



Pregnant and Parenting Students

BACKGROUND ON PREGNANT AND PARENTING STUDENTS

Many students become pregnant or a parent while in school. Among teens ages 15–19, 2.2 percent give birth to a child.¹ But nearly one-third of girls who do not complete high school report that becoming pregnant was a primary factor in their decision to leave school.² Only half of teenage mothers earn a high school diploma by age 22 compared with 89 percent of girls who do not have a child during their teenage years.³ One-third of young mothers never obtain

a diploma or GED,⁴ and less than 2 percent of teenage mothers graduate from college by age 30.⁵

In higher education, 22 percent of college students are parents, 44 percent of student parents work full time while enrolled, and 23 percent of student parents are single parents and working full time while enrolled.⁶ Despite their additional responsibilities, parenting college students tend to have higher GPAs than their non-parenting peers.⁷ However, institutional barriers and lack of support lead to student parents having lower levels of college enrollment

and completion, higher levels of unmet financial need, and higher levels of debt upon graduation.⁸

Becoming pregnant or a parent should not derail a student's education, but unfortunately, pregnant and parenting students often suffer from lack of support or outright discrimination from their schools. For example, punitive attendance policies can push pregnant or parenting students out of school if they are not accommodated when they must miss class for medical appointments, childbirth and recovery from childbirth, when their children are ill or if their child

care arrangements fall through, or when they need to pump breast milk.⁹ Additionally, parenting students lack access to quality and accessible child care and transportation services for their young children.¹⁰ Too often, pregnant and parenting students are steered or forced into inferior alternative education programs that do not keep them on track to graduate or prepare them for postsecondary opportunities.¹¹ In some cases, pregnant students are pushed out of school by officials seeking to punish them for their pregnancy.¹²

Developments Since 1972

In 1975, what was then the Department of Health, Education, and Welfare issued Title IX regulations prohibiting schools from discriminating against students based on their actual or potential parental or family status, or because of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from pregnancy.¹³ In 2007 and 2013, the Department of Education also issued guidance instructing schools on how not to discriminate against pregnant students in athletic scholarships and how to support the academic success of pregnant and parenting students.¹⁴

However, the Department of Education's Title IX regulations regarding pregnant and parenting students have not changed substantively since 1975, even though Congress, the courts, and other federal agencies have expanded or clarified pregnancy-related civil rights protections. For instance, in 1978, Congress passed the Pregnancy Discrimination Act (PDA), which amended Title VII of the Civil Rights Act of 1964 (Title VII) to prohibit employers from discriminating against employees on the

basis of pregnancy, childbirth, or related medical conditions.¹⁵ Following that, the Department of Labor issued regulations regarding federal contractors in 2016 clarifying that Executive Order 11246, which is interpreted consistently with Title VII, as amended by the PDA, prohibits discrimination based on current, past, potential, or intended pregnancy and related medical conditions, including lactation—which is not mentioned explicitly by the Title IX regulations.¹⁶ And the Equal Employment Opportunity Commission (EEOC) and the Department of Labor have issued guidance and regulations clarifying situations in which employers must provide accommodations to pregnant workers or workers with pregnancy-related conditions (including lactation) in order to avoid discriminating on the basis of pregnancy.¹⁷ Similarly, in 2010, Congress passed the Affordable Care Act (ACA), which amended the Fair Labor Standards Act to require employers to provide reasonable break times and a private place, other than a bathroom, for covered employees who are breastfeeding to express milk for one year after the child's birth.¹⁸

Recommendations

The Department of Education should:

- Issue comprehensive Title IX regulations addressing schools' responsibility to accommodate lactation, pregnancy, and reproductive health needs, including specifically requiring schools to provide an appropriate non-bathroom space and breaks for students to breastfeed or express breast milk.
- Issue Title IX guidance encouraging schools to adopt attendance policies explicitly excusing absences for caregiving responsibilities, provide transportation and on-site child care for children of student parents, and prohibit school officials from steering pregnant and parenting students into inferior alternative education programs, including those designed for students with disciplinary records.
- Ensure that Title IX's partial exemption for schools controlled by religious organizations is narrowly construed, so federal funding is not used to subsidize discrimination based on sex, including pregnancy or parenting status.
- Encourage schools to recruit pregnant and parenting students to participate in the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) grant program, which helps prepare low-income and disconnected students to enter and succeed in postsecondary education.
- Expand data collection on pregnant and parenting students in the Civil Rights Data Collection, including regarding incidents of

pregnancy-based harassment, discipline of pregnant and parenting students, and their enrollment in educational programs such as alternative schools, Advanced Placement classes, and preparation for the SAT and ACT.

Congress should:

- Build on the historic relief of \$50 billion for child care and early learning provided by the American Rescue Plan Act to push for a long-term investment, so that all parents, including student parents, have access to high-quality, affordable child care, and every child care provider has living wages.
- Revise the GEAR UP grant program to include pregnant and parenting students in the definition of "disconnected students."
- Increase Child Care Access Means Parents in School Program (CCAMPIS) funding to \$500 million to ensure roughly 100,000 more parenting college students receive the child care assistance they need to continue their education.

States should:

- Require schools to excuse absences related to pregnancy, related medical conditions, and recovery therefrom and absences related to the health of the student's child for as long as medically necessary. Schools should permit a leave of absence following delivery both for birthing parents and for non-birthing parents providing care, without academic penalty.

RECOMMENDATIONS *continued*

- Require schools to provide lactating students with lactation accommodations, including (i) permission to leave the classroom to express breast milk, (ii) access to a sanitary space, other than a bathroom, equipped with a flat surface, electrical outlet, and a place to store breast milk, and (iii) an opportunity to make up for work missed while expressing breast milk.
- Make reasonable efforts to keep pregnant and parenting students' personal information and health records confidential. Information about a student's pregnancy or parental status should not be used when considering them for educational or job opportunities, awards, or scholarships.
- Create family-friendly school environments by providing child-friendly gathering spaces and student-parent support groups.

Schools should:

- Adequately train staff and students on the rights of pregnant and parenting students under Title IX.
- Upon notice of a student's pregnant or parenting status, connect the student to a staff member who can assist them in finding resources, such as affordable child care, housing, and transportation services.

- 1 Department of Health & Human Services, Centers for Disease Control & Prevention, National Center for Health Statistics, *NCHS Data Brief, Continued Declines in Teen Births in the United States* (2015) 1, <https://www.cdc.gov/nchs/data/databriefs/db259.pdf>.
- 2 Kate Perper et al., *Diploma Attainment Among Teen Mothers*, *Child Trends* 1 (2010), <https://www.childtrends.org/publications/diploma-attainment-among-teen-mothers>.
- 3 *Id.*
- 4 *Id.*
- 5 Cynthia B. Costello, *Pathways to postsecondary education for pregnant and parenting teens*, Institute for Women's Policy Research v (2017), <https://files.eric.ed.gov/fulltext/ED556724.pdf>.
- 6 Government Accountability Office, *Higher Education: More Information Could Help Student Parents Access Additional Federal Student Aid* 9 (Aug. 2019), <https://www.gao.gov/assets/gao-19-522.pdf>.
- 7 Institute for Women's Policy Research, *Parents in College: By the Numbers* 1 (Apr. 2019), <https://iwpr.org/iwpr-issues/student-parent-success-initiative/parents-in-college-by-the-numbers>.
- 8 Wanda S. Pillow, *Unfit Subjects: Educational Policy & the Teen Mother* 117 (2004); Perper, *supra* note 2, at 11–13.
- 9 National Women's Law Center, *Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant & Parenting* 6-7 (2017), https://nwlc.org/wp-content/uploads/2017/04/Final_nwlc_Gates_PregParenting.pdf.
- 10 *Id.*
- 11 See, e.g., Julie Bosman, *New York's Schools for Pregnant Girls Will Close*, *New York Times* (May 24, 2007), <https://www.nytimes.com/2007/05/24/education/24educ.html>.
- 12 See, e.g., *Chipman v. Grant Cnty. Sch. Dist.*, 30 F.Supp.2d 975 (E.D. Ky. 1998) (school excluded girls from national honor's society because they were pregnant); *Conley v. Northwest Florida State Coll.*, 145 F. Supp.3d 1073 (N.D. Fla. 2015) (school official contacted pregnant student's doctor urging physician to say student cannot participate in paramedic program).
- 13 34 C.F.R. § 106.40; see also 34 C.F.R. § 106.57 regarding discrimination against employees.
- 14 Department of Education, Office for Civil Rights, *Guidance on Supporting the Academic Success of Pregnant and Parenting Students* (June 25, 2013), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201306-title-ix.pdf>; Department of Education, Office for Civil Rights, *Guidance on Nondiscriminatory Treatment of Pregnant Students in Athletic Scholarships* (June 25, 2007), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20070625.pdf>.
- 15 42 U.S.C. §§ 2000e et seq.
- 16 Department of Labor, *Discrimination on the Basis of Sex*, 81 Fed. Reg. 39107 (June 15, 2016).
- 17 Department of Labor, Equal Employment Opportunity Commission, *Enforcement Guidance on Pregnancy Discrimination & Related Issues* (June 25, 2015), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues>.
- 18 29 U.S.C. § 207(r)(1).