
USING TITLE IX TO PROTECT THE RIGHTS OF PREGNANT AND PARENTING TEENS

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On a daily basis and in many of the school districts that we have seen, many teens are discriminated against because of their pregnancy or parenting status:

- They are forced into stand alone alternatives which often lack educational instruction equivalent to their home school;
- They are not permitted to remain in or return to their home school;
- They are failed due to excessive absences because of the days missed due to the birth and/or illness of their child;
- They are required to stay out of school for a prescribed period of time; and
- They are restricted from certain courses (gym) and extracurricular activities (the Honor Society).

Furthermore, schools may treat female teen parents quite differently than they do male teen parents: two examples include requiring young mothers to participate in parenting education and not requiring the same of young fathers and restricting certain activities of female teen parents and not of all teen fathers.

This is illegal. It violates the rights of pregnant and parenting teens protected under Title IX of the Education Act of 1972.

Title IX of the Education Act of 1972 prohibits discrimination in educational institutions based on gender, marital, pregnancy or parenting status. It clearly states that institutions receiving public funds cannot discriminate on the basis of these characteristics; it applies to programs affiliated with but not part of these institutions. It states that schools cannot require certain things of female teen parents if it does

not require them of teen fathers. The law also requires schools to treat absences due to childbirth in the same way that it treats absences due to "other temporary disabilities."

Below, we review the implications of this law and its protections for: educational options and choices; parenting education; absence and leave policies; and extracurricular activities.

- **Educational Options**

- Students must be able to choose voluntarily their educational option: they cannot be forced into a stand-alone alternative school; they must be permitted to stay in their home school and be able to return to their home school at any time.
- Stand-alone alternatives for teen parents must be of quality- the instructional program must be comparable to those offered in the comprehensive high school.
- Schools cannot require parenting education of female teen parents if it does not do so for male teen parents.

- **Absences and Leave Policies**

- Schools cannot require students to be absent a prescribed period of time after the birth of their child.
- If other students who miss school are entitled to make up assignments, so too are pregnant and parenting students.
- If home instruction is available to others who are absent due to a medical condition, so too are pregnant and parenting teens entitled to such services.
- Pregnant and parenting students cannot be penalized for absences due to childbirth. Students are

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permitted absences so long as they have a physician's note. If a district has a policy that students fail when they miss a proscribed number of days and they waive the policy for students with extended medical conditions or temporary disabilities, they must waive the policy for pregnant and parenting students so long as they have a note from a physician.

• **Extracurricular Activities**

- No restrictions can be placed on students because of pregnancy or parenting status.
- No restrictions can be placed on participation in extra-curricular activities: school personnel can only require notification from a physician to restrict participation in school activities if they require it from other students who see a doctor because of a health-related reason.

The following attachments provide additional materials on the subject:

ATTACHMENT A includes two separate handouts which describe Title IX. The first document (A-1) is clearly stated and can be handed out to students and their families, community members, counselors, teachers and anyone who comes into contact with the student. It was produced by the National Women's Law Center. The second document (A-2) was created by the Department of Education, the State of California. It outlines for administrators and teachers the nature and extent of Title IX.

ATTACHMENT B describes the process that one school district implemented to try to make Title IX real at the local level.

ATTACHMENT C includes a checklist that teachers and other school personnel can use to rate their school to determine whether they are in compliance with Title IX.

ATTACHMENT D provides a list of reasonable accommodations that should be made for pregnant and parenting teens within schools.

ATTACHMENT E provides a list of possible resources on this issue.

ATTACHMENT A-1

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ATTACHMENT A-1

This is a handout from the National Women's Law Center, Washington, D.C., 11 DuPont Circle, NW, Washington, D.C. 20036, (202) 588-5180. In order to post the handout on the web it had to be recreated. Contact the National Women's Law Center to obtain an original copy.

ARE YOU

A PREGNANT TEEN, OR

A TEEN MOTHER,

AND STILL IN SCHOOL?

OR

DID YOU LEAVE SCHOOL WHEN YOU BECAME PREGNANT OR AFTER YOUR BABY WAS BORN?

IF YOU ARE A PREGNANT TEEN OR A TEEN MOTHER, YOU HAVE THE RIGHT TO FINISH YOUR EDUCATION.

You have the right to:

- Stay in school and stay in your regular classes while you are pregnant and after your baby is born.
- Participate in all school and extracurricular activities, including sports and honors programs, if you are medically able to do so. Your school can make you give them a letter from your doctor saying that you are medically able to participate in school activities, but only if it requires all other students to see a doctor for a health problem to do the same.

- Participate in special programs for pregnant students, if one is available, and if you voluntarily choose to do so. No one in your school can force you to go to a special program. No one in your school can force you to take a special class for pregnant and parenting students, either.
- Have excused absences for health problems related to your pregnancy or childbirth.
- Follow your doctor's advice to stay home from school for as long as your doctor says you should.
- Return to your regular classes and activities after your baby is born at the same academic status you had before you left school because of your pregnancy.

Your school may not discriminate against you for being pregnant or for being a mother. This means that your school must treat pregnancy and childbirth the same as other medical conditions. For example:

- If other students who miss school for health reasons receive make-up assignments from their teachers, then you are entitled to receive make-up assignments for the classes that you miss because of pregnancy or childbirth.
- If home instruction is available for students who need to stay home due to a medical condition, then you are entitled to home instruction if your doctor says that you need to stay home from school because of your pregnancy or childbirth.

If you would like help enforcing any of your rights, we may be able to help you. We¹ can provide free legal services to help pregnant teens and teen mothers enforce their rights to stay in school and be treated fairly.

If you need help enforcing your rights, or if you would like more information about your rights, please contact the National Women's Law Center at 202-588-5180 or write to them at 11 DuPont Circle, NW, Suite 800, Washington, DC 20036.

¹The "we" here is the National Women's Law Center.

ATTACHMENT A-2

This document was produced on the letterhead of Delaine Eastin, Superintendent of Public Instruction, State of California.

**TITLE IX EDUCATION AMENDMENTS OF 1972
FACT SHEET**

Title IX of the Education Amendments of 1972 is the primary federal statutory guarantee of equal educational opportunity for pregnant and parenting students. Title IX applies to a broad range of educational institutions including preschool, elementary, secondary and vocational schools, as well as institutions of higher education and professional schools. Title IX's coverage extends to most public and many private institutions as long as these institutions receive federal funding.

General Prohibitions Against Discrimination (Section 106.31)

- Sex discrimination is prohibited in the treatment of students; provision of aid, benefits, or services; the application of rules of conduct and disciplinary measures or other sanctions; and the determination and assessment of fees, including residency requirements for attendance, admission, or tuition.

Discrimination Against Pregnant Students (Section 106.40)

- Schools are prohibited from discriminating against pregnant students based upon their marital status and cannot discriminate against a student because of childbirth, false pregnancy, or recovery from these conditions.
- A school is permitted to require a doctor's certificate from a pregnant student only if the school imposes the same requirement upon all other students with physical or emotional conditions requiring a physician's care.
- Participation in special schools or programs reserved or designed for pregnant or parenting students must be completely voluntary on the part of the student. Such programs or schools must be comparable to programs and schools offered to non-pregnant students.

- School must treat pregnancy as they treat other medical conditions. Health plans, medical benefits, and related services are to be provided to pregnant students in the same manner as services are provided to students with "other temporary disabilities."
- A pregnant student may be granted a leave of absence for as long as it is deemed medically necessary and at the conclusion of her leave must be allowed to resume the status she held when the leave began.

Schools May Not Discriminate on the Basis of Marital or Parental Status (Section 106.40)

- A school that excludes female students because of their marital or parental status but permits male students who are married or parents to continue their studies clearly violates this provision of the regulations.
- The statute may, in addition, serve as a vehicle to challenge facially neutral rules that disproportionately harm students of one gender. For example, a rule prohibiting parents from bringing babies to school or if it disproportionately affects female rather than male students.

Discriminatory Courses and Programs are Prohibited (Section 106.34)

- The Title IX regulations forbid requiring a student to take a course or participate in a program on the basis of sex.
- Classes devoted to human sexuality may be conducted separately for males and females in elementary and secondary school classes.

Discriminatory Counseling and Use of Appraisal and Counseling Materials are Prohibited (Section 106.36)

- Discriminatory counseling and materials that treat students differently on the basis of sex are prohibited.

ATTACHMENT A-2 (continued)

Programs Not Run Directly by the School (Section 106.31(d))

- The regulations prohibit discrimination in activities that are considered part of the school's education program even if they are not wholly operated by the school. Therefore, a student cannot be excluded from a program such as a student exchange program, foreign study and travel, or course work offered in conjunction with any other academic or non-academic institution on any basis prohibited by Title IX.

Fact Sheet summarized from information in Equal Educational Opportunities for Pregnant and Parenting Students: Meshing the Rights with the Realities by the Women's Right Project of the American Civil Liberties Union and the American Association of University Women, 1990.

For additional information contact the Teen Pregnancy and Parenting Program Coordinator at (816) 653-4297.

ATTACHMENT B

ATTACHMENT B describes the process that one school district implemented to try to make Title IX real at the local level. The school district referenced here is the Pittsburgh School District. When the Center for Assessment and Policy Development first began working with the district's Teen Parent Program staff, one area identified as in need of attention was raising the awareness of administrators, school personnel and students about Title IX and its implications for pregnant and parenting teens.

Over a two-year period, the staff of the Teen Parent Program executed the following steps to make Title IX real at the building level:

- The staff met with the superintendent to garner her support for these activities. In light of the existence of school-based management throughout this district, the superintendent encouraged the Teen Parent Program to work with each principal and his or her staff to develop school policies consistent with Title IX.
- The administrator in charge of the high schools signed a directive to the principals asking them to develop such a plan. The Teen Parent Program provided each school with some thoughts and guidelines.
- After much prodding and numerous reminders, each school eventually created a policy.
- Since these policies were of varying quality, the Teen Parent Program provided some suggested revisions to these policies for each school. These were returned to the principals under the signature of the administrator in charge of the high schools.
- Each school policy in need of revision was revised.
- A report from the Teen Parent Program was provided to the superintendent and the principals including each school policy on pregnant and parenting teens.
- The Teen Parent Program staff distributed the small one-page booklet on Title IX from the National Women's Law Center (found in Attachment A) to all the teen advocates, school personnel and students. This made all concerned aware of the law.
- When the new school year began and several new principals had taken over in some of the comprehensive high schools, the school policies needed to be reviewed and updated in those schools.

This process took approximately two years. It is important to note that even with these policies, the Teen Parent Program staff of the Pittsburgh Public Schools continue to have to troubleshoot on this issue on a daily basis. If you have any questions call Kathy Short at (412) 488-2524 or Jan Ripper at (412) 488-2514.

ATTACHMENT C

ATTACHMENT C includes a checklist that teachers and other school personnel can use to rate their school to determine whether they are in compliance with Title IX. This piece is taken directly from:

*DOES YOUR SCHOOL MAKE THE GRADE?
TITLE IX & TEENAGE PREGNANCY & PARENTING*

by Margaret Dunkle & Maggie Nash

Is your school doing everything it needs to do to treat pregnant & parenting students fairly? Is it complying with Title IX of the Education Amendments of 1972, the federal law that protects these students from discrimination?

Take this test & find out.

Does your school, or school system, principal or staff...

- Expel or suspend a student for being pregnant or for being a parent?
- Push pregnant students into a special class, program or school?
- Tract pregnant & parenting students into specific courses of study?
- Require or coerce pregnant students to have home teaching or a tutor- or make it hard for these students to get these services?
- Arbitrarily tell pregnant students they can't take laboratory courses or enroll in work-study programs?
- Exclude boys from parenting classes?
- Require pregnant students to take physical education - or require them to take study halls instead of physical education - even though there is no medical reason?
- Deny pregnant or parenting students honors, such as valedictorian, special awards, certain scholarships, honor roll, or participation in graduation?
- Refuse to let pregnant or parenting students run for or be elected to class office, the homecoming court or class favorites (such as "Most Likely to Succeed")?
- Restrict the participation of pregnant or parenting students in sports programs or teams, or other extracurricular activities, even though there is no medical reason?
- Deny a student honors, awards, team or club membership, etc., because she was once pregnant?
- Penalize a student or deny her honors because she has had an abortion?
- Give a student a poor recommendation (or refuse to give a recommendation) for a scholarship, a job or continued schooling because of pregnancy or parenthood?
- Counsel any girl who is pregnant or a mother- or any boy who is a father- not to go to college or get further training?
- Put restrictions on teenage mothers that aren't also put on teenage fathers?
- Require pregnant students- but not other students with medical conditions- to get a doctor's certificate to stay in school?
- Require a young mother to return to school after a certain number of weeks, rather than allowing the time her doctor says she needs?
- Refuse to reinstate a new mother to the status she had when her leave began?
- Deny pregnant students excused absences for medical problems related to pregnancy- such as fatigue, nausea or morning sickness?
- Make fewer adjustments for pregnant students than for students with other medical conditions? (Examples: a hall pass for pregnant students troubled by frequent urination, an elevator pass for pregnant students with impaired mobility.)
- Deny an excused absence for prenatal care (before the baby is born) or for medical care after the baby is born?

ATTACHMENT C (continued)

GRADING YOUR SCHOOL

How many items you have checked?

If you have not checked any item, congratulations. Your school gets an “A” in Title IX. You obviously care about your students. You’re ready to move ahead to the next step- identifying other ways to encourage these at-risk teens to finish their education.

If you checked even one item above, you need to look again. Every item violates Title IX. Think about ways to change how our school operates so that it does its part to help pregnant teens- & teenage mothers & fathers- stay in school.

Title IX applies to every school that gets any federal money- that includes almost every public school in the country. And, even if Title IX weren’t the law of the land, it makes good sense for all of us to do everything possible to help these teens become self-sufficient.

The Equality Center is a nonprofit organization that focuses on cross-cutting issues, including teenage pregnancy & parenting. It is located at 220 Eye Street, NE, Suite 250, Washington, D.C. 20002.

ATTACHMENT D

ATTACHMENT D provides a list of reasonable accommodations that should be made for pregnant and parenting teens within schools.

This document is reproduced from Dunkle, Margaret *Teenage Pregnancy and Parenting*, Council of Chief State School Officers, 1984.

Pregnancy Condition/Symptom: Comparable Disability

| CONDITION OR SYMPTOM OF PREGNANCY | COMPARABLE DISABILITY | EXAMPLES OF REASONABLE ACCOMMODATIONS |
|--|--|--|
| Fatigue during the first 12 weeks of pregnancy | Tiredness because of mononucleosis | Allow student flexibility in scheduling if possible. Have a room available for the student to rest (such as the first aid room). |
| Nausea and morning sickness the first months of pregnancy | Food poisoning or an ulcer or gastrointestinal flu | Allow excused absences. Make arrangements so student can leave the room quickly with minimal disruption (such as a permanent hall pass). Make provisions for the student to make up missed work. |
| Frequent urination in pregnancy | Bladder infection | Make arrangements so student can leave the room with minimal disruption (such as a permanent hall pass) |
| Lack of mobility in later months of pregnancy | Sports injury, such as a sprained ankle, where the student is on crutches, or arthritis which causes mobility problems | Provide an elevator pass. Allow the student to leave classes and other activities 5 minutes early. Excuse the student from physical education classes or other vigorous activity. |
| Recovery from normal childbirth | Recovery from a serious infection | Allow excused absences. Provide an elevator pass. Excuse student from physical education classes and other vigorous activity |
| Recovery from a caesars section or difficult delivery | Appendectomy or other surgery | Allow excused absences. Provide an elevator pass. Excuse student from physical education classes and other vigorous activity. |
| Postpartum depression | Post operative depression after, for example, minor surgery | Allow excused absences. Provide counseling. |
| Doctors or medical visits necessary before and after the birth | Medical visits necessary before and after any surgery or illness | Allow excused absences. Allow student flexibility in scheduling if possible. |

ATTACHMENT E

ATTACHMENT E provides a list of possible resources on this issue.

National Women's Law Center

*11 Dupont Circle, NW
Washington, DC 20036
(202) 588-5180.*

**Margaret Dunkle and Maggie Nash
Institution for Educational Leadership**

*1001 Connecticut Avenue, NW, Suite 310
Washington, DC
(202) 822-8405*

authors of *Does Your School Make the Grade? Title IX & Teenage Pregnancy & Parenting*, with the Council of Chief State School Officers, 1984.

National Partnership for Women and Families

*1875 Connecticut Avenue, NW
Washington, DC 20009
(202) 986-2600.*

Deborah Brake, University of Pittsburgh

(412) 648-1400

author of *Goals 2000 and Pregnant & Parentage Teens: Making Education Reform Attainable for Everyone*, in collaboration with the Council of Chief State School Officers and the National Association of State Boards of Education, March 1995.

**Kathy Short and Jan Ripper
Pittsburgh Public Schools**

(412) 488-2518 or 2524

**Ronda Simpson-Brown
State of California, Department of Education**

(916) 653-4297

**National Organization on Adolescent Pregnancy,
Parenting and Prevention (NOAPPP)**

*1319 F Street, NW, Suite 400
Washington, DC 20004
(202) 783-5770*