



Pregnant and Parenting Students

OFTEN LEFT BEHIND

TITLE IX'S PROMISE OF EQUAL opportunity for girls and women is far from being fulfilled when it comes to pregnant and parenting students. Many people, including students, do not know that Title IX prohibits discrimination based on pregnancy and parenting. Pregnant students are frequently pushed toward separate educational facilities, subjected to punishing leave policies, or denied access to extracurricular activities despite the fact that such conduct

violates Title IX. Faced with these 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.

Equal treatment and support for pregnant and parenting students is critical to ensuring that all female students have equal access to educational opportunities. It is also important for helping young fathers stay engaged in their children's lives, remain in school, and complete their education.

Legal Protection for Pregnant and Parenting Students

GENERAL PROTECTION

One of the less well-known aspects of Title IX is that it protects the rights of pregnant and parenting students to stay in school and have

equitable educational opportunities. Title IX prohibits discriminating against any student on the basis of sex, which includes a student's "actual or potential" parental, family, or marital

KEY FINDINGS

- 1. Despite legal protection under Title IX, pregnant and parenting students often face discrimination in school,** including being pushed toward separate education facilities and facing inequitable absence policies.
- 2. Pregnant and parenting teens face many barriers** to enrolling in, attending, and succeeding in school. Without adequate support, many drop out, lowering their chances of finding employment that offers economic security.
- 3. This issue affects boys as well as girls.** Close to half of female dropouts and one-third of male dropouts say that becoming a parent is a factor in their decision to leave high school.
- 4. Lack of knowledge of the law is a major hurdle** to overcoming discrimination. Measures such as training school officials to understand the rights and needs of pregnant and parenting students and tracking compliance are important for ensuring equal access to education.
- 5. Greater support for pregnant and parenting students,** including flexible leave options, funding for services such as child care and tutoring, and guidance in developing educational goals can help ensure that these students have the opportunity to succeed in school.

status and “pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.”

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. Schools must treat pregnant and parenting students in the same way that they treat other students who are similarly able or unable to participate in school

activities. And Title IX requires schools to prevent and address sex-based harassment, which includes harassment based on pregnancy.¹

TITLE IX REGULATIONS

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

Class attendance. Pregnant and/or parenting 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 non-pregnant students.

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 the work they missed while out due to pregnancy or any related conditions, including recovery from childbirth. If a teacher or professor awards “points” or other advantages based on class attendance, students must be given the opportunity to earn back the 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.

Participation in school activities outside of class. 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.

Challenges in Education

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) being strongly encouraged to attend stand-alone alternative programs of questionable academic quality; and 2) unlawful leave and absence policies.

Schools may 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. However, separate programs generally don't include the full range of academic coursework and are often sub-par. In 2007, New York City announced a decision to shut down its alternative program for pregnant and parenting students, which offered parenting classes and child care access but no opportunities for graduation or preparation for postsecondary education or careers.

By law, participation in separate programs must be voluntary, yet students report that schools often tell them that they have no choice. 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 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

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

academic success and are specifically prohibited under Title IX.

Other findings on pregnant and parenting students paint a disturbing picture:

- Only 51% of women who were teen mothers earned their high school diplomas by age 22.³
- Fewer than 2% of young teen mothers (those who have a baby before age 18) attain a college degree by age 30.⁴
- 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.⁵
- 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 care-giving 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."⁶

High dropout rates among pregnant and parenting students stem from the many hurdles



these students face in enrolling in, attending, and succeeding in school:

1. The challenge of juggling schoolwork with parenting responsibilities.
2. Lack of access to affordable, quality child care, transportation, and other critical services.
3. Discrimination from teachers, coaches, or school administrators, including policies and practices that prevent pregnant and parenting students from succeeding.
4. Lack of flexibility and accommodation for the unique needs of pregnant and parenting students, such as excusing absences for taking care of a sick child; allowing time and space to express breast milk; and permitting students to schedule classes later in the day

to accommodate morning sickness, child care limitations, or transportation barriers.

Although some of these challenges are unavoidable, provid-



Challenges in 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 enact policies to punish pregnant and parenting students or make an example of them. Lack of knowledge

ing support for these students—including, at a minimum, complying with the provisions of Title IX—can remove barriers to success.

Supporting pregnant and parenting students at the postsecondary level is also crucial, given the importance of a college education in the current economy. According to the Institute for Women's Policy Research (IWPR), 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.⁷ IWPR notes that while the federal Child Care Access Means Parents in School (CCAMPIS) program finances some child care for low-income parents, funding is limited (\$16 million in 2010) and applied unevenly.

of students' rights and poor enforcement also contribute to the problem.

LACK OF KNOWLEDGE

No reliable data exists on the numbers of pregnant or 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 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 own classes, including refusing entry to pregnant students, because school administrators fail to recognize that the school is accountable for such discrimination.⁸

Some schools are misled by policies at the state and local level that actually violate Title IX. At least two state Departments of Education recently had official policies in place that violated Title IX with regard to pregnant and parenting students. Those policies excluded students who were pregnant or recovering from childbirth from receiving services, such as homebound instruction, that were made available to those with other medically excused absences. (See the boxed insert for examples.)

Students themselves often have no idea that Title IX prohibits discrimination against pregnant and parenting students.⁹ 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.

ENDING DISCRIMINATION AGAINST PREGNANT AND PARENTING STUDENTS

When Title IX is enforced, it can make a huge difference in ensuring educational opportunities and access for pregnant and parenting students.

Success at the State Level

- Until recently, Georgia state regulations excluded pregnancy as an eligible condition for the homebound instruction assistance offered to students who missed school for other medical reasons. The National Women's Law Center (NWLC) notified the state Department of Education of the Title IX violation and worked with officials to get the policy changed. In 2009, the pregnancy exclusion was removed.
- A Michigan state law requiring school districts to provide homebound or hospitalized instructional services for students who missed school for medical reasons expressly excluded students who were pregnant or recovering from childbirth. Again NWLC intervened, and in 2010 the state Department of Education changed its guidelines to include medically excused absences due to pregnancy, childbirth, and recovery.

Court Rulings

Several federal court cases have addressed the issue of whether a school may exclude a pregnant or parenting student from membership in the National Honor Society (NHS). Most, although not all, rejected schools' efforts to defend their exclusion of a pregnant student by characterizing it as based on premarital sex, not on pregnancy:

- At least two federal courts have determined that exclusion of pregnant or parenting students constitutes unlawful discrimination under Title IX.^a
- 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.

a. 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).

LACK OF ENFORCEMENT

Enforcement of Title IX has proved difficult. Students are unlikely to lodge formal complaints with the Office for Civil Rights (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.

The latest publication from OCR on the application of Title IX to pregnant and parenting students was a pamphlet issued in 1991, so it is critical that OCR issue updated guidance to better publicize the law's requirements and help schools understand their responsibilities. OCR did remind schools in 2007 that terminating

athletic scholarships or other financial assistance based on pregnancy or a related condition is prohibited under Title IX, in response to press reports of female athletes terminating pregnancies because they were afraid of losing their scholarships.

Beyond the Law: Creating Effective Policies

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.

Recommendations for schools, both at the secondary level and at the postsecondary level, include the following:

- 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 educational goals, apply for public benefits, and access available health and other social services in the community.
- 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.

All of these measures can help ensure that pregnant and parenting students have the opportunity to succeed in school.

Recent Developments

Two recent federal actions take aim at improving high school graduation rates and increasing access to education for pregnant and parenting students.

The Pregnant and Parenting Students Access to Education Act, introduced in the House of Representatives in July 2011, 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, provid-

ing 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.

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. In the first year, awards went to 17 states for programs to connect young families with the supportive services they need and to ensure a focus on important outcomes such as graduation rates, maternal and child health outcomes, and parenting skills.¹¹

NCWGE Recommendations

- OCR should enhance enforcement of Title IX in this area by conducting compliance reviews and issuing communications that remind schools of their obligations to pregnant and parenting students.
- Dropout prevention programs should be targeted to meet the needs of both boys and girls, including specific measures to prevent teen pregnancy and to support pregnant and parenting students so they can remain in school.
- Legislation directing schools to track the academic progress of pregnant and parenting students would aid enforcement and create a body of data on where—and how—efforts to keep these students in school have succeeded.
- The federal government should fund programs to provide enhanced support for pregnant and parenting students, including

RESOURCES FOR STUDENTS AND SCHOOLS

The National Women's Law Center offers a range of resources on this topic, including information for pregnant and parenting students about their rights as well as information for schools.

Pregnant and Parenting Students' Rights. Available at <http://www.nwlc.org/sites/default/files/pdfs/PPStudentRightsUnderTitleIX.pdf>.

Pregnant and Parenting Students' Rights: FAQs for College and Graduate Students. Available at http://www.nwlc.org/sites/default/files/pdfs/2011_07_21_pregnant_and_parenting_students_rights.pdf.

Title IX Protections for Pregnant and Parenting Students: A Guide for Schools. Available at <http://www.nwlc.org/sites/default/files/pdfs/ProtectionforPregnantandParentingStudents.pdf>.

Pregnancy Harassment Is Sexual Harassment: FAQs on Title IX and Pregnancy Harassment. Available at <http://www.nwlc.org/sites/default/files/pdfs/titleixpregnancyharassmentfactsheet.pdf>.

accommodations and services that would enable parents to complete their education. Passing the Pregnant and Parenting Students Access to Education Act would be one way to help achieve this goal.

- Funding should be increased to make quality and affordable child care accessible to student parents, including through the CCAMPIS program.¹²

References

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6. Ibid.
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9. See NWLC, *Pregnant and Parenting Students' Rights*, available at <http://www.nwlc.org/sites/default/files/pdfs/PPStudentRightsUnderTitleIX.pdf/>; and NWLC, *Pregnant and Parenting Students' Rights: FAQs for College and Graduate Students*, available at http://www.nwlc.org/sites/default/files/pdfs/2011_07_21_pregnant_and_parenting_students_rights.pdf/.
10. NWLC. *Fact Sheet: Pregnant and Parenting Student Access to Education Act*. Available at <http://www.nwlc.org/resource/fact-sheet-pregnant-and-parenting-students-access-education-act/>.
11. See <http://www.hhs.gov/news/press/2010pres/07/20100702a.html/>.
12. See http://www.aauw.org/act/issue_advocacy/upload/NCWGERecsforObamaAdminWeb.pdf/.