

Gender Equity in Education: Title IX Regulations for Pregnant & Parenting Students

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Title IX, as part of the 1972 Educational Amendments, prohibits educational programs that receive federal funds from discriminating on the basis of sex (U.S. Department of Education). Title IX also includes protective regulations for pregnant and parenting students, enacted in 1975 by President Nixon. Title IX applies to students in K-12, college, and graduate school. When teen pregnancy was considered a moral issue, schools expelled pregnant students or sent them to subpar schools (Fershee 2009). The protective regulations from Title IX for pregnant and parenting students sought to counter this discrimination. This fact sheet examines the goals of these protective regulations for pregnant and parenting students, the violations of Title IX by educational institutions, and limitations of the policy.

Legislative History

In 1970, Representatives Martha Griffin and Edith Green spearheaded a Congressional discussion about discrimination against women in education. Rep. Green began drafting legislation to prohibit sex discrimination in education and employment (Valentin 1997). Originally, proposals sought to amend Title VI and VII of the Civil Rights Act to cover sex discrimination in federally assisted programs and to cover employees in educational institutions, respectively, and the Equal Pay Act to cover administrators, executives and professionals (Valentin 1997). However, upon the request of African American leaders who thought amending Title VI would weaken it, Rep. Green proposed creating a new title – Title IX – based on Title VI of the Civil Rights Act. Title IX went into effect on July 1, 1972. Despite the lasting impact of Title IX, particularly in regards to sports, little attention was given to the bill at the time.

Legal Mandates & Policy Goals

The U.S. Department of Health, Education, and Welfare (HEW) administered Title IX initially, though the U.S. Department of Education's (DOE) Office of Civil Rights (OCR) has been administering Title IX since 1980. By 1975, HEW established additional regulations to augment aspects of Title IX in terms of both administration and mandates. These regulations include the following (Valentin 1997):

- School systems receiving federal funding must appoint a Title IX coordinator.
- All students and employees must be provided with the contact information for the Title IX coordinator and information about grievance procedures.
- A recipient cannot exclude a student from education programs or activities based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery unless the student voluntarily asks.
- Pregnancy and the related conditions must be treated the same as other temporary disabilities.
- Leave for pregnancy and related conditions deemed by a physician for a specific period of time constitute a justified absence.

These regulations provide pregnant and parenting students the several legal protections and resources (Wolf 1998). For example, a student must be able to voluntarily choose to remain in their current school or elect to attend an alternative school. If they enroll in an alternative school, it must be the same quality of instruction as the mainstream school. Furthermore, parenting education cannot be mandated for female teen parents unless such education is also required for male teen parents. Lastly, pregnant and parenting students: a) cannot be prevented from attending class because they are pregnant; b) cannot be penalized for absences during childbirth; c) cannot be required to be absent a prescribed time following childbirth; d) must be given make up assignments if other students with medical excuses are given this opportunity; and e) must be provided tutoring or homebound instructors if provided to other students with medical conditions or temporary disabilities.

The main goal of Title IX regulations for pregnant and parenting students is to protect their right to education through (a) access (i.e., schools cannot expel pregnant students), (b) choice (i.e., pregnant girls get to choose what school they attend), and (c) equality (i.e., alternative schools have to provide the same education as mainstream ones) (Fershee 2009). In facilitating these students' ability to obtain an education, the latent goals include increasing the students' self-sufficiency and ability to obtain employment, decreasing reliance on public assistance, and improving their children's lives (CDC 2015; NWLC 2012b).

Problems the Policy Addresses

Feminist scholars are concerned about the construction of teenage pregnancy as an epidemic, including notions of negative outcomes for the parent and child (SmithBattle 2007; Cherry et al 2015). Research suggests some of the negative stigmas may be linked to the social class of the teen and her family rather than teen pregnancy itself (Luker 1996). Teens may feel like they are contributing to society through motherhood, even though their age and marital status conflicts with a middle-class heteronormative model of parenting (Wilson & Huntington 2005). More importantly, research on pregnant teens shows that having a child can be a motivational factor to finish school and start a career, but structural barriers prevent their educational achievements (SmithBattle 2007). Statistics confirm that pregnancy and parenthood remain significant contributing factors leading to high drop-out rates, and teen parents still face stigma and their children may face negative health and educational outcomes.

- Sources report the following statistics: 70% of teens who give birth leave school (Manlove et al 2010) and only 40% of teen moms finish high school (Shuger 2012); only 19% of teen moms who have a child before age eighteen earn a GED (Azar 2012); and only 2% of teen moms complete their college diploma by age 30 (NWLC 2012b).
- Teen moms without a diploma are more likely to live in poverty and rely on public assistance, which may have consequences for their children's health and education (NWLC 2012b; CDC 2015).

Title IX mandates teens have the same *access* to education, however access alone may be insufficient since many teen moms require greater support to finish school.

Recent Cases Violating Title IX in Relation to Pregnant & Parenting Students

Despite the legal mandates of Title IX in terms of pregnant and parenting students, violations still occur in secondary and higher education.

- In 2002, a Texas pregnant high school student was explicitly told she had to attend an alternative school or not graduate. The student reached a settlement with the local school board (FMF N.d.).
- Until 2007, the NYC school district operated separate schools for pregnant teens. These schools had a subpar curriculum and a 43% attendance rate, and only one-half of the students transitioned back into the school district (NWLC 2012b).
- In 2012, a pregnant community college student, who notified her professor of her pregnancy and gave appropriate documentation, was penalized for her pregnancy related absences. When she filed a complaint, she not only experienced retaliation by her professor, but the college also did not support her claims. The NWLC filed a complaint on her behalf to the DOE OCR local office (NWLC 2012c, Administrative Complaint).
- In 2013, a pregnant chiropractic graduate student was not allowed to make up work or have her absences related to pregnancy and childbirth excused. The university's attendance policies did not excuse pregnancy, in violation of Title IX. The NWLC filed a complaint on her behalf to the DOE OCR local office (NWLC 2013a, Administrative Complaint).

Title IX Limitations

Lack of Administration, Enforcement & Knowledge

Despite the regulation that each institution receiving federal financial assistance designates a Title IX coordinator, it is often difficult to find the Title IX coordinator and the DOE OCR does not maintain a list of coordinators (Alveshere 2013). Furthermore, students are unlikely to file complaints with the local DOE OCR because of their lack of knowledge of their rights under the law, their vulnerable state, and lack of resources and guidance in doing so. This also reduces the likelihood that pregnant students will file a lawsuit (Ducker 2007).

Support, Higher Education, & Parenting Students

Beyond the protections Title IX provides to keep pregnant and parenting students in school, this is not always enough. Stigma and barriers, including social, emotional, and financial, still exist which often prevent these students from completing their education (Cherry et al 2015; SmithBattle 2007). Furthermore, much of the attention and research has been on pregnant and parenting teens, but fails to address these students' needs in higher education. The support needed to graduate high school is important, but adequate support in college is also necessary. This also relates to the need to support parenting students in both secondary and higher education. For example, one quarter of undergraduate students care for a dependent child (NCWGE 2012). Even though parenting students – not just pregnant students – are covered under Title IX, narrow legal interpretation has been limited to only protect parenting students from discrimination as a protected class. Title IX does not provide for excused absences when a parent has to miss school to take care of a sick child and related parental duties (Copeland 2015).

Pending Legislation & Continued Advocacy Efforts

Work still needs to be done to increase pregnant and parenting students' educational attainment, especially dismantling barriers and providing support to these students. The Pregnant and Parenting Students Access to Education bill introduced at the federal level in 2011 and 2013 subsequently failed to be adopted by the U.S. Congress (H.R. 2617; H.R. 1835/S. 870). The bill has been reintroduced in February 2015 and is currently in committee for review (S. 416). This legislation would provide grants to states to increase pregnant and parenting students' high school graduation rates, career readiness, and access to post-secondary education (NWLC 2013b). Sub-grants would be used to provide pregnant and parenting students with academic support, assistance in finding daycare, transportation, excused absences for parental duties, dedicated time and space for lactating mothers, and outreach efforts to recruit and retain these students. Furthermore, funds could be used for case management and referrals for childcare, emergency assistance, and help with other basic needs to both provide support and to remove specific barriers that prevent pregnant and parenting students from completing their education. Monitoring and supporting this type of legislation is an important advocacy step.

While Title IX provides protections for pregnant and parenting students, there is still a lack of knowledge about the policy among educators and students, which leads to violations and inadequate enforcement. As noted, shortcomings of the policy include a failure to address specific barriers or provide the necessary support to improve the chances for these students to achieve their educational goals. Insufficient attention has also been paid to pregnant and parenting students in higher education. Several actions can address some of these limitations and support the educational success of pregnant and parenting students. For example, information about Title IX regulations applying to pregnant and parenting students can be shared with colleagues and students by disseminating NWLC's Fact Sheets on pregnant and parenting students' rights from their website. Ensuring institutional compliance, including verifying Title IX coordinators and public posting of Title IX mandates, is another step. Confirm that institutional and individual instructors' attendance policies are in compliance with Title IX; if not in compliance, inform the Title IX coordinator so that pregnant students are safeguarded from being illegally penalized. Lastly, additional research is needed on pregnant and parenting students in higher education along with parenting students in both secondary and higher education.

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