



Discrimination Based on Pregnancy and Related Conditions

A Resource for Students and Schools

The Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination based on sex in education programs or activities that receive Federal financial assistance. The Department's Title IX regulations prohibit discrimination based on pregnancy and related conditions in institutions that receive Federal funds (referred to here as "schools"). These protections, which include a prohibition on discrimination based on termination of pregnancy, have been in place since 1975, when the Department's regulations implementing Title IX were first issued following Congressional review.* The regulations make clear that Title IX protects students and employees from discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom. Specifically, the regulations provide:

Discrimination and exclusion

Schools must not discriminate against any student, or exclude any student from their education program or activity, including any class or extracurricular activity, based on a student's **pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery** therefrom. 34 C.F.R. § 106.40(b)(1). A school also must not discriminate against or exclude from employment any employee or employment applicant on these bases. 34 C.F.R. § 106.57(b).

Medical and other benefits and services

Schools must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom **the same as any other temporary disability** with respect to any hospital or medical benefit, service, plan, or policy for students. 34 C.F.R. § 106.40(b)(4). For employees, schools must treat pregnancy and the same related conditions, including termination of pregnancy, as well as any temporary disability resulting therefrom, as any other temporary disability for all job-related purposes, including employment-based medical, hospital, and other benefits. 34 C.F.R. § 106.57(c).

* The Title IX statute can be found at 20 U.S.C. §§ 1681 - 1688. Section 1688 provides that nothing in Title IX requires or prohibits any person or entity from providing or paying for any benefit or service related to an abortion, and nothing in Title IX permits a penalty to be imposed on any person because the person is seeking or has received any benefit or service related to a legal abortion. In addition, § 1681(a)(3) provides an exemption for educational institutions controlled by a religious organization if the application of Title IX's nondiscrimination requirement would not be consistent with the religious tenets of such organization. This resource includes citations to relevant sections of the Department's Title IX regulations in the Code of Federal Regulations (C.F.R.).

Please note that on July 12, 2022, the Department published in the Federal Register a notice of proposed rulemaking that includes proposed changes to some of the Title IX regulations discussed in this resource. Any final changes to the Title IX regulations will be published in a subsequent final rule in the Federal Register.



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Leave policy

If a school does not have a leave policy for students, or the student does not otherwise qualify for leave under the policy, **a school must provide leave to a student for pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery** therefrom, for as long as the student's physician deems medically necessary. After that leave, the student must be reinstated to the status the student held when the leave began. 34 C.F.R. § 106.40(b)(5).

For employees, if a school does not have a leave policy, or if an employee has insufficient leave or accrued employment time to qualify for leave under the school's policy, the school must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time. After that time, the employee must be reinstated to the employee's pre-leave status or to a comparable position without reduction of compensation or loss of promotional opportunities or any other employment rights or privileges. 34 C.F.R. § 106.57(d). In addition, schools must treat pregnancy and the same related conditions and any temporary disability resulting therefrom as any other temporary disability for commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, along with other employment-based benefits. 34 C.F.R. § 106.57(c).

Additional information for students, parents and guardians, and schools

OCR's *Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972* (2013, first published in 1991) (OCR Pamphlet), www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf, also has useful information about the rights of students and the obligations of schools under Title IX to students who are pregnant or experiencing or recovering from pregnancy-related conditions, including termination of pregnancy. Examples include:



Title IX **protects students against harassment** by school employees or other students because of their pregnancy and related conditions. OCR Pamphlet at 8.



A school must ensure that its teachers' policies and practices do not discriminate against students because of pregnancy and related conditions. For example, **a teacher may not refuse to allow a student to submit work after missing a deadline because of absences due to pregnancy or childbirth.** Additionally, if a teacher's grading is based in part on class attendance or participation, the student should be allowed to earn the missed credits and be reinstated to the student's pre-leave status. OCR Pamphlet at 11.



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How to File a Complaint

Students, employees, or applicants for employment who believe they may have been discriminated against based on pregnancy or related conditions, including termination of pregnancy, **may file a complaint through their school's grievance procedures.** Every school district and postsecondary institution covered by Title IX is required to prominently display – on its website and in student and employee handbooks and catalogs – contact information for the Title IX Coordinator, who is responsible for overseeing all Title IX complaints, including for discrimination based on pregnancy and related conditions. 34 C.F.R. § 106.8(b)(2).

In addition, **anyone can file a complaint with OCR,** including students, parents and guardians, employees, community members, and others who experience or observe discrimination in education programs or activities based on sex, including pregnancy and related conditions, as well as based on race, color, national origin, disability, and age. To file a complaint, please use this online form: www2.ed.gov/about/offices/list/ocr/complaintintro.html. Under OCR's Case Processing Manual, complaints typically must be filed within 180 days of when the discrimination took place.

To ask OCR to provide language access services or resources, which may include oral technical assistance or written translation of a publicly available OCR document, free of charge, contact us at 1-800-421-3481 (TDD: 1-800-877-8339), or email us at OCR@ed.gov. If you would like more information about the Department's interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-437-0833) or email Ed.Language.Assistance@ed.gov.

To request documents in alternate formats such as Braille or large print, please contact the Department at 202-260-0852 or om_eeos@ed.gov.

Please note that this resource does not have the force and effect of law. OCR's enforcement of Title IX stems from Title IX and its implementing regulations.