



THE CIVIL RIGHTS OF PREGNANT AND PARENTING TEENS IN CALIFORNIA SCHOOLS

Introduction

California has the second highest rate of teen pregnancy in the nation, and although school-based programs aimed at addressing teen pregnancy have been successful in reducing early childbearing,¹ schools have often neglected the rights of teens who choose to parent. Pregnant and parenting teens are typically vilified in the media and in educational settings. It is as if girls who become pregnant have failed or have become the symbols of failed prevention policies. The systems in place ignore them and render them invisible – they are the throw-aways of the teen pregnancy prevention movement. Statistics reveal, however, that we must act to address the needs of these teens:

- In California, there are 125 pregnancies annually per 1,000 women aged 15-19.²
- In 1998, 62 percent of teens who gave birth in California had not completed high school and 10.8 percent had an 8th grade education or less.³
- Teen mothers are more likely to live in poverty, have large families, and be single parents.⁴
- Babies born to teens are more likely to have health troubles, poor school performance, and become parents themselves when they are teens.⁵

The cycle of poverty, early childbearing, and lack of education, which is exacerbated by the lack of any coherent strategy to address these issues, has stimulated action by state and federal policymakers, educators, and advocates. The California Women's Law Center (CWLC) has been at the forefront of the movement to protect the civil rights of pregnant and parenting teens, through its advocacy and direct legal assistance.

This policy brief is part of CWLC's continued commitment to educate the public about the civil rights of pregnant and parenting teens and to encourage schools to adopt policies that protect teens' rights.

What Are The Barriers?

Because completing high school is essential to breaking the cycle of teen pregnancy and adult poverty, schools must ensure that pregnant and parenting teens have access to the full range of educational opportunities available to other students. Schools must take all affirmative steps to bridge the serious gap between the legal rights of pregnant and parenting teens and the discrimination and hostility pregnant and parenting teens currently face in school. Recent violations include:

- At a suburban school district, an administrator who felt that a pregnant teen would present an "inappropriate image" of the school refused to allow the 17-year-old mother to participate in her graduation ceremony.
- A junior high school administrator tore down the poster of a pregnant girl who was running for school office claiming that she was "advertising" pregnancy.
- In schools throughout California, girls are being coerced to attend separate pregnant minors programs in order to remove them from the main campuses. Conversely, girls who do remain at their primary school have been subjected to unlawful discrimination that school officials fail to remedy.

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Protecting the Legal Rights of Pregnant and Parenting Teens

The public discourse needs to focus on the fact that the failure of educational systems to provide teens with an equal education is discrimination under state and federal law. This failure prevents teens from fulfilling their educational, social, and economic potential. Every time an administrator punishes a pregnant teen for being pregnant, denies a pregnant teen access to college-preparatory classes, fails to remedy unlawful harassment being experienced by the teen, or deprives a teen of any school privilege, the administrator is violating civil rights laws.

Both federal and state laws guarantee pregnant and parenting teens equal rights and opportunities in all public and private educational institutions that receive public funds. Discrimination or harassment by fellow students, teachers, school administrators, and counselors, or any discriminatory school policy or practice is illegal.⁶ Specifically, under federal and state law, the following rights are guaranteed:

Non-Discrimination

- Schools cannot discriminate against any student or exclude any student from its educational program or activity on the basis of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from these conditions.⁷
- A school is permitted to require a doctor's certificate from a pregnant student

stating that she is physically and/or emotionally able to continue to participate in classes or school programs only if the school imposes the same requirements upon all other students with physical or emotional conditions requiring a doctor's care.⁸

Full Access to Educational Opportunities

- Pregnant and parenting students have the right to remain in their regular or current school program, including honors and magnet programs, special education placements, alternative or options programs, extracurricular, intramural, and interscholastic activities, club athletics, and graduation programs or activities, as well as non-public school placements funded by the students' district.⁹
- Students cannot be expelled, suspended, or otherwise excluded from their current program, or required to participate in school programs, solely on the basis of the students' pregnancy, childbirth, pregnancy recovery or termination, conditions related to pregnancy, or marital or parental status.¹⁰
- Participation in special schools or programs for pregnant or parenting students must be completely voluntary on the part of the student and such programs or schools must be comparable to programs and schools offered to non-pregnant students.¹¹

Full Access to Confidential Medical Care

- Schools must treat pregnancy as they treat other medical conditions. Health plans, medical benefits, and related services are to be provided to pregnant students in the same manner as services are provided to students with other "temporary disabilities."¹²
- In California, minors may consent to all medical care related to pregnancy, pregnancy prevention (including

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contraceptive services), and pregnancy termination (except sterilization services), without the knowledge or consent of their parent or guardian.¹³ Because a minor may consent to these services, only the minor patient can authorize the disclosure of the medical information gathered through these services.

- School authorities may release a pupil from school for the purpose of obtaining confidential medical services without the knowledge or consent of a parent or guardian.¹⁴ Each academic year, the governing board of each school district must notify pupils in grades 7 to 12 and their parents or guardians that the school may release a pupil to obtain confidential medical services without the consent of a parent or guardian.¹⁵
- A pregnant or parenting teen has the right to have her medical information kept confidential. Any information given to a school counselor, mental health counselor, nurse, or physician is confidential and must not be included as a part of the pupil's record.¹⁶

Right to Leaves of Absence and Excused Absences

- If a pregnant or parenting teen misses school due to pregnancy or related conditions (including childbirth, miscarriage, termination of pregnancy, and recovery therefrom), the absences shall be considered an excused absence.¹⁷
- A pregnant student may be granted a leave of absence for as long as it is deemed medically necessary and, at the conclusion of her leave, must be allowed to resume the status she held when the leave began.¹⁸
- Upon returning from an excused absence, a student shall be reinstated at the school with the same status as before the leave began and allowed to complete all assignments and tests missed during the absence that can be reasonably provided, and upon completion of such assignments, shall be given full credit.¹⁹

- A school may not ask a pregnant or parenting teen to obtain certification from a physician for a medically-related absence unless such verification is also required for other absences due to medical conditions.²⁰

Physical Education

- Schools must allow pregnant and parenting teens to take physical education classes and cannot require a note to participate in such courses unless they require them of all students with medical conditions.²¹
- Schools must provide a pregnant teen who cannot accomplish the requirements of the regular physical education curriculum with an alternative curriculum that will cater to her condition and provide her with a physical education credit.²²

A Model Policy

The California Department of Education encourages public schools to undertake educational activities to counter discriminatory incidents on school grounds, and to minimize and eliminate hostile environments on school grounds that impair the access of pupils to equal educational opportunities.²³ Schools must be more proactive in addressing the particular issues facing pregnant and parenting teens and prohibiting discrimination against them. To this end, the CWLC has developed a model policy – *Protecting the Civil Rights of Pregnant and Parenting Teens*.²⁴ Schools can implement policies that aggressively support pregnant and parenting teens. CWLC's model policy emphasizes the right of pregnant and parenting teens to:

- Make an informed decision whether to stay in their home school or to attend a school for pregnant and parenting teens;
- Access services which support teens to be full participants in the academic and extra-curricular life of their school;

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- Access full, confidential family planning and reproductive health services, as well as other types of health care, at school-based health clinics and affiliated community providers;
- Support for returning to their home school as soon as they are ready after giving birth, with access to child care, tutors, parenting classes, and other supports necessary to help them balance school and parenting;
- Equal access to all the academic and extra-curricular opportunities available to other students, including advanced-placement and college preparatory classes, sports programs, after-school activities, and enrichment programs; and
- Counseling concerning their rights, how to exercise them, and how to enforce them.

Conclusion

Schools that isolate and discriminate against pregnant and parenting students jeopardize teens at a time in their lives when support services and access to academic opportunities are most crucial. More importantly, it is illegal to discriminate against pregnant teens and young parents. California schools – with a student population consisting of approximately three million female students²⁵ – can and must encourage pregnant and parenting teens to flourish in school by eliminating discriminatory practices and hostile environments, as well as providing support services to ensure these students' success.

²⁵For example, in the United States, teen pregnancy rates among 15- to 19-year-olds decreased by 13 percent between 1992 and 1996. California's teen pregnancy rate among 15- to 19-year-olds dropped by 21 percent between 1992 and 1996. Teen Pregnancy and Childbearing in California, The National Campaign to Prevent Teen Pregnancy (August 2000).

²⁶Id.; Teen Pregnancy in California: Facts at a Glance, Get Real About Teen Pregnancy! (citing the Allan Guttmacher Institute (1999)).

²⁷Teen Pregnancy in California: Facts at a Glance, Get Real About Teen Pregnancy! (citing statistics from the California Department of Health Services (1998)).

²⁸Reducing Teenage Pregnancy Fact Sheet, Planned Parenthood (citing When Teens Have Sex: Issues and Trends, Annie E. Casey Foundation (1998)); Teen Pregnancy – So What?, The National Campaign to Prevent Teen Pregnancy.

²⁹Teen Pregnancy in California: Facts at a Glance, Get Real About Teen Pregnancy! (citing Anna Brady Duff, Behind the Drop in Teen Births, Investor's Business Daily (1999)).

³⁰See 20 U.S.C. § 1681; 34 C.F.R. § 106.40; Cal. Educ. Code §§ 200-201, 220, 221.5, 230, & 235; 5 C.C.R. §§ 4900, 4950, & 4960.

³¹20 U.S.C. § 1681; 34 C.F.R. § 106.40; Cal. Educ. Code § 230; 5 C.C.R. § 4950.

³²20 U.S.C. § 1681; 34 C.F.R. § 106.40.

³³34 C.F.R. § 106.40 (a) (2); Cal. Educ. Code § 230.

³⁴Id.

³⁵Id.

³⁶34 C.F.R. § 106.40.

³⁷Cal. Fam. Code § 6925.

³⁸Cal. Educ. Code § 46010.1.

³⁹Id.

⁴⁰Cal. Educ. Code §§ 49061, 49091.12, & 72621; Cal. Civ. Code § 56.11.

⁴¹Cal. Educ. Code § 48205 (a), (b), & (d).

⁴²34 C.F.R. 106.40.

⁴³Id.; Cal. Educ. Code § 48205 (a) & (b).

⁴⁴34 C.F.R. § 106.40 (b) (2); Cal. Educ. Code § 48205.

⁴⁵34 C.F.R. § 106.40.

⁴⁶Cal. Educ. Code §§ 48205 (a) & (b) & 51241 (a) (1).

⁴⁷Cal. Educ. Code § 201(f); 5 C.C.R. § 4900.

⁴⁸The California Women's Law Center's Model Policy can be accessed on the Law Center's website at: www.cwlc.org. Additionally, the CWLC assisted the Los Angeles Unified School District (LAUSD) with developing the LAUSD's policy on the rights of pregnant and parenting students. The LAUSD issued its policy bulletin on October 15, 2001.

⁴⁹California Department of Education, Statewide Enrollment Statistics for 2000-2001 (prepared Feb. 4, 2002).

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The CWLC works to secure justice for women and girls by ensuring that life opportunities for women and girls are free from unjust social, economic and political constraints.

This policy brief is intended to provide background information on California and federal law. Receiving and/or reading this policy brief does not make you a client of the California Women's Law Center. It is not intended to be, nor should it be relied upon, as legal advice.

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