

# Georgia colleges could be torn between federal, state laws on abortion



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People "play dead" outside the U.S. Court of Appeals building as they protest the Supreme Court's decision to overturn *Roe v. Wade* in downtown Atlanta on Saturday, June 25, 2022. Some expect confusion and conflict on college campuses when students return for the fall semester. (Hyosub Shin / Hyosub.Shin@ajc.com)

Georgia's fetal "heartbeat" law could cause trouble for colleges that must follow federal law and accommodate students who want an abortion.

The Biden administration wants to rewrite the regulations for Title IX, the 50-year-old law banning gender discrimination in education. One stated reason for the proposal is to strengthen preexisting protections for women who want to end a pregnancy.

Georgia's law would ban most abortions once embryonic or fetal cardiac activity can be detected, about six weeks after conception and before many women realize they're pregnant. It has stalled in federal court since passage three years ago, but observers expect it to take effect soon, given the U.S. Supreme Court's decision allowing states to ban abortion.

Explore [Eyes on appeals court as Georgians wait to see local impact of abortion ruling](#)

The Georgia law stipulates penalties for medical professionals but **doesn't specify** the legal threat for women. Some district attorneys are saying they **won't prosecute such cases**, prompting Georgia Attorney General Chris Carr to call that a dereliction of duty.

Experts say colleges could face legal risk in trying to comply with both the federal and state laws.

“It puts the women and anybody who may want to help them in a position where they may be criminally or civilly liable for trying to comply with federal law,” said W. Scott Lewis, who consults with colleges on Title IX.

By allowing students to make up coursework and tests after taking time off for an abortion in another state, colleges might be seen as aiding and abetting a crime, said Lewis, managing partner with TNG Consulting and a co-founder and advisory board member of the Association of Title IX Administrators.

College-aged women had abortions at twice the overall rate in Georgia. In 2021, there were 34,988 [abortions recorded](#) by the Georgia Department of Public Health — 11,765 of them for women aged 18 through 24. A national [survey](#) a decade ago found that 1 in 7 women sought an abortion believing a baby would have interfered with school.

Explore [Abortion in Georgia: Here is what’s currently legal — and not](#)

Georgia’s law may compound problems for colleges because it confers personhood on fetuses.

“People who help someone leave the state could be charged with aiding and abetting, but they could also be charged with child abuse,” said Tanya Washington, a Georgia State University law professor. Explore [Georgia’s abortion rate continues to rise as state awaits decision on new law](#)

Even if they learn of a student’s abortion after the fact, professors and administrators could be held to account under the state’s “[mandated reporter](#)” law, she said. That law says college administrators and teachers who fail to alert authorities about suspected child abuse can be charged with a misdemeanor.

Washington wondered about her own liability when she realizes a student is suddenly no longer pregnant. “Do I as a professor have to report that there’s been a changed circumstance that could arguably be characterized as child abuse if it encompasses a termination? Does the institution have an obligation?”

The conundrum could exist regardless of whether the proposed changes to Title IX are implemented after a review process expected to take half a year or more.

Abortion has been covered under Title IX since 1975, the U.S. Department of Education says in its [700-page proposal](#), but college officials may not recognize that, “leaving gaps” in accommodations for students seeking an abortion.

“The proposed changes would clarify a recipient’s obligations under Title IX to students and employees who are pregnant,” says the proposal.

Several college administrators were reluctant to discuss it. An official at one private college, wary of agitating lawmakers, would say only that the situation is “a minefield” for Title IX coordinators.

Regina Mincberg, general counsel for Oglethorpe University in DeKalb County, doesn’t think colleges will be at risk.

Title IX doesn’t put universities in a position of facilitating an abortion, she said. “It’s just saying we can’t discriminate against people for leaving and coming back.”

Oglethorpe will hold a student’s place, ensuring they aren’t marked absent or otherwise penalized if they take an extended leave for an abortion, she said.

Mincberg said Oglethorpe administrators have had “robust” discussion about the situation and are planning information sessions for students.

This “will just become an increasingly significant factor during their four years in college,” she said.

Georgia State political science major Nida Merchant, 21, thinks students planning an abortion will be less likely to seek an accommodation by telling their professors. She also expects protests and counterprotests that could be dangerous or at least distracting.

“It makes things unsafe,” she said. “It’s making things so much more difficult.”