave

# OUR VENDOR PARTNER, UNUM

- **Over 15 years of leave management experience**
- **Compliance with Family and Medical Leave Act**
- **Administration of client-specific leaves of absence**
- **Continual scanning of all changing leave regulations**

## Additional benefits:

- Clinical support
- Benefit coordination and integration
- Quality and timely decisions
- Employee and client communications
- Unum takes over the administrative burden



# EMPLOYEE RESPONSIBILITIES



Contact Unum immediately to report Family/Medical leaves



Notify manager/supervisor of absence request



Supply requested documentation to Unum within specified timeframes



Provide Unum with signed copy of relevant authorization to release information



Notify Unum and manager/supervisor of any changes in return to work status or date

# BEST PRACTICES - STUDENTS

- Allow students to choose whether to continue participating in classes and extracurricular activities
- Provide reasonable adjustments for pregnant students (ex., larger desk, elevator access, frequent breaks)
- Use syllabus statements to advise students of attendance policies, participation requirements, and make-up policies
- Advise students of potential consequences of extended leaves of absence (e.g., financial aid, housing)
- Excuse absences for as long as medically necessary due to pregnancy or childbirth
- Provide pregnant students with the same special services provided to individuals with temporary medical conditions, including remote instruction, tutoring, and/or independent study
- Only require a doctor's note from a pregnant student if it is required from all students who have a physical or emotional condition requiring treatment by a doctor.
- Allow pregnant students to return to the same academic and extracurricular status as before medical leave began, including the opportunity to make up the missed work or participation/attendance credit
- Provide students reasonable breaks to express milk
- **Encourage students to request pregnancy-related assistance if needed**
- **Report to the Office of Title IX & Equity any instances of discrimination or harassment**

## **BEST PRACTICES - EMPLOYEES**

- Allow employee to continue working without interruption if so desired by the employee
- Provide reasonable adjustments for pregnant employees (ex., larger desk, elevator access or frequent breaks)
- Excuse leave due to pregnancy or childbirth for as long as medically necessary
- Treat pregnant employees with resulting temporary disabilities from a pregnancy or pregnancy-related condition the same as individuals with other temporary medical conditions, including remote instruction, tutoring, and/or independent study
- Provide employees reasonable breaks to express milk
- **Encourage employees to request pregnancy-related assistance if needed**
- **Report to the Office of Title IX & Equity any instances of discrimination or harassment**



# HOW TO REPORT

Any complaint of pregnancy discrimination or failure to accommodate should be reported to the UMSL Title IX & Equity Office.

Chief Equity Officer: Dana Beteet Daniels

[dana@umsl.com](mailto:dana@umsl.com)

(314) 516-4538

<http://www.umsl.edu/title-ix/>

# QUESTIONS?

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