

# U.S. Department of Education Regulations Related to Pregnancy and Parenting\*

## § 106.40 Marital or parental status

(a) *Status generally.* A [university] shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.*

(1) A [university] shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the [university].

(2) A [university] may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A [university] which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the separate portion is comparable to that offered to non-pregnant students.

(4) A [university] shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such [university] administers, operates, offers, or participates in with respect to students admitted to the [university]'s educational program or activity.

(5) In the case of a [university] which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a [university] shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

*\* Title 34 Education, Subtitle B Regulations of the Office of the Department of Education, Chapter 1 Office for Civil Rights, Part 106 Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]. Retrieved on 2023-01-09 from <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html#S40>.*

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