

## **ATIXA Inquiry on Title IX and Adoption**

I'm wondering about Title IX protections as they relate to adoption matters and what analogies there are, if any, to TIX's pregnancy and/or parenting protections. Specifically, I'm curious if TIX provides protection for adoption related court appointments and other adoption related (yet not medically necessary) meetings.

On a related note, I would appreciate your take on the following scenario. A male student's wife recently gave birth and he is now struggling (significantly) academically. He states the reason for his difficulties is the birth of his new child. I'm wondering to what extent Title IX pregnancy and/or parenting protections extend to the non-birth parent? I also would like any guidance regarding the actual duration of parenting protections (such as parenting related absences) after childbirth.

### **OCR's Response**

Thank you for your October 26, 2016 email to the U.S. Department of Education's Office for Civil Rights (OCR) regarding Title IX protections related to adoption matters and non-birth parents. As you know, OCR enforces Title IX of the Education Amendments of 1972 and its implementing regulations at [34 C.F.R. Part 106](#), which prohibit sex discrimination in educational programs and activities operated by recipients of Federal financial assistance. Although OCR refrains from offering opinions about specific facts without first conducting an investigation, we are happy to provide key information on how Title IX applies generally in this context.

Title IX specifically prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. 34 C.F.R. 106.40(b). As explained in OCR's June 2013 pamphlet [Supporting the Academic Success of Pregnant and Parenting Students Under Title IX](#), a school must excuse a student's absences due to pregnancy or related conditions, including childbirth for as long as the student's doctor deems the absences medically necessary. With respect to the issue of childbirth, the Title IX regulation speaks only to the student who is giving birth and does not dictate the rights of the other parent. While a school may excuse absences by a non-birth parent related to the birth of that student's child, doing so is not required by Title IX.

Title IX also prohibits schools from applying any rule related to a student's actual or potential parental status that treats students differently based on their sex. (34 C.F.R. § 106.40(a)). This means that, for example, a school could not have a policy of excusing absences for female students to attend court proceedings regarding the adoption of a child while not excusing these same absences for male students.