

GRAND RIVER | SOLUTIONS

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Title IX - The Rights of Pregnant and Post Pregnancy Students

Community College Settings



Mary Zabriskie

She/Her/Hers

Senior Solutions Specialist

Meet Your Facilitator

Mary Zabriskie is a Senior Solutions Specialist and recognized leader in the areas of Title IX, ADA/504 compliance, student conduct, care teams, direct threat response, campus free speech, and more.

Prior to joining Grand River Solutions, Mary served as the Districtwide Director of Equity Compliance at St. Louis Community College. In this role, she also served as the Title IX and ADA/504 Coordinator for the multi-campus system.

In addition to her extensive background in higher education, Mary is also an experienced lawyer. Mary initially shifted her focus from law to higher education as the Director for Public Service Advising at Washington University School of Law where she went on to work with undergraduates through the University's student affairs' division. Here, she oversaw the student group conduct process, chaired the anti-hazing task force, and served as a student advisor during conduct hearings.



About Us

Vision

We exist to help create safe and equitable work and educational environments.

Mission

Bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

Introductions

- Participants
- Presenter
 - Equity Compliance Maven
 - Community College Practitioner and Enthusiast
 - St. Louis Community College
 - Northern Essex Community College
- Approach
- Fine Print

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Session Objectives

01

Understand Title IX provisions pertaining to pregnant students and students in post-pregnancy time period

04

Understand data and context as they relate to community college students' experiences

02

Identify other relevant laws and policies

05

Identify implementation plans and process for your campus

03

Consider provisions of proposed new Title IX regulations





Student Scenarios

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Think About...

- A severe bout of morning sickness kept Mikayla from her Chemistry class on the morning of a big exam. Her professor has a strict policy prohibiting “late” exams and won’t provide Mikayla another opportunity to take the test she missed. He does allow students to drop their lowest test grade at the end of the semester, so Mikayla is covered as far as the professor is concerned.

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Think About...

- Raylynn, a student in the last semester of the nursing program, needs to make some adjustments to the number of clinical hours she works each day due to her pregnancy. Her doctor also wants Raylynn to sit for a period of time each hour she is there. The clinical coordinator is encouraging Raylynn to seek a medical withdrawal and “try again next semester”.

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Think About...

- Alex had a baby 3 weeks before the semester began. They attended classes for a couple of weeks but missed several assignments because of the baby's health issues. Alex is asking for full credit on late assignments and has provided a note from her baby's pediatrician.

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Title IX Provisions for Pregnant and Post-Pregnancy Students Big Picture - Why It Matters

Impact of Education on the Economic Experiences of
Students and Their Families

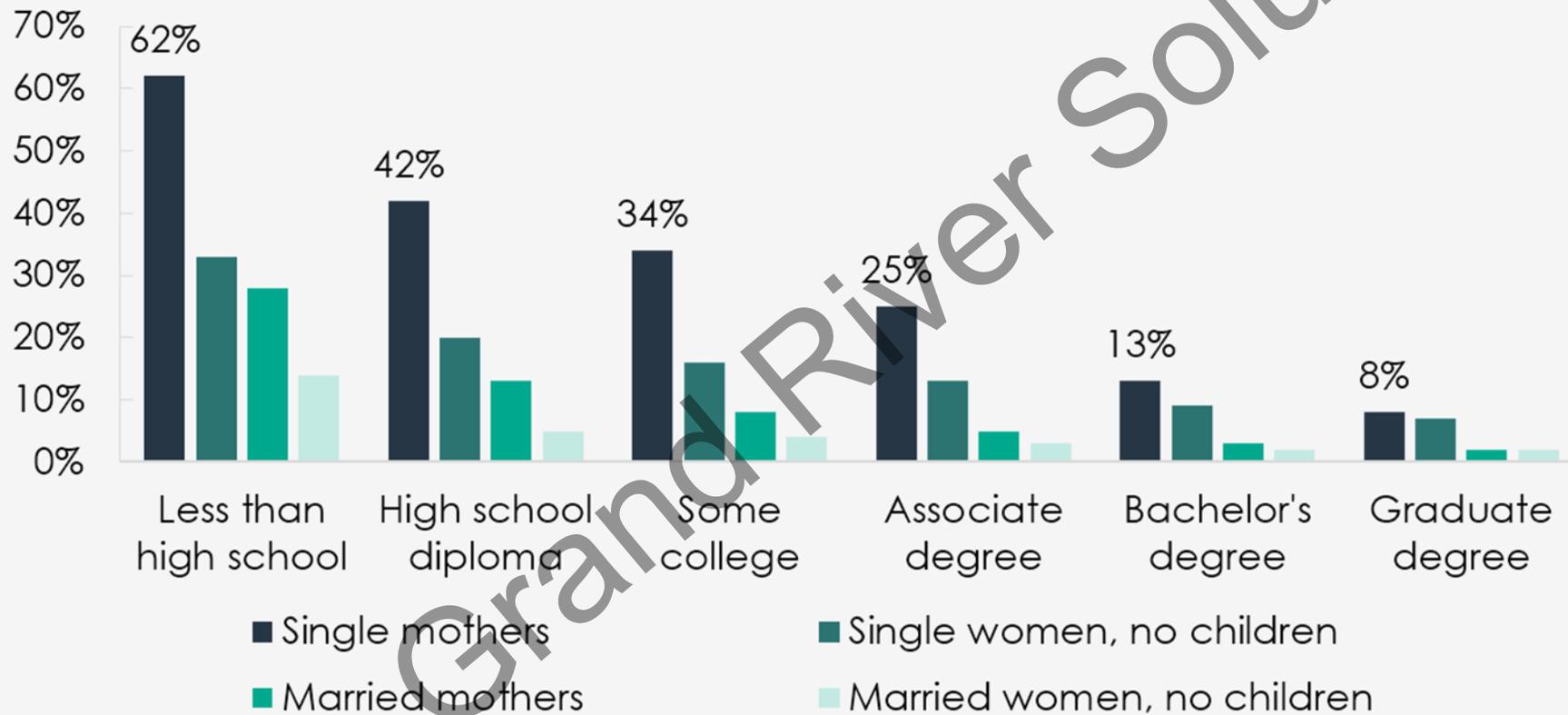
Community College Students

- 10.3 million students (headcount enrollment 2020)
- 60% Identified as women (40% identified as men)
- 29% First generation to attend college
- 20% Students with disabilities
- **15% Single parents**

AACC, 2022

Poverty Rates by Education Level and Parent Status Among Women

Poverty Rates by Education Level and Marital and Parent Status among Women Aged 25 and Older, 2015



Remember the Why

- At Quinsigamond Community College diversity, equity, and inclusion represent a commitment to changing institutional power structures, policies and practices that create systematic advantages for some and disadvantages for others.
- Diversity, inclusion and equity are core values at Quinsigamond Community College. We are passionate about building and sustaining an inclusive, respectful and equitable environment for all students, staff, and faculty. Every member on our college campus enriches our diversity. We support inclusion and are dedicated to ensuring equity in access to opportunities.

Title IX

Provisions for Pregnancy and Parenting

Where We Are Today

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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 educational program or activity receiving federal financial assistance.”

Title IX of the Education Amendments of 1972

20 U.S.C. § 1681 & 34 C.F.R. Part 106

Title IX – Key Concepts

Intended to end sex-based discrimination in all areas of education

Applies to educational program equity, such as athletics

Prohibits sexual harassment, sexual assault, relationship violence, and stalking.

Non-discrimination based on sex a condition federally funded education programs

Includes protection for LGBT and gender non-conforming individuals.

Enforced by the U.S. Dept. of Education's Office of Civil Rights

Title IX

Pregnancy & Post Pregnancy



Prohibits discrimination based on:

pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom

Illegal for schools to exclude a pregnant student from participating in any part of an educational program.

Must excuse a student's absences because of pregnancy or childbirth for as long as absences deemed medically necessary.

Title IX

Pregnancy and Post Pregnancy

Make up any missed work without penalty.

- Assignments, exams, labs, attendance and participation points
- Clinical assignments

When a student returns to school, they must be allowed to return to the same academic and extracurricular status as before their medical leave began.

Must provide reasonable adjustments, like a larger desk, elevator access, or allowing frequent trips to the restroom

Title IX

Pregnancy and Post Pregnancy



May offer student alternatives to making up missed work (retaking semester, online course credit, additional time in program).

May require verification as to medical necessity but only if verification required from all students seeking modifications for medical reasons.

Pregnancy and "Parenting"

Beyond Parenthood

Post-pregnancy

- Miscarriage
- Abortion
- Surrogate
- Stillbirth

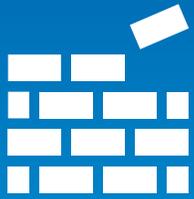
Medical Necessity

Rights are tied to medical necessity due to pregnancy and post-pregnancy conditions.

- Absence that is medically necessary after miscarriage – covered
- Absence by caregiver that isn't medically necessary – is not covered

Compare - ADA/504 Non-Discrimination Students with Disabilities

- Section 504 Rehabilitation Act of 1973
 - Prohibits discrimination on the basis of disability in all programs or activities that receive federal financial assistance.
 - Reasonable accommodations must be provided unless doing so would be a fundamental alteration to the program.
 - Requires schools to engage in an interactive process to determine what the individual needs and identify appropriate effective reasonable accommodation.



Department of Education

Office of Civil Rights

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OCR Guidance

Civil Rights Office Finds Community College Violated Title IX

By Meghan Brink · Published June 15, 2022

Salt Lake Community College in Utah was found to have violated Title IX after encouraging a pregnant student to drop a course without providing academic adjustments needed to accommodate her pregnancy, among other violations, according to a statement by the Office for Civil Rights on the [resolution released Tuesday](#).



SLCC Resolution Agreement OCR

(announced June 14, 2022)

- Allegations
 - Professor encouraged student drop course because she was pregnant. Told her that she needed to accept responsibility for her pregnancy.
 - Title IX Coordinator did not engage in an interactive process with Complainant
 - College did not excuse pregnancy related absences and did not allow her to submit work after pregnancy-related absences.
 - Lacked policy/procedure for addressing pregnancy related need for academic adjustments or related aids and services.
- Agreement OCR Findings
 - Analysis Title IX and Section 504

SLCC Resolution Agreement OCR

(announced June 14, 2022)

- Analysis and Conclusion
 - Failure to Respond Promptly or Equitably to Pregnancy Discrimination Complaint
 - Failure to Engage in Interactive Process
 - Failure to Excuse Pregnancy-Related Absences
- Treat disabilities related to pregnancy the same way the school as any other temporary disability.
- College violated Section 504 regulation “when it did not engage the Complainant in an interactive and informed process when it came to the provision of modifications to its Program”.

SLCC Resolution Agreement OCR

(announced June 14, 2022)

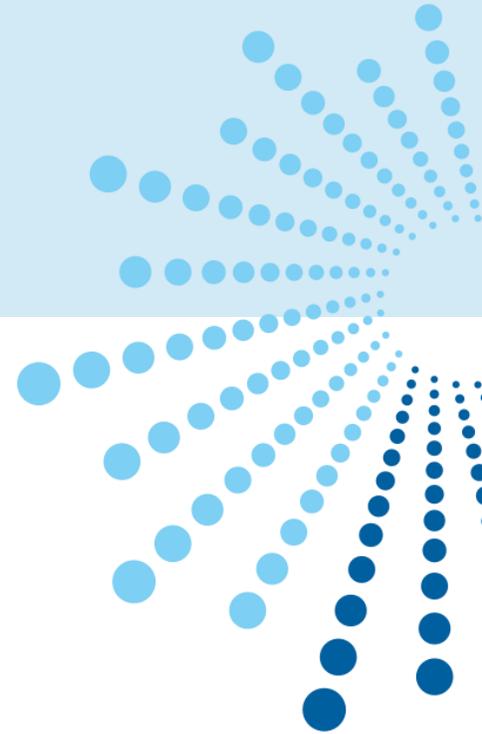
- Resolution Agreement Included
 - Requirement to Develop Procedures
 - Process to request adjustments
 - Process to determine appropriate adjustments
 - Process to determine if requested accommodation constitutes a fundamental alteration of program or activity.
 - Title IX and Disability Resources Websites – include information for pregnant students on process for academic adjustments and special services.



Relevant Laws and Other Guidance

04

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Relevant Federal Laws*

- Title VII – prohibits sex-based discrimination in employment
- Americans with Disabilities Act/Section 504 of the Rehabilitation Act of 1973
- ADA Amendment Acts of 2008
- Fair Labor Standards Act
- Pregnant Workers Fairness Act (PWRA)
- Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)

*List is not exhaustive – consult your legal counsel

Pregnant Workers Fairness Act

Pregnant Workers Fairness Act prohibits discrimination against employees due to pregnancy or conditions related to pregnancy.

(G.L. c. 151B, §4)

Requires employers to provide “reasonable accommodations” to an employee who is pregnant or who has a condition related to pregnancy.

Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)

Requires employers to provide "reasonable break time" for an employee to express breast milk each time employee has the need for one year after child's birth.

Provide place, other than a bathroom, shielded from view and intrusion, where employees can express breast milk.

Relevant Massachusetts State Law*

- Pregnant Workers Fairness Act (G.L. c. 151B, §4) prohibits discrimination against employees due to pregnancy or conditions related to pregnancy.
 - Requires employers to provide “reasonable accommodations” to an employee who is pregnant or who has a condition related to pregnancy.

*reference in not exhaustive

Proposed New Title IX Regulations

Draft Announced - June 23, 2022
Final Version Anticipated - May
2023

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Proposed Title IX Regulations

(announced June 23, 2022)

- Prohibits discrimination on the basis of pregnancy and related conditions
- Defines “pregnancy and related conditions” as:
 - (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
 - (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation;
 - (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.
- Treat pregnancy or related conditions in the same manner as other temporary disabilities
- Employees informed of a student’s pregnancy or related condition notify the student of the Title IX Coordinator’s contact information.

Proposed Title IX Regulations

(announced June 23, 2022)

- Title IX Coordinator - inform student of nondiscrimination obligations, provide reasonable modifications to policies or practices, permit a voluntary leave of absence, and ensure the availability of lactation space.
 - The lactation space would be required to be clean, private, and a space other than a bathroom.
 - Provide reasonable break time for employees to express breast milk or breastfeed.
- Provide reasonable modifications for pregnancy and related conditions unless they can demonstrate that such modifications would fundamentally alter their educational program or activity.

Proposed Title IX Regulations

Reasonable modifications for pregnancy and related conditions include:

- Breaks during class to attend to related health needs
- Breastfeeding, or expressing breast milk
- Intermittent absences to attend medical appointments
- Access to online or other homebound education
- Changes in schedule or course sequence
- Extension of time for coursework and rescheduling of tests and examinations
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest);
- Elevator access
- Other appropriate changes to policies, practices, or procedures.

What Should I DO?

A Practical Approach to Supporting Students and
Ensuring Institutional Compliance

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Refresher- Current Requirements

- Must excuse a student's absences because of pregnancy or childbirth for as long as absences deemed medically necessary.
- Must allow student to make up any missed work without penalty. Also make up points lost attendance/participation.
- Must allow student to return to the same academic and extracurricular status as before their medical leave began.
- May offer student alternatives to making up missed work (retaking semester, online course credit, additional time in program).
- Must provide reasonable adjustments, like a larger desk, elevator access, or allowing frequent trips to the restroom, when necessary.
- May require verification as to medical necessity but only if verification required from all students seeking modifications due to medical reasons.

Implementation - Now

- Website - Pregnant Student Information
 - OCR Information Sheet for Students – cut and paste
 - Identify point of contact
- Outreach and education – start with key audiences and educate on key issues. Explore collaboration opportunities.
 - Students
 - Academic Affairs - leadership
 - Health Science Programs
 - Other targeted programs – issues more likely to arise
 - Adjunct Professors
 - Human Resources
- Disability Resource Office – Temporary Disability Policies

Implementation - Now

- Policy and Procedure Audit
 - Pregnancy Related
 - Absences for Pregnancy or Childbirth (QCC)
 - Anything that conflicts with Title IX provisions pregnancy
 - Example: Technical Standards in Health Science Programs
 - Hard stop policies – no late work accepted, no late exams will be offered, etc.
- Equipment and Facilities Audit
- Confer with Counsel
 - Share your work
 - What other laws/policies out there that need to be part of this important effort?

Challenges and Opportunities for Community Colleges



Challenges

- Adjunct Faculty
- Academic Planning for Students
 - Fluid and often changing
- Demands on student time and attention
- Often students are less connected to campus

Opportunities

- Set up to offer wrap around services for students
- Connected to community resources
- Creative solutions

Talking to Students

- Encourage communication with faculty early on
- Explore options – work ahead? Attend lectures remotely? Alternative assignments?
- Incomplete – option to consider
- Financial Aid and other implications
- Identify a point of contact that will be a resource to student throughout
- Remember to encourage

Tip: Avoid even the most well-intentioned advice to drop a class or withdraw from school

What you say

- It is going to be difficult for you to be pregnant, have the baby, and pass this class.
- Wouldn't it be better if you just took the semester off and took care of yourself and the baby?

What a student will hear

- What you are trying to do is impossible.
- I don't think you can do it.
- You're not smart enough.
- You're a bad parent because you want to stay in school.
- I won't be helpful to you because you didn't follow my advice and drop this class.

Preparing for New Title IX Regulations

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Implementation – Looking Ahead

- Title IX New Regulation Implementation Team
 - Identify members – be strategic
 - Schedule monthly meetings - begin meeting April 2023
- Develop plan for addressing any issues/gaps identified in audits
- Staffing plans – everyone involved appropriately trained

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Implementation – Looking Ahead

- Facilities – identify existing lactation spaces or options that could work for this purpose
- Communication Plans – role of responsible employees
- Be creative – hot topic, new to many, how can you leverage it?
- What is Missing?
- You CAN do more.
 - Parent or Caregiver Rights not tied to medical necessity.
 - Do you want to?
- Communicate with College Counsel – keep them in the loop as you go

Implementation – Get Creative



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Student Scenarios

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Think About...

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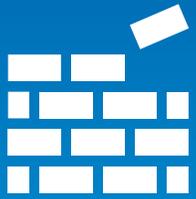
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Wrapping Up

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Remember the Why

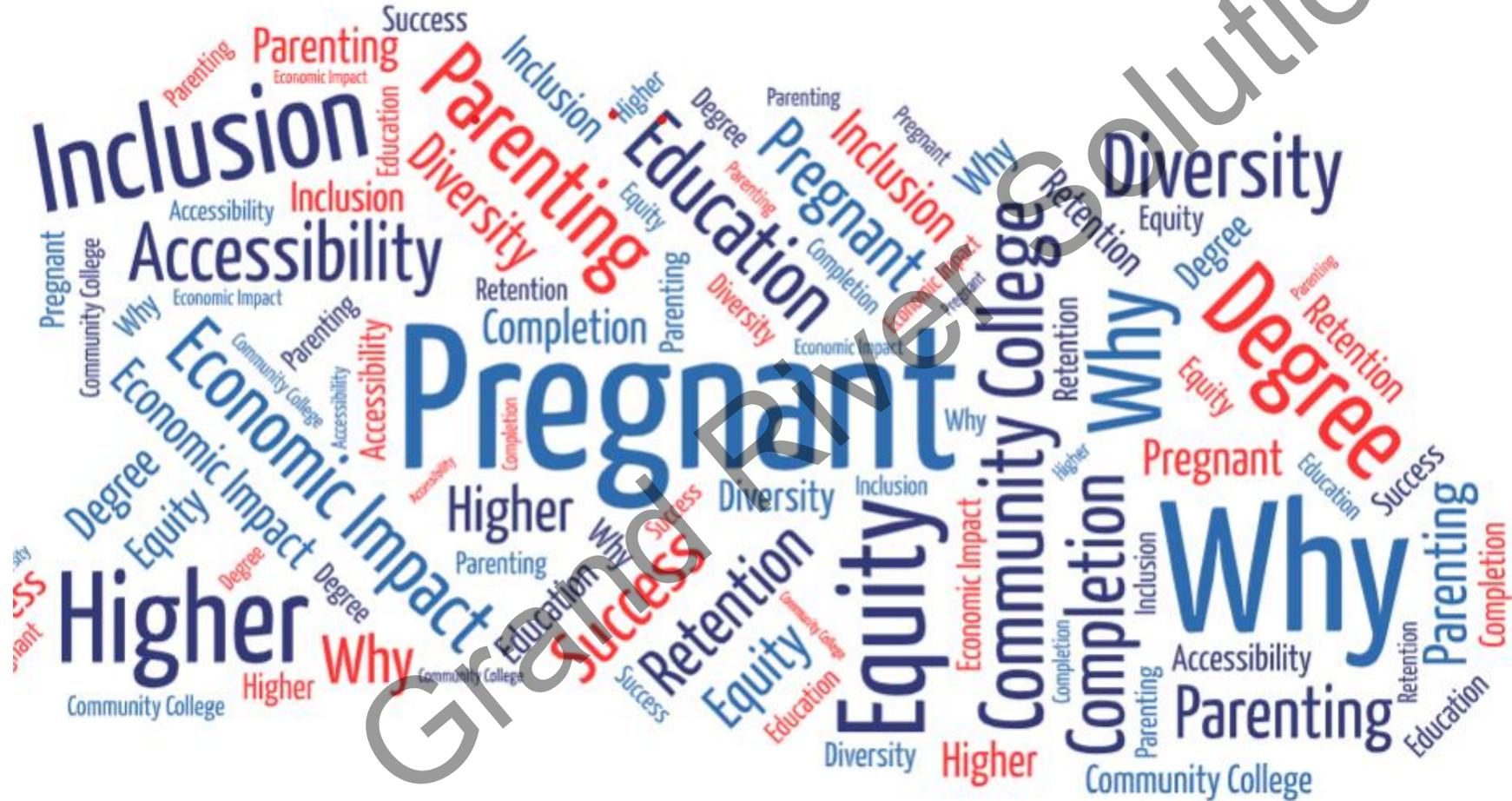
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Remember the Why

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Questions?



Resource Materials

- Institute for Women's Policy Research, *Poverty Rates by Education Level and Parent Status Among Women* (2015)
- American Association of Community Colleges – 2022 *Fact Sheet*
- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 & 34 C.F.R. Part 106)
- Department of Education - Title IX regulations (Volume 34, Code of Federal Regulations, Part 106)
- Department of Education - 2022 Proposed Amendments to its Title IX Regulations

Thank You!

Send Feedback

March 24 2023 Quinsigamond
Pregnancy and Parenting Post-
Training Satisfaction Survey



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