

# Gender Discrimination in Education: Pregnancy & Parenting

# Title IX for Pregnant and Parenting Students

## SOURCES

1. U.S. Department of Education, <http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>

## ADDITIONAL RESOURCES

1. California Women's Law Center Policy Brief, <http://cwlc.org/web/wp-content/uploads/2013/09/PPT-Policy-Brief-2012.pdf>

1

CAN HARASSING A STUDENT BECAUSE OF PREGNANCY VIOLATE TITLE IX?

**Yes.** *Title IX* prohibits harassing conduct including verbal acts and name-calling, graphic and written statements, and other humiliating or physically threatening behavior. Sexual comments and jokes about the student's pregnancy could constitute prohibited harassment.

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MAY A SCHOOL REQUIRE A PREGNANT STUDENT TO OBTAIN A DOCTOR'S PERMISSION BEFORE ALLOWING HER TO ATTEND SCHOOL LATE IN HER PREGNANCY IF THE SCHOOL IS WORRIED ABOUT THE STUDENT'S HEALTH OR SAFETY?

**No.** Schools cannot treat pregnant students, even at late stages of pregnancy, any different from any other student who is being treated by a doctor.

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MUST SCHOOLS PROVIDE A PREGNANT STUDENT ASSISTANCE AT SCHOOL?

**Yes.** When necessary, schools must make adjustments that are reasonable and responsive to the student's status. Adjustments include providing the student with a larger desk, allowing frequent trips to the bathroom, and permitting access to elevators.

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MAY A SCHOOL REQUIRE A PREGNANT STUDENT TO PARTICIPATE IN A SEPARATE PROGRAM FOR PREGNANT STUDENTS?

**No.** Though a school may offer separate programs or schools for a pregnant student, these programs or schools must be completely voluntary. Additionally, the program must provide academic, extracurricular, and enrichment opportunities comparable to those provided to the students in the regular school program.

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IN ADDITION TO ALLOWING A PREGNANT STUDENT TO ATTEND CLASSES, DOES A SCHOOL NEED TO ALLOW HER TO PARTICIPATE IN SCHOOL CLUBS, CLASS ACTIVITIES, INTERSCHOLASTIC SPORTS, AND OTHER SCHOOL-SPONSORED ORGANIZATIONS?

**Yes.** *Title IX* prohibits the exclusion of pregnant students from any part of its educational program, including all extracurricular activities. The pregnant student must be eligible to hold leadership positions and may not be excluded even if the activity is not directly operated by the school.  
Example: see *Cazares v. Barber*

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DOES A SCHOOL HAVE TO EXCUSE A STUDENT'S ABSENCES DUE TO PREGNANCY OR CHILDBIRTH?

**Yes.** The school is required to excuse absences due to pregnancy and recovery from childbirth, for as long as the student's doctor deems it is medically necessary. If the school requires other students to present a doctor's note, they may require the same from a pregnant student.

Note: When the student returns, she must be reinstated to the same status as when she left, given opportunities to make up the work she missed and allowed to choose how to make up her missed work.

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DOES A SCHOOL NEED TO PROVIDE SPECIAL SERVICES TO A PREGNANT STUDENT OUTSIDE OF SCHOOL?

**Yes.** *Title IX* mandates that schools provide the special special services to pregnant students that it provides to students with temporary medical conditions. As an example, if a school provides at-home instruction to students who miss school due to temporary medical conditions, it must do the same for students who miss school because of pregnancy or childbirth.

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CAN SCHOOL TEACHERS HAVE POLICIES ABOUT CLASS ATTENDANCE AND MAKE-UP WORK THAT CONFLICT WITH TITLE IX?

**No.** Schools receiving federal assistance must ensure that teachers follow the requirements of *Title IX* and that their individual policies do not discriminate against pregnant students.

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CAN A SCHOOL TERMINATE SCHOLARSHIPS OF FEMALE ATHLETES ON THE BASIS OF PREGNANCY?

**No.** Terminating or reducing financial assistance on the basis of pregnancy or a related condition is prohibited under *Title IX*.

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DO SCHOOL DISTRICTS NEED TO HAVE PROCEDURES IN PLACE RELATING TO PREGNANCY AND PARENTAL STATUS DISCRIMINATION?

**Yes.** Schools must have a formal grievance process, which allows students to file complaints related to pregnancy or parental status discrimination. In addition to distributing grievance procedures to students, parents, and employees, school districts must also designate at least one employee to carry out its responsibilities under the law. Although, *Title IX* does not require a school district to adopt a policy specifically prohibiting discrimination against pregnant or parenting students, school districts are recommended to make their nondiscrimination policy clear

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ARE ABSENCES DUE TO PREGNANCY AND CHILDBIRTH PENALIZED LIKE UNEXCUSED ABSENCES?

**No.** Under *Title IX*, absences due to pregnancy, childbirth or related medical conditions must be excused and cannot be treated or penalized like unexcused absences.

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ARE THERE ACCESSIBLE RESOURCES TO ENFORCE MY RIGHTS UNDER *TITLE IX*?

**Yes.** There are 2 ways:

1. You may use the online complaint form available at <http://www.ed.gov/ocr/complaintintro.html>.
2. Or you may send a letter to the OCR enforcement office of the state in which the school is located. Refer to <https://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> or call 1-800-421-3481 to find which enforcement office you should contact.

Note: File the complaint within 180 days after the event or incident constituting discrimination. There are limited exceptions for extending the deadline.

# Cases and Resources

## IVAN V. KENT STATE UNIVERSITY

**Title IX gave a graduate student who lost her job due to her pregnancy a claim for pregnancy discrimination.**

## CAZARES V. BARBER

**A school society could not hold an induction ceremony without a pregnant student who was qualified to be present.**

## SOURCES

1. Ivan v. Kent State University, 92 F.3d 1185 (6th Cir. 1996)
2. Cazares v. Barber, 959 F.2d 753 (9th Cir. 1992).

After having a baby, a graduate student was required to attend weekly meetings to monitor the impact of parenthood on her performance. Although, the plaintiff successfully defended her Master's thesis, the clinical faculty conclude that she could not function in a clinical setting without supervision. The court found that she was permitted to sue under Title IX.

The school's National Honor Society (NHS) chapter denied an unmarried pregnant student entry despite the fact that she was ranked first in her sophomore class. She was rejected solely because she was pregnant, unmarried and not living with the child's father. In contrast, a male student who had fathered a child out of wedlock was accepted into the chapter. The trial court found a violation of Title IX and prohibited the school from holding the induction ceremony without her.