

TACKLING DISCRIMINATION AGAINST PREGNANT & PARENTING TEENS/STUDENTS

THE NUTS AND BOLTS OF TITLE IX

Pregnancy Assistance Fund Grantee Conference
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Disclaimer

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About National Women's Law Center (NWLC)

- About NWLC
 - Established in 1972
 - Policy Advocacy, Litigation, and Public Education
 - Particular focus on low-income girls/women and girls/women of color
 - Three main practice areas: Education & Employment, Health & Reproductive Rights, and Family Economic Security
- This presentation does not constitute legal advice.

What to Expect When You're Participating

- **Overview of Title IX**, the regulations regarding pregnant and parenting students, and recent guidance from the Department of Education
- Examples of discrimination
- Promising school policies and practices
- Recommendations for PAF Grantees and their States/Districts

Pregnant and Parenting Students (PPS) Have Civil Rights to Equal Educational Opportunities

**Title IX of the Education Amendments of 1972
says:**

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

What does Title IX do?

- Basic non-discrimination principle
- Sex discrimination includes pregnancy discrimination
- Requirements specific to certain issues, including schools' treatment of pregnant and parenting students
- Prohibits retaliation for complaining about a potential violation

Does Title IX apply?

- What Institutions are covered?
 - Follow the federal funding.
- Applies to *all* aspects of education programs, including:
 - Athletics
 - Scholarships
 - Counseling
 - Access to STEM/CTE programs
 - Sexual harassment
 - Housing
 - Retaliation
 - Employment (but see also Title VII)

Enforcement

- Enforced primarily by Dept. of Ed.'s Office for Civil Rights (OCR):
 - Investigates complaints
 - Conducts compliance reviews
 - Issues regulations and guidance
 - Provides technical assistance
- 12 regional offices and HQ in D.C.
- To file a complaint:
<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

School Responsibilities

- Schools must take steps to prevent and address sex discrimination, including harassment; adopt anti-harassment policies and grievance procedures.
- Schools also must appoint Title IX Coordinator and notify school community.
- May also be state law obligations or school district policies.

Title IX Regulations on Pregnancy

- Equal access to school and activities.
- Doctor's note for continued participation can be requested only if done for all students with conditions requiring medical care.
- Special programs or schools must be voluntary.
- Absences must be excused for as long as student's doctor deems medically necessary.
- Students must be given a reasonable amount of time to make up missed work.
- Services for temporarily disabled must be offered to pregnant students, too.

New Department of Education *Guidance* on Title IX and pregnancy/parenting

- June 2013 Dear Colleague Letter and Pamphlet: *Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972*
- Disseminated to all school districts, state superintendents of education, college and university presidents, etc.
- Applies to both secondary and post-secondary schools
- FAQs re: how to interpret Title IX regulations
- Suggests strategies and programs that can address the educational needs of PPS
- <http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>

Discriminatory Barriers to Success for PPS in Secondary Schools

- Environment of discouragement
- Punitive absence policies
- The Unequal Alternative
- Inaccessible Homebound Services

Environment of Discouragement

- Shift in way treated by peers, teachers, and school administrators; school officials give up on them and talk about them in diminished terms.
- Lack of guidance, support, encouragement
- Stereotypes often internalized, affects school engagement
- Examples:
 - Steering to lesser alternatives
 - Sexual harassment
 - Delhi, LA school
 - ACLU case in NM
 - Forbidding pregnant student from walking at graduation
 - Excluding eligible students who are or were pregnant from induction into National Honor Society

Quick Detour on Breaking Down Stereotypes

- Study of young mothers revealed that “regardless of their school status, almost all teens described the emergence of new priorities and concerns for their future as they anticipated motherhood.”
- Unfortunately, this drive and determination “was often complicated, and sometimes thwarted, by competing work demands, family and child care responsibilities, and educational barriers.”
- Young parents who drop out say they would have worked harder if their schools had demanded more of them and provided the necessary support.

Sources: Lee SmithBattle, -"I Wanna Have a Good Future": Teen Mothers' Rise in Educational Aspirations, Competing Demands, and Limited School Support. Youth & Society (March 2007); Gates Foundation Survey 2005 (last bullet).

Rigid Application of Rules; Discipline

- Threatening a young woman who no longer fit into school uniform with detention if she did not keep shirt tucked in and belt buckled around her swollen stomach.
- **Truancy**
 - Automatic in some places
 - Most states lack clear policy on excused absences for PPS
 - Exceptions: CA, FL, OR, NC, ME, and AZ.
 - Doctor's appointments, bed rest, childbirth and recovery, children's illnesses.

Unequal Alternatives

- PPS pushed into attending alternative programs
- Some programs are inferior, dead-ends
- Example: Until 2007, **NYC** operated separate schools for pregnant and parenting young women: “P Schools”
 - Average daily attendance was only 47%
 - Less than half of the students transitioned back into mainstream high schools
 - NYT reporter visited a “P school” in 2007, found a dozen girls perched at their desks:

No pencils, no textbooks, no Pythagorean theorem. Instead, they sewed a quilt...That is what passes for math in one of New York City’s four high schools for pregnant girls, this one in Harlem. “It ties into geometry,” said Patricia Martin, the principal. “They’re cutting shapes.”

Homebound Instruction

- Most pregnant and parenting students simply will not be able to attend school for some period of time before or after giving birth.
- Michigan and Georgia offered homebound, hospital, or online learning to K-12 students who were temporarily disabled, but did not offer it to P/P students, which violated Title IX; those regulations have been fixed.
- Only NC has a law *requiring* schools to offer homebound and online learning to students whose children have temporary illnesses or who are unable to attend school because they do not have access to childcare.

Title IX Problems at Postsecondary Level: Example #1

- Student due to deliver during semester fears missing an exam will hurt her grade even if allowed to drop one test score.
- Professor says no make-up exams allowed, even in case of emergency. “Try not to have an emergency.”
- Administration backs up professor and says if you don’t like it, you can drop the class.
- Student drops class, which sets her back.

CUNY Settlement – May 2013

- Individual relief for client
- Policy changes across the entire CUNY system, including:
 - **Memo** distributed to all faculty and staff, colleges' legal departments, and student affairs and academic departments.
 - CUNY college **student handbooks and website** will include info on Title IX and pregnancy, including this language:
 - [Insert College] does not discriminate against any student on the basis of pregnancy or related conditions. Absences due to medical conditions relating to pregnancy will be excused for as long as deemed medically necessary by a student's doctor and students will be given the opportunity to make up missed work. Students needing assistance can seek accommodations from the Office of Accessibility [insert contact information] or the Title IX Coordinator [Insert name and contact information].
 - CUNY will conduct **trainings on new policy** for all Title IX Coordinators and Directors of Student Affairs.
 - CUNY will include information about the university's obligations relating to student pregnancy in **Title IX trainings** given to faculty and students.

More Examples of Title IX Problems

- University education program tells student she should not be student teaching while pregnant.
- Accounting student in 2-year program delivered baby before semester ended; had to miss 4 weeks of classes due to complications. Was told she would have to withdraw from the course, even though all classes were available online.
- Occupational Therapy grad student due with baby in middle of second semester was told that if she wanted 4 weeks off to recover from a C-section she would have to withdraw from the program; if she were to withdraw, would not be able to get back in for one year.

Nursing program examples

- Nursing program:
 - Students who become pregnant should “re-evaluate commitment to the program.”
 - If students have any temporary restrictions at all, have to take a medical withdrawal and re-apply to program.
- Nursing student has pregnancy complications and has to be hospitalized. Professor refuses to excuse absences; gives her a zero for every day missed; says cannot make up work and should withdraw if she doesn't want to fail. Student withdraws.
- Nursing student was told she could take one week off to recover from childbirth. Had C-section and complications. Missed one additional class only, but test was given that day. Was told could not re-take test, which was 1/5 of class grade, so she failed the course.

Surgical Tech example

- Pregnant student got clearance from doctor to participate in clinical rotations with no restrictions, but placed at facility where there was nothing to do, so she could not log required hours.
- Asked for change in placement but was told could not find a site for her because she is pregnant.
- School said better off taking a leave of absence because of radiation risk (despite what her doctor said) and increasing distance between her and surgical field.
- Once became clear student could not log hours before having baby, school told her to take leave, start over and pay re-take fee.

The Flip Side

- **Student wants to take only 3 days off after she gives birth, but we think she should take more than that. What should we do?**
- Treat her as you would any student who is absent for a medical reason. If you leave it up to students (and their doctors) to determine when they are ready to return, defer to the judgment of this student, too.
- You can let her know that more leave will be excused, but you cannot force her to take it just because you think it would be better for her (or her baby).
- Physical exam/note for clearance – but for only 3 days?

Frequent Complaint: Lactation Needs

- Schools' unwillingness to provide students with breaks of necessary duration, and clean, private space (not restroom) to express breast milk can pose serious hardship for young mothers.
 - Failure to express milk on schedule can lead to engorgement = discomfort, pain, fever, infection, reduced supply
 - Serious distraction; can negatively impact ability to learn
 - Refusal to accommodate these needs sends message that being mother is incompatible with educational success
 - Choice women should not have to make
 - Required by ACA in employment context

Title IX is a Floor

- Beyond non-discrimination, there is a lot more that schools and communities can and should do to support this vulnerable population of students.

NWLC Report – June 2012

A Pregnancy Test for Schools: The Impact of Education Laws on Pregnant and Parenting Students

- NWLC examined state education laws and policies for all 50 states, Puerto Rico, and D.C.
- Identified promising state policies/programs, state laws that might be harmful to the educational success of PPS, and states that are doing nothing.
- Ranks states
- Recommendations and Toolkit
- www.nwlc.org/pregnancytestforschools

Promising Program at Local Level

- Parent Education Program at West Oso High School in Corpus Christi, Texas
- Within mainstream school, not at separate site
- Child care and transportation provided
- Referrals to health care and other services
- Counseling and encouragement, positive climate
- Parenting and life skills classes
- Higher graduation rates
- Lower teen pregnancy rates
- For more information:
<http://www.dropoutprevention.org/sites/default/files/newsletter-v23n3-2013.pdf>

Another Promising Local Program

- “Expectant and Parenting Student Liaison” in Chelsea High School, Massachusetts
- Started in 2011-2012 school year; cohort of 59 students (49 mothers, 10 fathers)
- Academic guide, case manager, coach, advocate
- \$25,000/year, 20 hours a week (incl. summers)
- Helps facilitate access to services, navigating systems
- High expectations, changing culture at school
- Better retention & lower rate of repeat teen births

<http://www.massteenpregnancy.org/sites/default/files/policy/matpchelsea-report12pgv9.pdf>

Lack of Data is a Problem

- No nationwide data collection that tracks the number of pregnant and parenting students enrolled in secondary schools and their educational outcomes.
- In 2009, only 11 states were collecting information about student pregnancy (if that).
- Until data on P/P students is available, including data on educational outcomes, it is difficult to make data-driven decisions to invest resources in what we know works.
- School districts want these data for planning purposes!

Title IX

New Heights Program DC Public Schools

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DISCLAIMER

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District of Columbia Public Schools (DCPS)

Office of Youth Engagement

The overall goal of the Office of Youth Engagement (OYE) is to ensure students are present, healthy, positive members of a learning community and are able to engage in their academic and extracurricular programs. The office is organized into five teams:

Team	Goal
Attendance	Improve student attendance
Student Discipline & School Climate	Promote positive student behavior and school culture
Student Placement	Identify educational options within DCPS
Health & Wellness	Ensure the health and wellness of all students
Response to Intervention	Ensuring schools have robust student support teams

What is the New Heights Program?

A school-based service delivery program in 15 District of Columbia High Schools (13 District of Columbia Public Schools and two public charter schools) that assists expectant and parenting students (both males and females) with:

- Staying in school
- Connecting to resources
- Gaining relevant life skills
- Graduating from high school with a viable post-secondary plan

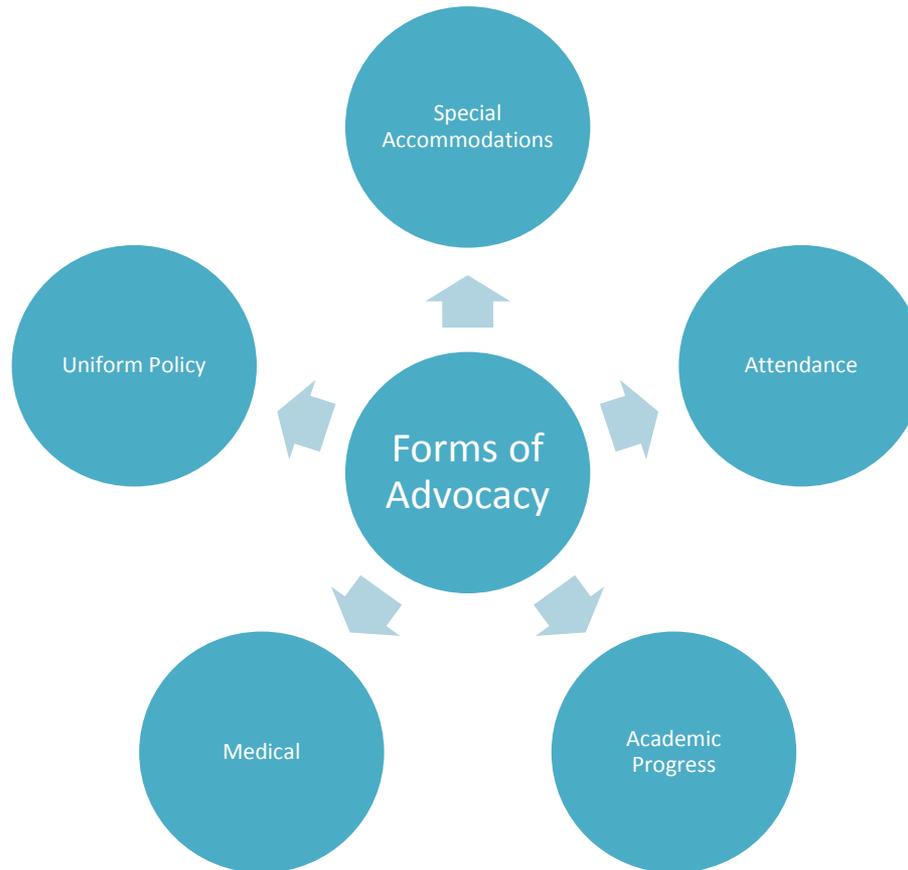
Goals of program are to:

- Increase student attendance
- Improve graduation rates
- Prevent subsequent pregnancies while completing education

New Heights Program Components



Forms of Title IX Advocacy





New Heights Title IX Presentation example

What expectant & parenting students face...

“My mom kicked me out of the house when she found out that I had a boyfriend... I became pregnant 4 months later.”

“I don’t want to go back to school. I feel left out. I am lost in class and my friends are still having fun. We don’t share the same conversations anymore.”

“I feel really sick in the morning...I’m 12 weeks pregnant and throw up everything I eat. I have issues with my boyfriend, too. My mom kicked me out of the house.”

“I have to go to the bathroom all the time! I wake up at least 3-4 times in the night and have trouble sleeping. I’m tired every day.”



Close to one-half of all female dropouts and one-third of male dropouts said that becoming a parent played a role in their decision to leave school.

What are suggested ways that schools can remain in compliance with Title IX?

Bathroom passes

Elevator passes

Additional time to get to and from class

Provide class work and support to make sure the student keeps up with the class if s/he has excused absences

Excused absences

Under 18 and out less than 5 consecutive days – note from parent.

18 or older, the note can be written by the student.

**Inform the school nurse, counselor,
New Heights, or principal when staff
member believes a student may be
pregnant.**

Provide the student with a larger uniform if necessary.

Finally...

Be understanding and flexible, but hold them to the same standards as the rest of the students.

Youth Development

Youth advisory team

Involvement in program design,
including workshop development

Leadership roles at program site

Youth development approach to
case management





Know Your Rights

As an expectant or parenting student, I:

- have the **RIGHT** to not be discriminated against, under any circumstances
- am **ALLOWED** to have an excused absence from school when my doctor says it's necessary
- am **GUARANTEED** the time to make up any school work missed for excused absences
- am **ALLOWED** to have an excused absence from school if my child is sick and my child's doctor gives me a note.
- should be **PROVIDED** reasonable accommodations, like having extra time to get to class or bathroom passes as necessary
- am **ALLOWED** to participate in any school, extracurricular, or athletic activity

What should I do if I am not being guaranteed these rights?

- Talk to your teacher or principal! Inform them that you are not getting all of these rights.
- Contact DCPS' Central Office at 202-442-5885 and ask for the Title IX Coordinator! The Coordinator will help make sure you are being guaranteed these rights. Also, find out if your school has the **New Heights Program for Expectant and Parenting Students**.

Examples of New Heights Handouts





DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Principal's Guide:

Expectant and Parenting Students' Educational Rights

Updated: November 2012



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Teacher's Guide:

Expectant and Parenting Students' Educational Rights

Updated: November 2012

Recommendations: States

- Policy review and coordination:
 - Create statewide definition of excused absences that includes all pregnancy and parenting-related absences.
 - Pass specific education laws and regulations to protect pregnant and parenting students.
 - Establish standards for pregnant and parenting student programs and require school districts to offer these programs.
- Professional development
- Funding for educational and related services, such as homebound instruction, child care, transportation, counseling, and case management
- Require data collection and reporting

Recommendations: Schools

- Change (or develop) school policies and procedures
- Designate and train Title IX Coordinator
- Train faculty and staff re: rights and needs of PPS
- Improve school climate for PPS
- Create resources
- Educate and advertise (including website and student handbook)
- Collect and report data

Recommendations: Service Providers and Advocates

- Find school's written policies
- Find school/district Title IX Coordinator(s)
- Toolkit at <http://www.nwlc.org/pregnancytestforschools>
- More fact sheets available at:
<http://www.nwlc.org/pregnantandparentingstudents>
- Call us for help, or send an email to info@nwlc.org.

What to do if you see/hear about discrimination

- Title IX Coordinator – if not posted, ask who it is!
- Dean of Students, Dean of program/department
- NWLC resources:
www.nwlc.org/pregnantandparentingstudents
- Call or email NWLC for help
- Seek technical assistance from the Department of Education's Office for Civil Rights
- File OCR complaint:
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

QUESTIONS?

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