Title IX & Student Pregnancy/Parenting

Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §1681 et seq., prohibits discrimination on the basis of sex, which includes discrimination on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy (miscarriage/abortion), or related conditions including recovery. **Under Title IX:**

- It is illegal to exclude a pregnant student from participating in any part of an educational program.
- A student’s absences due to pregnancy or childbirth, as deemed medically necessary, must be excused.
- A student cannot be penalized for taking leave, even if taking medically necessary leave would require an absence longer than the school’s leave policy ordinarily allows.
- When a student returns to school, the student must be allowed to return to the same academic and extracurricular status as before medical leave.
- Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student.

**Frequently Asked Questions:**

1. **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?** Schools cannot require a pregnant student to produce a doctor’s note in order to stay in school or participate in activities unless the same requirement to obtain a doctor’s note applies to all students being treated by a doctor. Pregnant student should not be treated differently from other students being cared for by a doctor, even when a student is in the later stages of pregnancy. Never presume that a pregnant student is unable to attend school or participate in school activities.

2. **Can harassing a student because of pregnancy violate Title IX?** Yes. Harassing conduct can take many forms, including verbal acts and name-calling, graphic and written statements, and other conduct that may be humiliating or physically threatening or harmful.

3. **What types of assistance must a school provide to a pregnant student at school?** A school must make adjustments that are **reasonable and responsive** to the student’s temporary pregnancy status. For example, a school might be required to provide a larger desk, allow frequent trips to the bathroom, or access to elevators. Other examples include transferring to on-line courses, video lectures, extended deadlines, alternative assignments in lieu of class participation credit, submission of coursework online, and allowance of make-up exams or quizzes missed. OIE will always advise the Student to remain in contact with Professors to determine a “reasonable” time period to make-up and/or submit assignments as well as to take exams and/or quizzes. If an “Incomplete” is required, all necessary approvals must be obtained by the Student.

4. **Does a school have to excuse a student’s absences due to pregnancy or childbirth?** Yes. When the student returns to school, the student must be reinstated to the status held when the leave began.
5. **Does a school need to provide special services to a pregnant student?** Title IX requires a school to provide the same special services to a pregnant student that it provides to students with temporary medical conditions.

6. **What if a Professor has their own policies about class attendance and make-up work?** A professor may not refuse to allow a student to submit work after a deadline that was missed because of absences due to pregnancy or childbirth. Students should be allowed to earn class attendance or participation credits through an alternative assignment.

7. **What about male parents?** The same policy applies to male parents; however, absences must be related to the medical condition of the mother (e.g., prescribed bed rest). Compliance with Title IX is to ensure that all policies are implemented equitably without regard to sex/gender.

**Prohibitions:** Certain programs do not allow pregnant students at certain stages in their pregnancy to participate in a class due to certain prohibitions (jeopardizing health). Any prohibition needs to be vetted by OIE and then clearly stated in the course catalog/syllabus so that the student is on notice of the prohibition and the reason. If there is a bona fide occupational qualification that prohibits participation by a pregnant student, it cannot be waived; however, all prohibitions need to be carefully considered for compliance with Title IX.

**Clinical/Internship Requirements:** Must be reviewed on a case by case basis to determine if an accommodation can be made such as providing moving groups around, make-up hours or “Incompletes” with plan for completion.

**Breastfeeding/Nursing Students:** NM Stat. Ann. Section 28-20-1. A mother may breastfeed her child in any location, public or private, where the mother is otherwise authorized to be present.

**Grievance Procedures:** Title IX requires that NMSU must adopt and publish grievance procedures for students to file complaints of sex discrimination, including discrimination related to pregnancy or parental status. **NMSU Administrative Rules and Procedures (ARP), Rule 3.25.** (01.09.19) located at [https://arp.nmsu.edu/3-25/](https://arp.nmsu.edu/3-25/).

All pregnant students should be referred to OIE. Students can request an accommodation/supportive measures by filing a request for a Student Pregnancy Accommodation available at [https://equity.nmsu.edu/accommodations/pregnancy-2/](https://equity.nmsu.edu/accommodations/pregnancy-2/). While a routine pregnancy is not covered by NMSU policies regarding disability accommodations, impairments arising from a pregnancy might be. Such students should be referred to Student Accessibility Services.

**Reference:** U.S. Department of Education Dear Colleague Letter, dated June 25, 2013, [https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201306-title-ix.html](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201306-title-ix.html), Supporting the Academic Success or Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972, June 2013, [https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf](https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf), Know your Rights, [https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html).