



PREGNANT AND PARENTING STUDENTS

SUPPORTING ACADEMIC SUCCESS THROUGH TITLE IX

TITLE IX'S PROMISE OF EQUAL opportunity for girls and women is still far from being fulfilled when it comes to pregnant and parenting students. Title IX prohibits discrimination on the basis of pregnancy or parenting, yet these students frequently face policies that segregate them, exclude them from class or extracurricular activities, or punish them for excused medical absences.

These discriminatory practices can have devastating consequences. Faced with missed work and other obstacles, many pregnant and parenting students drop out of school, thus lowering their chances of finding stable employment that will let them support their families.

Schools can ensure compliance with Title IX by establishing equitable policies, educating the school community about the rights of pregnant and parenting students, and putting support structures in place. Such measures can help young parents—both mothers and fathers—stay in school and succeed.

Adhering to the Law

Provisions protecting the rights of pregnant and parenting students to stay in school and have equitable educational opportunities are among the least well-known aspects of Title IX. Understanding these provisions can help education systems and institutions come into compliance and end discrimination. In this, as in other areas, the role of Title IX coordinators is key.

GENERAL PROTECTION

Title IX prohibits discrimination on the basis of a student's "actual or potential" parental, family, or marital status or "pregnancy, childbirth, termination of pregnancy, or recovery

Title IX compliance entails simply treating pregnant and parenting students the same way schools treat other students.

therefrom."¹ Generally speaking, this means that schools must give all students who *might be, are, or have been* pregnant (whether currently parenting or not) equal access to school programs and extracurricular activities.

For the most part, compliance entails simply treating pregnant and parenting students in the same way that schools treat other students who are similarly able or unable to participate in school activities. Title IX also requires schools to prevent and address sex-based harassment, which includes harassment based on pregnancy.

TITLE IX REGULATIONS

In addition to offering general protection, Title IX regulations detail how the law applies to a range of specific activities and policies that affect pregnant and parenting students. These regulations govern activities both in and outside of the classroom.

Class attendance. Students may not be prevented from attending class on the basis of pregnancy. Separate programs or schools for pregnant and parenting students must be completely voluntary and must offer opportunities equal to those offered for students who are not pregnant or parenting.

Excused absences. Absences due to pregnancy or childbirth must be excused for as long as is deemed medically necessary by the student's doctor.

Make-up work. Schools must let students make up work missed because of pregnancy or related conditions, including recovery from childbirth. If a teacher or professor awards

KEY FINDINGS

- 1. Despite legal protection under Title IX, pregnant and parenting students often face discrimination in school,** including policies that segregate or exclude them from school activities or that keep them from making up missed work.
- 2. Barriers to education lead many pregnant and parenting students to leave school,** lowering their chances of finding good jobs that will let them provide for their families. This is true for young fathers as well as young mothers.
- 3. Knowledge is key to ending discrimination.** Measures such as tracking student outcomes and training school officials to understand the rights and needs of pregnant and parenting students can help ensure equal access to education.
- 4. Stronger enforcement is needed** at the federal, state, and institutional levels to protect pregnant and parenting students from discrimination. Enforcement should include ongoing compliance reviews and education efforts to inform students of their rights under the law.
- 5. Greater support for pregnant and parenting students,** including flexible leave options and funding for services such as child care and tutoring, can help ensure that these students have the opportunity to remain and succeed in school.

“points” or other advantages on the basis of class attendance, students must have an opportunity to earn back credit from classes missed because of pregnancy.

Tutoring or other accommodations. If the school provides tutoring or homebound instruction services to other students with medical conditions or temporary disabilities, it must provide such services to pregnant or parenting students on the same basis.

Breast milk expression. Parenting students must be permitted reasonable breaks to express breast milk during educational programming and should have access to a private space that is not a bathroom in which to do so.

School activities. Schools must allow pregnant or parenting students to continue participating in activities and programs outside of class, such

as sports, extracurricular activities, labs, field trips, and career rotations. The school can require a doctor’s note for pregnant students to participate in activities only if it requires a doctor’s note from *all* students who have conditions that require medical care.

Scholarships. Schools cannot terminate or reduce athletic, merit, or need-based scholarships because of pregnancy.



Overcoming Challenges in Education

Pregnant and parenting students face numerous hurdles in enrolling in, attending, and succeeding in school. In addition to the inherent difficulty of juggling schoolwork with parenting responsibilities and issues such as lack of affordable child care, these students often suffer discrimination at the hands of teachers, coaches, or school administrators.

DISCRIMINATION IMPEDES SUCCESS

Research by the Center for Assessment and Policy Development suggests that the most common barriers to education faced by pregnant and parenting students are: 1) required attendance at stand-alone alternative programs of questionable academic quality, and 2) discriminatory leave policies, including flunking students because of birth-related absences.² These unlawful practices can prevent pregnant and parenting students from finishing high school and from entering and completing postsecondary education. This form of

discrimination thus has a lifelong impact on young parents’ ability to earn sufficient wages to support their families.

Schools sometimes push students toward separate programs or facilities for pregnant students out of fear that these students will be a “bad influence” on others, or to avoid having to deal with pregnancy-related health issues. By law, participation in separate programs must be voluntary, yet students report that schools often tell them that they have no choice. Separate programs generally do not include the full range of academic coursework and extracurricular activities; therefore they do not leave these students as prepared to succeed as their classmates.

In other cases schools simply refuse to enroll pregnant students, either directing them elsewhere or actually encouraging them to drop out and get their GED instead of trying to

IMPACT OF PREGNANCY AND PARENTING ON EDUCATION ATTAINMENT

Studies have shown that barriers to education for pregnant and parenting students lead to high dropout rates among both male and female students:

- Only 51% of women who had been teen mothers earn their high school diplomas by age 22.^a
- Fewer than 2% of young teen mothers (those who have a baby before age 18) attain a college degree by age 30.^b
- In a nationwide survey, half of female dropouts said that becoming a parent was a factor in their decision to leave high school; one-third said it was a major factor.^c
- The same survey found that parenthood was a factor in leaving school for one-third of male students who dropped out.
- Parents and other students with caregiving responsibilities are the group mostly likely to say they “would have worked harder if their schools had demanded more of them and provided the necessary support.”^d

a. U.S. Bureau of Labor Statistics, *National Longitudinal Survey of Youth*, 1997 cohort. See <http://www.bls.gov/nls/nlsy97.htm/>. b. The National Campaign to Prevent Teen Pregnancy, *By the Numbers: The Public Costs of Teen Childbearing* (2006). c. Bill & Melinda Gates Foundation, *The Silent Epidemic: Perspectives of High School Dropouts* (2006). d. Ibid.

finish high school. Students also report that many schools consider pregnancy or parenting-related absences “unexcused,” or fail to let them make up missed work—practices that impede academic success and are specifically prohibited under Title IX.

SUPPORT LOWERS BARRIERS

Although some challenges are unavoidable, providing support for pregnant and parenting students—including, at a minimum, complying with the provisions of Title IX—can remove barriers to success. Equitable policies, flexibility in accommodating students’ needs, and structures for ensuring that all school personnel understand students’ rights under the law can help pregnant and parenting students stay in school through graduation.

New York City offers an example of how secondary school programs can evolve for the better. In 2007, the city announced a decision to shut down its alternative program for pregnant and parenting students, which offered parenting classes and child care but no opportunities for graduation or preparation for postsecondary education or careers. A new voluntary program, Living for the Young Family through Education (LYFE), provides free child care access in dozens of locations across the city as well as a range of programming aimed at helping pregnant and parenting students finish their high school education in the manner that works best for them and on equal par with their classmates.³

Given the importance of a college education in the current economy, supporting pregnant and parenting students at the postsecondary level is also crucial. These students make up a large and often vulnerable population for whom a college degree can make a lifelong difference.

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According to the Institute for Women’s Policy Research, parents of dependent children make up nearly a quarter of U.S. undergraduates, or 3.9 million students. Half of those are single parents, who are more likely than others to come from disadvantaged backgrounds. In addition, nearly half of parenting students work full-time while enrolled.

For these students, obtaining quality, affordable child care is one of the greatest challenges; the availability of child care is cited as an important factor in making the decision to attend college by four out of five parenting students.⁴ The federal Child Care Access Means Parents in School (CCAMPIS) program finances some

child care for low-income parents, but funding has declined in recent years, from \$16 million and 155 awards in 2010 to \$15 million and 86

awards in 2014.⁵ Increased funding for this program would help parenting students stay in college through graduation.

Steps Toward Ending Discrimination

Despite clear legal protection for pregnant and parenting students, practices that hinder the ability of these students to succeed in school are widespread. Discrimination and biases persist; many schools continue to enact policies that punish pregnant and parenting students rather than supporting them.

The key to ending such discrimination is knowledge. Students need to know their rights; those responsible for establishing and implementing school policies must understand their obligations under Title IX; and regulators must recognize the social consequences of non-compliance with Title IX in order to support stronger enforcement.

TRACKING AND DISSEMINATING INFORMATION

No reliable data exists on the numbers of pregnant and parenting students or on the numbers of these students who face discrimination in violation of Title IX. Better data on these numbers—which could be gathered via the Department of Education’s Civil Rights Data Collection (CRDC) process—would help in crafting strategies for countering discrimination.

Lack of knowledge among schools is another major hurdle. Many schools have not appointed Title IX coordinators, in violation of the statute, so they may not know that Title IX applies to pregnant and parenting students. Others simply do not fully understand their responsibilities to these students under the law. For example, colleges and universities sometimes allow individual instructors to set policies for their classes, including refusing entry to pregnant students, because school administrators fail to

recognize that the school is accountable for such discrimination.⁶

Some schools are misled by unlawful policies at the state and local level. At least two state Departments of Education recently had official policies in place that violated Title IX by excluding pregnant and parenting students from receiving services that were made available to those with other medically excused absences. These policies, in Georgia and Michigan, were revised after being challenged.

Students themselves often have no idea that Title IX prohibits discrimination against pregnant and parenting students.⁷ These students are particularly vulnerable if their school gives them incorrect information about enrollment, absence, or other policies. Given the high dropout rate among students who become pregnant, ensuring that these students understand their rights with regard to education is essential.

In 2013 the U.S. Department of Education’s Office for Civil Rights (OCR) issued a guidance document on the application of Title IX to pregnant and parenting students. The guidance serves as a critical reminder that schools have responsibilities to these students, including making adjustments or accommodations that are “reasonable and responsive to the student’s temporary pregnancy status.”⁸ The guidance also reminds schools that sexual harassment





of students, which includes harassment because of pregnancy or parenting status, is prohibited by Title IX. Wide dissemination of this document can help school departments, districts, and institutions inform their school communities about their rights and obligations under Title IX.

STRENGTHENING ENFORCEMENT

Although OCR investigates claims of discrimination against pregnant and parenting students, enforcement of Title IX remains difficult. Students are unlikely to lodge formal complaints with OCR for a number of reasons, including lack of knowledge of their rights, already feeling overwhelmed and vulnerable, and lack of resources or guidance from the adults in their lives. These issues make it even less likely that they will file lawsuits in court.

Despite these obstacles, OCR has had some recent successes. Since issuing the updated guidance in 2013, OCR has entered into multiple resolutions with schools, school districts, and colleges that have resulted in agreed-on measures to protect the rights of pregnant and parenting students. Such measures include reporting data on whether pregnant students were directed into specific programs due to their pregnancies; training staff members on Title IX obligations; revising policies that exclude pregnant and parenting students from academic programs; and initiating interactive processes to determine whether individual students require adjustments to their academic programs.⁹

While these investigations and resolutions show that OCR is working to enforce Title IX's protections for pregnant and parenting students, OCR is understaffed, and its investigations often take months or even years. Moreover, OCR does not collect data on pregnant and parenting students, which hinders its ability to monitor compliance on a larger scale.

Enforcement has been supplemented by legal action brought by other groups, notably the National Women's Law Center (NWLC). Legal actions at the state and federal level have brought about some needed changes (see the sidebar on the next page). To build on these successes, OCR should continue to educate pregnant and parenting students about their

KEY POINTS FROM OCR'S GUIDANCE ON PREGNANT AND PARENTING STUDENTS

- Schools must ensure access to their regular educational program by making adjustments that are reasonable and responsive to a student's pregnancy status.
- Pregnant or parenting students cannot be excluded from academic or extracurricular activities run or supported by the school.
- Absences due to pregnancy, recovery, or related conditions must be excused if the student's doctor deems the absence medically necessary.
- A student who has missed work due to pregnancy or a related condition must be allowed to make up the work. Schools have an obligation to ensure that individual teachers' grading and missed-work policies conform to Title IX.
- Schools must adopt and widely publicize grievance procedures for filing a discrimination complaint and must provide a prompt and equitable resolution of any such complaint.

SOURCE: U.S. Department of Education, Office for Civil Rights, *Supporting the Academic Success of Pregnant and Parenting Students* (June 2013). See <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.

rights and should ensure that all students are aware of how to make a complaint to OCR if their school fails to comply with Title IX. The

work of Title IX coordinators, who oversee compliance at the institution and district level, will be crucial in these efforts.

Creating Systemic Change

Action at multiple levels is needed to bring about systemic change in helping pregnant and parenting students achieve academic success.

In addition to disseminating knowledge, two areas where intervention can make a huge impact are federal support—including both

IMPACT OF ENFORCEMENT ON ENDING DISCRIMINATION

As the following examples show, Title IX enforcement can make a huge difference in ensuring education opportunities and access for pregnant and parenting students.

ENFORCEMENT AT THE DISTRICT AND SCHOOL LEVEL

2015 (GA): NWLC represented a pregnant student in an OCR complaint when her school refused to excuse absences for medically needed bed rest. An agreement with the school district allowed the student to make up her work and graduate on time. The district also agreed to change its written policies and to re-train faculty and staff on Title IX.

2015 (IL): NWLC wrote a letter in support of the Northwestern University Student Parent Alliance, which was lobbying for policies to accommodate student parents. In 2016, the university implemented new policies for portable child care grants, paid family leave for graduate students, and a doubling of campus lactation rooms.

2013 (NY): NWLC filed an OCR complaint on behalf of a pregnant student against City University of NY for allowing individual instructors to decide whether students could make up work missed because of pregnancy and for retaliating against a student for challenging the policy. The university agreed to provide Title IX training for staff and to reimburse the student's tuition losses.

ENFORCEMENT THROUGH COURT RULINGS

Several district and federal court cases have addressed whether a school may exclude a pregnant or parenting student from membership in the National Honor Society (NHS) or other programs.

- Multiple federal courts have determined that exclusion of pregnant or parenting students constitutes unlawful discrimination under Title IX.^a
- Most courts have rejected schools' attempts to defend such exclusion on the grounds of premarital sex. One district court found that denying NHS membership to a pregnant student violated Title IX because a male student who had fathered a child out of wedlock was not similarly excluded.
- In 2016, the U.S. Court of Appeals for the Sixth Circuit found a school in violation of Title IX and awarded \$850,000 to a pregnant student who had been discriminated against by her supervisor in a school-sponsored internship.^b

a. Conley v. Northwest Fla. State College, 145 F.Supp.3d 1073 (N.D. Fla. 2015); *Chipman v. Grant County Sch. Dist.*, 30 F. Supp.2d 975 (E.D. Ky. 1998); *Wort v. Vierling*, No. 82-3169 (C.D. Ill. Sept. 4, 1984). *b. Varlesi v. Wayne State University*, 643 Fed. Appx. 507, 509 (6th Cir. Mich. 2016).

guidance and funding—and effective policy-making at the school level.

FEDERAL ACTION

Two recent federal actions take aim at improving high school graduation rates and increasing access to education for pregnant and parenting students. Both offer practical support that can have a lasting impact on the economic stability of young families.

The Pregnant and Parenting Students Access to Education Act, introduced in the House of Representatives and the Senate in February 2015 (and previously introduced in one or both chambers in 2011 and 2013), authorizes the

U.S. Secretary of Education to make state and local grants to promote education for pregnant and parenting students. The act was devised to support states in creating a plan for educating pregnant and parenting students, providing professional development and technical assistance to school districts, and coordinating services with other state agencies. The act also has provisions for rigorous program evaluation and for collection and reporting of data on pregnant and parenting students, including educational outcomes.¹⁰

This legislation would provide states and school districts with much-needed resources not only for ensuring Title IX compliance but also for promoting graduation and college and career readiness for pregnant and parenting students. It thus offers a path toward economic opportunity for young families.

The Pregnancy Assistance Fund, a component of the Affordable Care Act, provides \$25 million annually for fiscal years 2010 through 2019 for the purpose of awarding competitive grants to states and Native American tribes or reservations. The law provides for up to 25 grants of \$500,000 to \$2 million a year. As of fall 2015, 17 states and three tribal entities had received awards for programming to connect young families with the support services they need and to ensure a focus on important outcomes such as graduation rates, maternal and child health outcomes, and parenting skills.¹¹

INSTITUTIONAL ACTION

All schools should ensure that their leaders and staff understand the rights of pregnant and parenting students under Title IX. That is just one piece of the puzzle for improving outcomes, however. Schools that want to increase graduation rates and provide support for motivated students facing the challenges of parenthood can do much more than just avoid discrimination.

RESOURCES FOR STUDENTS AND SCHOOLS

Know Your Title IX Rights: A Guide for Pregnant and Parenting Students. Legal Momentum, 2014.

Available at https://www.legalmomentum.org/sites/default/files/reports/Know%20Your%20Rights%20for%20Pregnant%20and%20Parenting%20Students%2012.30.2014_0.pdf.

Pregnant and Parenting Students' Rights Toolkit.

National Women's Law Center (NWLC), 2016. A collection of fact sheets, including a summary of students' rights, FAQs, and actions students can take when faced with discrimination. Available at <https://nwlc.org/resources/pregnant-and-parenting-students-rights-toolkit/>.

A Pregnancy Test for Schools. NWLC, 2012. Available at <https://nwlc.org/resources/a-pregnancy-test-for-schools-the-impact-of-education-laws-on-pregnant-and-parenting-students/>.

Supporting the Academic Success of Pregnant and Parenting Students. U.S. Department of Education, Office for Civil Rights, 2013. <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.

Find Your Title IX Coordinator. American Association of University Women (AAUW). Available at <http://www.aauw.org/resource/find-your-title-ix-coordinator/>.

Below are simple measures that both secondary and postsecondary schools can put in place to help pregnant and parenting students succeed in school:

- Create flexible leave options and mechanisms for making up missed work.
- Provide services such as child care, transportation, and tutoring.
- Excuse absences related to the illness of a student's child.
- Allow students time and space to express breast milk.
- Provide added guidance and case management to help students develop short- and long-term education goals, apply for public benefits, and access available health and other social services.
- Offer life skills classes that provide information on parenting as well as comprehensive

and medically accurate information on secondary pregnancy prevention.

- Track data on student outcomes.

The 2013 OCR guidance on pregnant and parenting students offers additional strategies for school administrators, teachers, and counselors to support mothers and fathers in school. These include preparing guidance materials to help school personnel respond to the needs of pregnant and parenting students; having Title IX coordinators provide training sessions for students, teachers, and others; and asking pregnant and parenting students for ideas on how districts can help them remain in school.¹²



NCWGE Recommendations

- School administrators should work with Title IX coordinators to make sure that all school personnel understand the rights of pregnant and parenting students.
- Dropout prevention programs should be targeted to meet the needs of students affected by pregnancy and parenting, including specific support measures to help both male and female students remain in school.
- The federal government should use its CRDC process to capture the number of pregnant and parenting students, and should back legislation directing schools to track the academic progress of these students. These measures will create a body of data on where and how efforts to support the education of pregnant and parenting students have succeeded.
- The Department of Education should develop a comprehensive plan for providing schools with technical assistance in protecting the rights of pregnant and parenting students under Title IX, and in conducting compliance reviews to ensure that students are able to complete their education in the school of their choice.
- The federal government should fund programs to enhance support for pregnant and parenting students, including accommodations and services to help them complete their education. Passing the Pregnant and Parenting Students Access to Education Act and increasing funding for affordable, quality childcare under the CCAMPIS program are two ways to achieve this goal.



References

1. 34 C.F.R. Part 106.
2. W. C. Wolf, *Using Title IX to Protect the Rights of Pregnant and Parenting Teens*. Center for Assessment and Policy Development, 1999.
3. See <http://lyfenyc.org/>.
4. K. Miller and B. Gault, *Improving Child Care Access to Promote Postsecondary Success Among Low-Income Parents*. Institute for Women's Policy Research, 2011. Available at <http://www.iwpr.org/publications/pubs/improving-child-care-access-to-promote-postsecondary-success-among-low-income-parents/>.
5. Source: U.S. Department of Education. See <https://www2.ed.gov/programs/campisp/funding.html>.
6. National Women's Law Center (NWLC), *Pregnant and Parenting Students' Rights: FAQs for College and Graduate Students*. Available at <https://nwlc.org/resources/faq-pregnant-and-parenting-college-graduate-students-rights/>.
7. See NWLC, *Pregnant and Parenting Students' Rights*, available at <https://nwlc.org/resources/pregnant-and-parenting-students-rights-2/>; NWLC, *Pregnant and Parenting Students' Rights: FAQs for College and Graduate Students*, available at <https://nwlc.org/resources/faq-pregnant-and-parenting-college-graduate-students-rights/>; and Legal Momentum, *Know Your Title IX Rights: A Guide for Pregnant and Parenting Students*, available at https://www.legalmomentum.org/sites/default/files/reports/Know%20Your%20Rights%20for%20Pregnant%20and%20Parenting%20Students%2012.30.2014_0.pdf.
8. U.S. Department of Education, Office for Civil Rights, *Supporting the Academic Success of Pregnant and Parenting Students* (June 2013), p. 9. See <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.
9. See, for example, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/09152059-b.pdf>, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/11082079-a.pdf>, and <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/07152016-b.pdf>.
10. NWLC, *Fact Sheet: Pregnant and Parenting Students Access to Education Act*. Available at <https://nwlc.org/resources/pregnant-and-parenting-students-access-education-act-section-section-summary/>.
11. See https://www.hhs.gov/ash/oah/oah-initiatives/paf_program/about.html.
12. See <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.