

Policy 5146: Married/Pregnant/Parenting Students

Status: ADOPTED

Original Adopted Date: 12/01/2013 | **Last Revised Date:** 07/01/2024 | **Last Reviewed Date:** 07/01/2024

CSBA NOTE: The following optional policy may be revised to reflect district practice.

Pursuant to Education Code 48410, students may be exempted from compulsory attendance in continuing education classes if they must render personal services to a dependent. See AR 5112.1 - Exemptions from Attendance.

The Governing Board recognizes that responsibilities pertaining to marriage, pregnancy, or parenting, including related obligations, medical conditions, or recovery, may disrupt a student's education and increase the chance of a student dropping out of school. The Board desires to minimize interruption to such students' educational progress by supporting married, pregnant, and parenting students in their continued education, assisting them to attain strong academic and parenting skills, and promoting the healthy development of their child(ren).

CSBA NOTE: Pursuant to Education Code 221.51, districts are prohibited from applying any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex, or from excluding or denying any student from any educational program or activity, including extracurricular activity, solely on the basis of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from such conditions. Additionally, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, prohibits discrimination on the basis of sex in the district's education program or activity, including current, potential, or past pregnancy, childbirth, termination of pregnancy, or lactation, and related medical conditions or recovery, and parental, marital, and family status; see BP/AR 5145.7 - Sex Discrimination and Sex-Based Harassment.

The district shall not exclude or deny any student from any educational program or activity, including any class or extracurricular activity, solely on the basis of the student's current, potential, or past pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related medical conditions or recovery. In addition, the district shall not adopt any rule concerning a student's actual, potential, or past parental, family, or marital status that discriminates against and/or treats a student differently on the basis of sex. (Education Code 221.51, 230; 5 CCR 4950; 34 CFR 106.40)

CSBA NOTE: Education Code 222.5 requires the following annual notifications.

The Superintendent or designee shall annually notify parents/guardians at the beginning of the school year of the rights and options available to pregnant and parenting students under the law. In addition, pregnant and parenting students shall be notified of the rights and options available under the law through annual school year welcome packets and through independent study packets. (Education Code 222.5, 48980)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, when a student or a person who has a legal right to act on behalf of a student, informs any employee of the student's pregnancy or related conditions, the employee is required to provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination, including sex-based harassment, and ensure the student's equal access to the district's education program or activity.

Any employee who is informed by a student, or a person who has a legal right to act on behalf of a student, of a student's pregnancy or related conditions shall provide that person with the Title IX Coordinator's contact information and inform the person that the Title IX Coordinator can coordinate specific acts to prevent sex discrimination, including sex-based harassment, and ensure the student's equal access to the district's education program or activity. (34 CFR 106.8)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, once notified of a student's pregnancy or related conditions, the district is required to take specified actions, as described below, to protect the student against sex discrimination.

When notified of a student's pregnancy or related conditions, the Title IX Coordinator shall provide the student, and if applicable the person who has a legal right to act on behalf of the student and who notified the Title IX Coordinator of the student's pregnancy or related conditions, with the district's notice of nondiscrimination, as specified in Administrative Regulation 5145.3 - Nondiscrimination/Harassment and Exhibit (1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. The Title IX Coordinator shall also coordinate actions specified in 34 CFR 106.40 to prevent discrimination against, and ensure equal access to, the student, including the following: (34 CFR 106.44)

1. Notifying the student that the district is required to not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions

However, a student's voluntary participation in a separate portion of the district's education program or activity does not constitute prohibited discrimination if the district ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

2. To the extent consistent with 34 CFR 106.40(b)(3), ensuring that pregnancy or related conditions are treated in the same manner and under the same policies as any other temporary medical condition with respect to any medical or hospital benefit, service, plan, or policy the district administers, operates, offers, or participates in with respect to students admitted to the district's education program or activity
3. Informing the student that the district may not require the student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person verifying that the student is physically able to participate in the district's class, program, or extracurricular activity unless the certified level of physical ability of health is necessary for participation in the class, program, or extracurricular activity; the district requires such certification of all participating students; and, the information obtained is not used as a basis for Title IX discrimination

CSBA NOTE: Pursuant to Family Code 7002, any person under the age of 18 years who enters into a valid marriage is an emancipated minor and therefore has the same rights as an adult. Such rights include, but are not limited to, those related to the verification of student absences (see AR 5113 - Absences and Excuses), application for a work permit (see AR 5113.2 - Work Permits), and access to student records (see AR 5125 - Student Records).

For school-related purposes, a student under the age of 18 years who enters into a valid marriage shall have all the rights and privileges of students who are 18 years of age or older, even if the marriage has been dissolved. (Family Code 7002)

Education and Support Services for Pregnant and Parenting Students

Pregnant and parenting students shall retain the right to participate in the regular education program or an alternative education program. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the student and/or the student's child.

CSBA NOTE: Both federal law (34 CFR 106.40) and state law (Education Code 221.51; 5 CCR 4950) prohibit districts from requiring a student to take a course or participate in a separate program or school for pregnant and parenting students. When students voluntarily participate in such alternative programs, federal law requires that the alternative program be "comparable" to the regular education program, and state law requires that the program be "equal" to the regular education program. The following paragraph reflects the state standard which is more stringent and thus would prevail.

Any alternative education program, activity, or course that is offered separately to pregnant or parenting students, including any class or extracurricular activity, shall be equal to that offered to other district students. A student's participation in such programs shall be voluntary. (Education Code 221.51; 5 CCR 4950)

CSBA NOTE: Education Code 221.51 authorizes districts to require certification by a physician or nurse practitioner that a student is physically and emotionally able to participate in the regular education program or activity. However, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, prohibits districts from requiring a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person verifying that the student is physically able to participate in the district's class, program, or extracurricular activity unless the certified level of physical ability of health is necessary for participation in the class, program, or extracurricular activity; the district requires such certification of all participating students; and, the information obtained is not used as a basis for sex discrimination. Additionally, Education Code 221.51 and 34 CFR 106.40 require that pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related conditions be treated in the same manner as any other temporary disabling condition. Thus, the district cannot require a student who is pregnant or has related conditions to provide a physician's note to participate in physical education classes unless the certified level of physical ability is necessary for participation and such certification is required of all students. A student who is pregnant or who has related conditions who cannot accomplish the requirements of the regular physical education curriculum may be offered accommodations, as specified in "Accommodations" below, or voluntary access to a comparable program, as described above. Education Code 48206.3 defines a "temporary disability" as a physical, mental, or emotional disability after which the student can reasonably be expected to return to regular day classes or an alternative education program; see AR 6183 - Home and Hospital Instruction.

The Superintendent or designee shall not require a student, based on pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related medical conditions or recovery, to obtain certification from a physician

or nurse practitioner indicating that the student is physically and emotionally able to continue participation in the district's education program or activity, including an extracurricular activity, unless the certified level of physical ability is necessary for participation and such certification is required of all students. (Education Code 221.51; 5 CCR 4950; 34 CFR 106.40)

CSBA NOTE: Items #1-7 below are optional and may be revised to reflect district practice.

To the extent feasible, the district shall provide educational and related support services, either directly or in collaboration with community agencies and organizations, to meet the needs of pregnant and parenting students and their children. Such services may include, but are not limited to:

CSBA NOTE: The district may choose to offer child care and development services as an incentive to encourage the school attendance of parenting students, as provided in Item #1 below. For more information about child care and development services, see BP/AR 5148 - Child Care and Development.

1. Child care and development services for the children of parenting students on or near school site(s) during the school day and during school-sponsored activities
2. Parenting education and life skills instruction

CSBA NOTE: The federal Women, Infants, and Children grant program (42 USC 1786; 7 CFR 246.1-246.28) provides funding that may be used for special school nutrition supplements for low-income pregnant and lactating students as provided in Item #3 below; see the U.S. Department of Agriculture's website. Education Code 49553 specifies nutritional standards for these special school nutrition supplements.

3. Special school nutrition supplements for pregnant and lactating students pursuant to Education Code 49553, 42 USC 1786, and 7 CFR 246.1-246.28
4. Health care services, including prenatal care

CSBA NOTE: Health and Safety Code 104460 requires districts receiving Tobacco-Use Prevention Education funds to provide access to tobacco-use prevention and intervention services to pregnant and parenting students; see AR 5131.62 - Tobacco.

5. Tobacco, alcohol, and/or drug prevention and intervention services
6. Academic and personal counseling
7. Supplemental instruction to assist students in achieving grade-level academic standards and progressing toward graduation

As appropriate, teachers, administrators, and/or other personnel who work with pregnant and parenting students shall receive related professional development.

Absences

Pregnant or parenting students may be excused for absences for medical appointments and other purposes specified in BP/AR 5113 - Absences and Excuses.

CSBA NOTE: Education Code 48205 authorizes an excused absence without a note from a physician for a parenting student to care for a sick child. For more information regarding excused absences, see AR 5113 - Absences and Excuses.

A student shall be excused for absences to care for a sick child for whom the student is the custodial parent. A note from a physician shall not be required for such an absence. (Education Code 48205)

Parental Leave

CSBA NOTE: Education Code 46015 provides that a pregnant or parenting student is entitled to eight weeks of parental leave, or longer if deemed medically necessary by the student's physician. Pursuant to Education Code 46015, the student's failure to notify the school as required below does not abridge the student's rights. Additionally, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, requires the district to allow a student who is pregnant or who has related conditions to voluntarily take a leave of absence to cover, at a minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. If the district has a leave policy that

allows for a greater period of time than the medically necessary period, and the student qualifies for leave under such policy, the district is required to permit the student to take leave under that policy.

A student who is pregnant or parenting, or has a related condition, shall be entitled to parental leave in order to protect the health of the student and/or the infant, and to allow the student to care for and bond with the infant. The period of the leave shall be the greater of eight weeks, or the length of time deemed medically necessary by the student's healthcare provider, or, if the district has a leave policy for which the student qualifies, the amount of time provided for in such policy. Such leave may be taken before the birth of the student's infant if there is a medical necessity and after childbirth during the school year in which the birth takes place, inclusive of any mandatory summer instruction. (Education Code 46015; 34 CFR 106.40)

The student, if age 18 years or older, or the student's parent/guardian shall notify the school of the student's intent to take parental leave. (Education Code 46015)

No student shall be required to take all or part of the parental leave. (Education Code 46015; 34 CFR 106.40)

When a student takes parental leave, the attendance supervisor shall ensure that absences from the regular school program are excused until the student is able to return to the regular school program or an alternative education program. A student who is pregnant or parenting, or has related conditions, shall not be required to complete academic work or other school requirements during the period of the parental leave. (Education Code 46015)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, when a student returns to school after taking parental leave, the district is required to reinstate the student to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

Following the leave, a student who is pregnant or parenting, or has related conditions, may elect to return to the school and the course of study in which the student was enrolled before taking parental leave or to an alternative education option provided by the district. (Education Code 46015; 34 CFR 106.40)

Upon return to school, a pregnant or parenting student shall have opportunities to make up work missed during the leave, including, but not limited to, makeup work plans and reenrollment in courses. (Education Code 46015)

When necessary to complete high school graduation requirements, the student may remain enrolled in school for a fifth year of instruction, unless the Superintendent or designee makes a finding that the student is reasonably able to complete district graduation requirements in time to graduate by the end of the fourth year of high school. (Education Code 46015)

Accommodations

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, the district is required to provide reasonable accommodations for students who are pregnant or parenting, or have related conditions, as specified below. Additionally, pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, the school is required to provide any services to pregnant students that it provides to other students with temporary medical conditions, such as at-home instruction or tutoring for students who miss school because of such medical conditions.

When necessary, the district shall provide reasonable accommodations to enable a student who is pregnant or parenting, or with related conditions, to access the educational program. The district shall consult with the student when identifying potential modifications. Any modification accepted by the student shall be implemented. Any proposed modification that would fundamentally alter the nature of the district's education program or activity shall not be implemented. (34 CFR 106.40)

Reasonable modifications may include, but are not limited to: (34 CFR 106.40)

1. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
2. Intermittent absences to attend medical appointments
3. Access to online or homebound education
4. Changes in schedule or course sequence
5. Extensions of time for coursework and rescheduling of tests and examinations

6. Allowing a student to sit or stand, or carry or keep water nearby
7. Counseling
8. Changes in physical space or supplies, such as access to a larger desk or a footrest
9. Elevator access
10. Any other change to policies, practices, or procedures

A student who is pregnant or who has a related condition shall have access to any services available to other students with temporary medical conditions. (34 CFR 106.40)

CSBA NOTE: In addition to lactation accommodations required by state law, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, requires that a student who is lactating has access to a lactation space other than a bathroom, that is clean, shielded from view, and free from intrusion from others that may be used to express breast milk or breastfeed.

The school shall provide reasonable accommodations to any lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. A student shall not incur an academic penalty for using any of these reasonable accommodations, and shall be provided the opportunity to make up any work missed due to such use. Reasonable accommodations include, but are not limited to: (Education Code 222; 34 CFR 106.40)

1. Access to a private and secure room, other than a restroom, that is clean, shielded from view, and free from intrusion by others to express breast milk or breastfeed an infant child
2. Permission to bring onto a school campus a breast pump and any other equipment used to express breast milk
3. Access to a power source for a breast pump or any other equipment used to express breast milk
4. Access to a place to store expressed breast milk safely
5. A reasonable amount of time to accommodate the student's need to express breast milk or breastfeed an infant child

Complaints

CSBA NOTE: Since a student's current, potential, or past parental, family, or marital status is protected from discrimination pursuant to Title IX and its implementing regulations, as amended by 89 Fed. Reg. 33474, districts are required to follow Title IX grievance procedures when investigating and resolving a complaint based on alleged conduct that occurred on or after August 1, 2024. As such a complaint may also fall within Education Code 46015, which authorizes the use of the district's uniform complaint procedures (UCP) established pursuant to 5 CCR 4600-4670, it is unclear whether districts would additionally be required to follow the UCP. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Any complaint alleging discrimination on the basis of a student's current, potential, or past pregnancy, family, or marital status, district noncompliance with the requirements of Education Code 46015 or 34 CFR 106.40, or district noncompliance with the requirement to provide reasonable accommodations for lactating students, shall be investigated and resolved in accordance with the Title IX grievance procedures as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. (Education Code 222, 46015; 5 CCR 4600- 4670; 34 CFR 106.44, 106.45)

Program Evaluation

The Superintendent or designee shall periodically report to the Board regarding the effectiveness of district strategies to support current, potential, and past married, pregnant, and parenting students, which may include data on student participation in district programs and services, academic achievement, school attendance, graduation rate, and/or student feedback on district programs and services.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

22 CCR 101151-101239.2
 22 CCR 101351-101439.1
 5 CCR 4600-4670
 5 CCR 4950
 Civ. Code 51
 Ed. Code 221.51
 Ed. Code 222
 Ed. Code 222.5
 Ed. Code 230
 Ed. Code 46015
 Ed. Code 48050
 Ed. Code 48205
 Ed. Code 48206.3
 Ed. Code 48220
 Ed. Code 48410
 Ed. Code 48980
 Ed. Code 49553
 Ed. Code 51220.5
 Ed. Code 51745
 Ed. Code 52610.5
 Ed. Code 8200-8490
 Fam. Code 7002
 H&S Code 104460

Federal References

20 USC 1681-1688
 34 CFR 106.1-106.82
 34 CFR 106.40
 42 USC 1786
 7 CFR 246.1-246.28

Management Resources References

Attorney General Opinion
 California Women's Law Center Publication
 California Women's Law Center Publication
 Court Decision
 Federal Register
 U.S. Department of Education Publication
 Website

Description

General requirements; licensed child care centers
 Infant care centers
 Uniform complaint procedures
 Nondiscrimination; marital and parental status
[Unruh Civil Rights Act](#)
[Nondiscrimination; married, pregnant, and parenting students](#)
[Reasonable accommodations; lactating students](#)
[Pregnant and parenting students; notification of rights](#)
[Sex discrimination](#)
[Parental leave](#)
[Residents of adjoining states](#)
[Excused absences](#)
[Temporary disability; definition](#)
[Compulsory education requirement](#)
[Persons exempted from continuation classes](#)
[Parent/Guardian notifications](#)
[Nutrition supplements for pregnant/lactating students](#)
[Parenting skills and education](#)
[Independent study](#)
[Enrollment of pregnant and parenting students in adult education](#)
[Child Care and Development Services Act](#)
[Description of emancipated minor](#)
[Tobacco prevention services for pregnant and parenting students](#)

Description

Title IX of the Education Amendments of 1972; discrimination based on sex
 Discrimination on the basis of sex; effectuating Title IX
 Marital or parental status
 Special supplemental nutrition program for women, infants, and children
 Special supplemental nutrition program for women, infants, and children

Description

87 Ops.Cal.Atty.Gen. 168 (2004)
[Pregnant Students and Confidential Medical Services, 2013](#)
[The Civil Rights of Pregnant and Parenting Teens in California Schools, 2002](#)
 American Academy of Pediatrics et al v. Lungren et al (1997) 16 Cal.4th 307
[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)
[Supporting the Academic Success of Pregnant and Parenting Students under Title IX of the Education Amendments of 1972, rev. June 2013](#)
[CSBA District and County Office of Education Legal Services](#)

Management Resources References

Website	California Women's Law Center
Website	U.S. Department of Agriculture, Women, Infants, and Children Program
Website	U.S. Department of Education
Website	California Department of Education

Cross References

	Description
0410	Nondiscrimination In District Programs And Activities
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
4119.11	Sex Discrimination and Sex-Based Harassment
4119.11	Sex Discrimination and Sex-Based Harassment
4131	Staff Development
4219.11	Sex Discrimination and Sex-Based Harassment
4219.11	Sex Discrimination and Sex-Based Harassment
4319.11	Sex Discrimination and Sex-Based Harassment
4319.11	Sex Discrimination and Sex-Based Harassment
5030	Student Wellness
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5141.25	Availability Of Condoms
5141.6	School Health Services
5141.6	School Health Services
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications

Cross References

5145.7

5145.7

5145.71

5145.71-E(1)

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Description[Sex Discrimination and Sex-Based Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Dropout Prevention](#)[Child Care And Development](#)[Child Care And Development](#)[Sexual Health And HIV/AIDS Prevention Instruction](#)[Sexual Health And HIV/AIDS Prevention Instruction](#)[Comprehensive Health Education](#)[Comprehensive Health Education](#)[Courses Of Study](#)[Courses Of Study](#)[Independent Study](#)[Independent Study](#)[Student Success Teams](#)[Student Success Teams](#)[Continuation Education](#)[Continuation Education](#)