

THE
INTERSECTION
OF TITLE IX &
DISABILITY
LAW:

*Collaborations at the
Crossroads*



MEET THE PRESENTERS

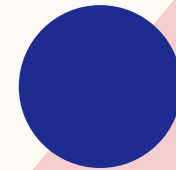
Emily Babb (she/her), Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator, University of Denver

Bisi Ladeji Okubadejo (she/her), Associate Vice President for Equal Opportunity, Affirmative Action, and Compliance, Georgetown University

Catherine Spear (she/her), Vice President, Office for Equity, Equal Opportunity, and Title IX, University of Southern California

TODAY'S ROAD MAP

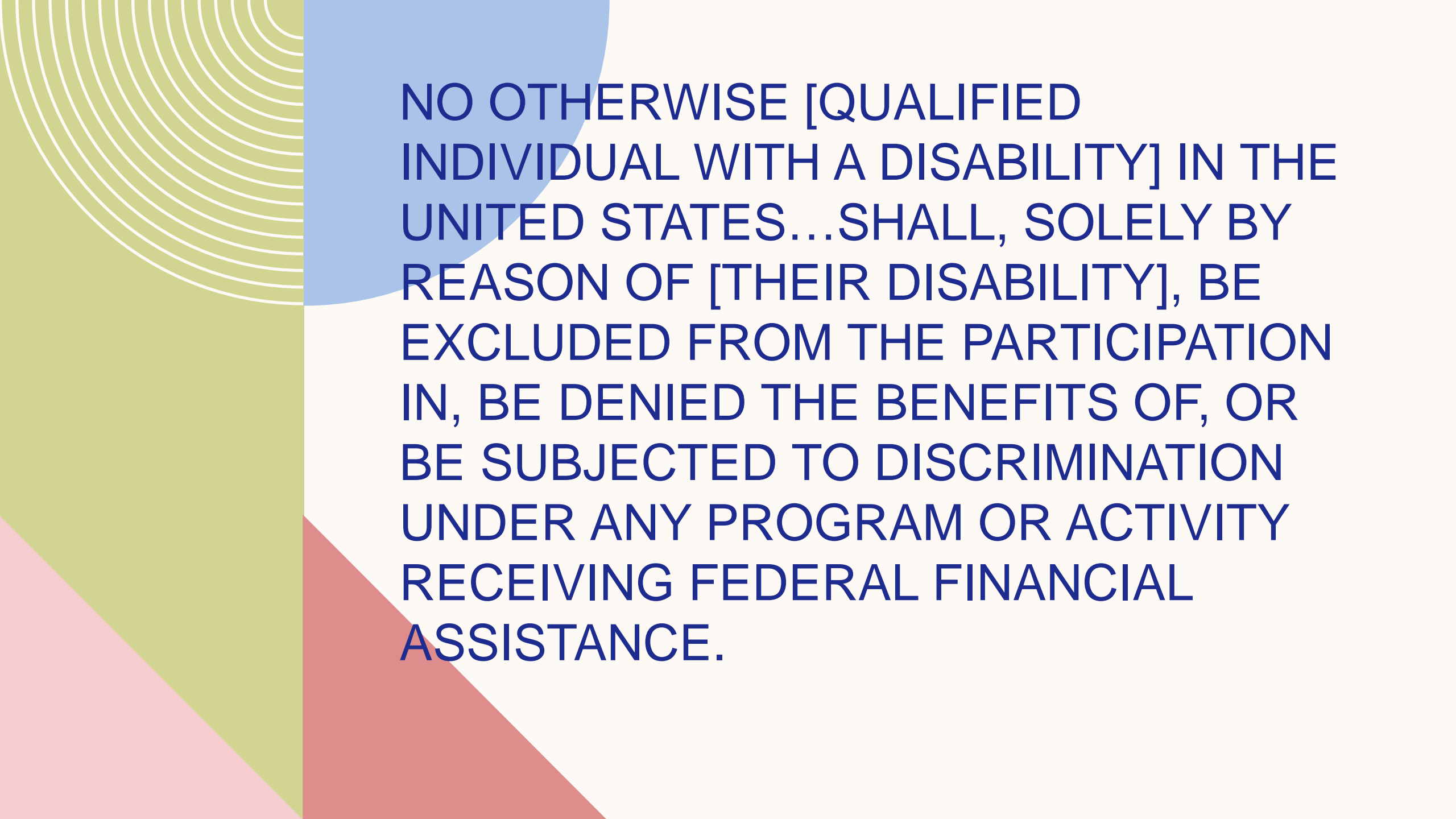
Overview of Title IX and Section 504/ADA





2022 NOTICE OF PROPOSED RULEMAKING

De



NO OTHERWISE [QUALIFIED
INDIVIDUAL WITH A DISABILITY] IN THE
UNITED STATES...SHALL, SOLELY BY
REASON OF [THEIR DISABILITY], BE
EXCLUDED FROM THE PARTICIPATION
IN, BE DENIED THE BENEFITS OF, OR
BE SUBJECTED TO DISCRIMINATION
UNDER ANY PROGRAM OR ACTIVITY
RECEIVING FEDERAL FINANCIAL
ASSISTANCE.

THE DISABILITY LAW LANDSCAPE

- May 6, 2022 Department of Education announced intent to amend the regulations implementing Section 504 of the Rehabilitation Act of 1973
 - Solicit public comments very broadly – simply asked for written comments on how best to improve the current regulations
 - A number of groups have submitted comments to ED
 - AHEAD
 - Former OCR employees
 - American Occupational Therapy Association
 - Association of Research Libraries
 - Next steps will be publishing proposed rules for comment in the Federal Register (TBD)



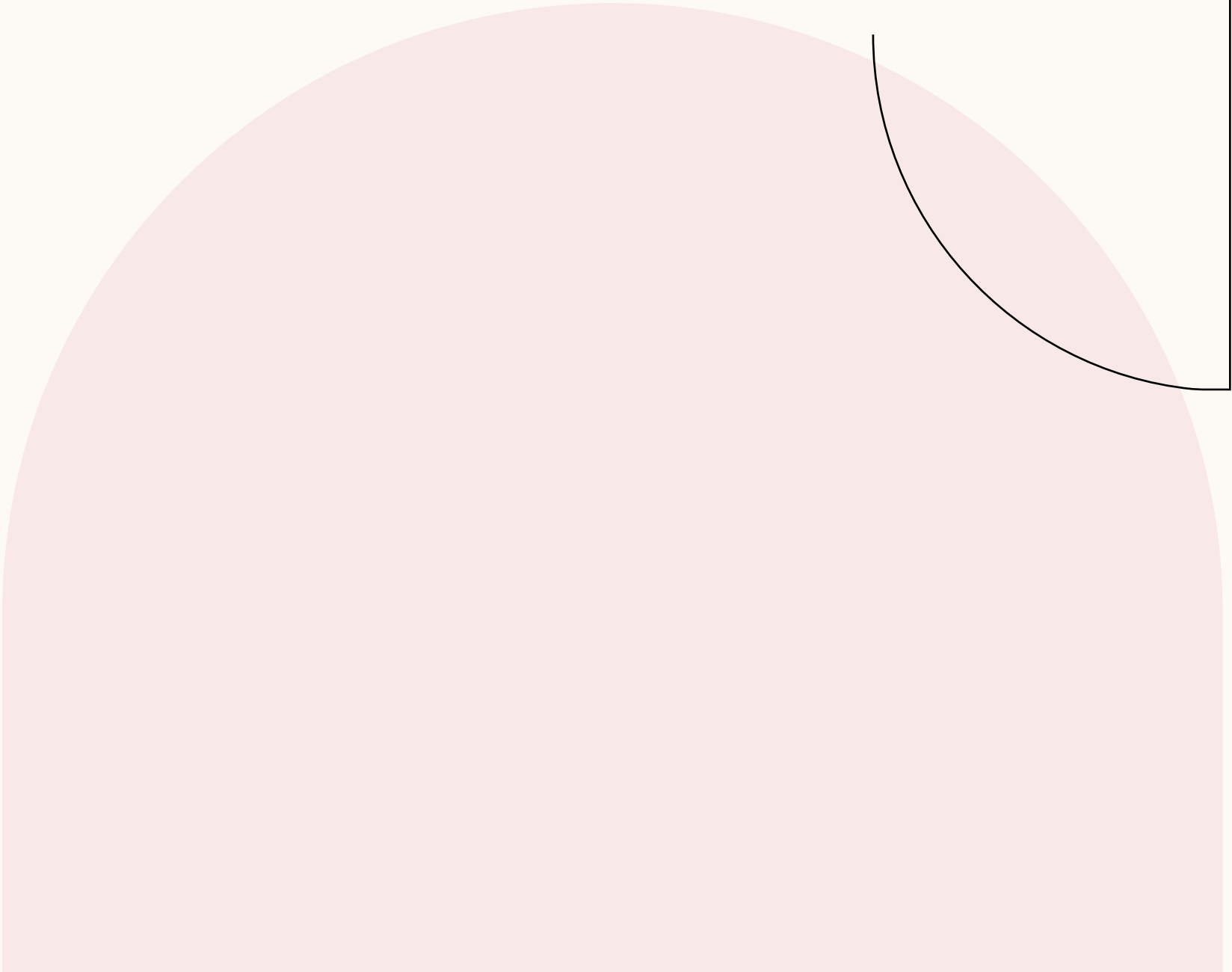
COORDINATOR ROLES

TITLE IX COORDINATOR

- Every recipient (e.g. K12 School District, College, University) MUST
 - Designate AT LEAST ONE employee to coordinate its responsibilities under Title IX
 - NOTIFY applicants for admission and employment, students, parents, employees, and unions/professional organizations of the Title IX Coordinator's contact information (name or title, office address, email address, and telephone number)
 - PROMINENTLY DISPLAY the contact information for the Title IX Coordinator and its Title IX Policy on its website, if any, and in each handbook or catalog
 - ENSURE Title IX Coordinators, investigators, decisionmakers and informal resolution facilitators are trained on the definition of sexual harassment, the scope of the education program and activity, how to conduct an investigation and grievance process, and how to serve impartially.

See 34 C.F.R. § 106.8, § 106.45.







2022 OCR DECISION: SALT LAKE CC

OCR investigated whether:

- Prof

2022 OCR DECISION: SALT LAKE CC

OCR's Conclusions:

- The College failed to respond promptly and equitably to the student's complaint of pregnancy discrimination, in violation of Title IX.
- The College failed to engage in an interactive process with the student to determine the appropriate special services and/or academic adjustments to provide in light of her pregnancy, in violation of Title IX.
- The College failed to engage in an interactive process with the student and failed to consider whether the student's pregnancy caused a temporary disability requiring academic adjustments, in violation of Section 504.
- T

2022 OCR DECISION: SALT LAKE CC

Requirements of the Resolution Agreement:

- Policies and procedures
 - Notice of Non-Discrimination (revise to include pregnancy and related conditions, parental/familial/marital status)
 - Grievance Procedures (revise to include information about opportunity to file pregnancy discrimination grievances)
- Title IX and Disability Resource Center webpages
 - Information about rights of pregnant and parenting students
 - Information about process for requesting accommodations/adjustments and addressing denials of requests
 - Information about fundamental alteration process
- Training for faculty member, Title IX staff, and Disability Resource Center staff
- Individual remedies



ACCOMMODATIONS

SET THE STAGE FOR SUCCESS

- Title IX and Section 504/ADA Coordinators (and their designees) must effectively coordinate and regularly communicate
- Develop, prominently publish, and consistently implement clear processes for requesting disability accommodations and/or “Title IX accommodations”/supportive measures
- Educate community members (faculty/staff/students) on the differences between the processes and the roles of the Title IX and 504/ADA Coordinators
- Develop a feedback loop through advocacy/ally committees, online feedback forms, surveys, etc.
- Periodically update processes as necessary and appropriate





PROCEDURE FOR REQUESTING REASONABLE ACCOMMODATIONS

IF YOU ARE AN INDIVIDUAL WITH A DISABILITY AND NEED A REASONABLE ACCOMMODATION IN ORDER TO FULLY AND EFFECTIVELY PARTICIPATE IN THE UNIVERSITY'S RESOLUTION PROCESS, PLEASE NOTIFY ME AS SOON AS POSSIBLE. I WILL WORK WITH THE [DISABILITY SERVICES OFFICE] TO ENSURE REASONABLE ACCOMMODATIONS ARE PROVIDED. WHILE SUCH REQUESTS MAY BE MADE AT ANY POINT DURING THE PROCESS, INDIVIDUALS ARE STRONGLY ENCOURAGED TO MAKE THEIR REQUESTS KNO (E)-1.S ()-6.4 (S)-

WHAT ARE TITLE IX SUPPORTIVE MEASURES?

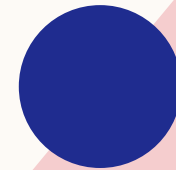
- Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge
- Designed to restore or preserve equal access to education, protect student and employee safety, or deter sexual harassment
- Available to a student whether they choose to file a Formal Complaint or not
- Can look a lot like disability-related accommodations (e.g., extended time, remote participation, etc.) AND ...
- Like disability accommodations, if they fundamentally alter a program or lower academic standards, they are not reasonably available and need to consider alternatives BUT ...
- The documentation requirements are not as prescriptive as they may be for a student with a disability
- Beneficial for Title IX to consult with Disability Services about range of possible options



WEB PAGE EXAMPLE

COMMON SUPPORTIVE MEASURES

- Academic accommodations
- Housing accommodations
- No contact directives
- Access to counseling
- Schedule modifications
- Workplace modifications
- Any other reasonably available measure





QUESTIONS

CONTACT INFORMATION

Emily Babb

Emily.Babb@du.edu

Bisi Ladeji Okubadejo

Olabisi.Okubadejo@Georgetown.edu

Catherine Spear

cspear@usc.edu