

BOARD POLICY 5146: MARRIED/PREGNANT/PARENTING STUDENTS

Comparison Matrix

Section: Students

SUMMARY OF UPDATE

Summary of Update: Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) provide that a student's current, potential, or past pregnancy, childbirth, termination of pregnancy or lactation, and related medical conditions and recovery, as well as a student's current, potential, or past parental, family, or marital status are protected from discrimination pursuant to Title IX and its implementing regulations, (2) require an employee, 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, 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, (3) require the district to provide the district's notice of nondiscrimination on the basis of sex and take specified actions once notified of a student's pregnancy or related conditions, (4) prohibit the district 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 (a) necessary for participation in the class, program, or extracurricular activity, (b) the district requires such certification of all participating students, and (c) the information obtained is not used as a basis for sex discrimination, (5) require 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, and, 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, to permit the student to take leave under that policy, (6) require the district to reinstate a student who has returned to school after taking parental leave to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began, (7) require the district to provide reasonable accommodations for students who are pregnant or parenting, or have related conditions, as specified, (8) require the district to provide a student who is lactating with access to a lactation space, as specified, and (9) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct.

CURRENT VERSION			REVISED VERSION	CSBA MODIFICATIONS and/or NOTES	
PARA	Section	Sub-Section	December 8, 2020		July 2024
1			The Governing Board recognizes that responsibilities related to marriage, pregnancy, or parenting and related responsibilities may disrupt a student's education and increase the chance of a student dropping out of school. The Board therefore desires to support married, pregnant, and parenting students to continue	The Governing Board recognizes that responsibilities <i>pertaining</i> to marriage, pregnancy, or parenting, including related <i>obligations, medical conditions, or recovery</i> , may disrupt a student's education and increase the chance of a student dropping out of school. The Board desires to <i>minimize interruption to such students' educational</i>	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

		their education, attain strong academic and parenting skills, and promote the healthy development of their children.	<i>progress by supporting</i> married, pregnant, and parenting students <i>in their continued</i> education, <i>assisting them to</i> attain strong academic and parenting skills, and promoting the healthy development of their child <i>(ren)</i> .	dependent. See AR 5112.1 - Exemptions from Attendance.
2		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 pregnancy, childbirth, false pregnancy, termination of pregnancy, or related recovery. In addition, the district shall not adopt any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex.	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 <i>current, potential, or past</i> pregnancy, childbirth, false pregnancy, termination of pregnancy, <i>lactation</i> , or related <i>medical conditions or</i> recovery. In addition, the district shall not adopt any rule concerning a student's actual, potential, <i>or past</i> parental, family, or marital status that <i>discriminates against and/or</i> treats a student differently on the basis of sex.	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.
3		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 to them under the law through annual school year welcome packets and through independent study packets.	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.	CSBA NOTE: Education Code 222.5 requires the following annual notifications.
			<i>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</i>	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

			<p><i>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.</i></p>	<p>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.</p>
			<p><i>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:</i></p>	<p>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.</p>
			<p><i>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</i></p>	
			<p><i>1. (2) 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</i></p>	

				<i>students who are not pregnant and do not have related conditions.</i>	
				<i>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</i>	
				<i>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</i>	
4			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 old, even if the marriage has been dissolved.	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 <i>or older</i> , even if the marriage has been dissolved.	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).

		<u>Education and Support Services for Pregnant and Parenting Students</u>	No change	
1		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.	No change	
2		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.	No change	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.
3		If required for students with any other temporary disabling condition, the Superintendent or designee may require a student, based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or related recovery, to obtain certification from a physician or nurse practitioner indicating that the student is physically and emotionally able to continue participation in the regular education program or activity.	<i>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.</i>	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

				<p>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.</p>
4		<p>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:</p>	<p>No change</p>	<p>CSBA NOTE: Items #1-7 below are optional and may be revised to reflect district practice.</p>

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	No change	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.
2	Parenting education and life skills instruction	No change	
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	No change	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.
4	Health care services, including prenatal care	No change	
5	Tobacco, alcohol, and/or drug prevention and intervention services	No change	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.
6	Academic and personal counseling	No change	
7	Supplemental instruction to assist students in achieving grade-level academic standards and progressing toward graduation	No change	
8	As appropriate, teachers, administrators, and/or other personnel who work with pregnant and parenting students shall receive related professional development.	No change	
	Absences	No change	
1	Pregnant or parenting students may be excused for absences for medical	No change	

		appointments and other purposes specified in BP/AR 5113 - Absences and Excuses.		
2		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.	No change	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.
		Parental Leave	No change	
1		A pregnant or parenting student shall be entitled to eight weeks of parental leave in order to protect the health of the student who gives or expects to give birth and the infant, and to allow the pregnant or parenting student to care for and bond with the infant. 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. The Superintendent or designee may grant parental leave beyond eight weeks if deemed medically necessary by the student's physician.	A <i>student who is pregnant or parenting, or has a related condition</i> , shall be entitled to parental leave in order to protect the health of the student <i>and/or</i> the infant, and to allow the student to care for and bond with the infant. <i>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.</i> 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.	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.
2		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. No student shall be required to take all or part of the parental leave.	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.	
			<i>No student shall be required to take all or part of the parental leave.</i>	

3		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 pregnant or parenting student shall not be required to complete academic work or other school requirements during the period of the parental leave.	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 <i>student who is</i> pregnant or parenting, <i>or has related conditions</i> , shall not be required to complete academic work or other school requirements during the period of the parental leave.	
4		Following the leave, a pregnant or parenting student 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.	Following the leave, a <i>student who is</i> pregnant or parenting, <i>or has related conditions</i> , 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.	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.
5		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.	No change	
6		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.	No change	
		<u>Accommodations</u>	No change	
1		When necessary, the district shall provide accommodations to enable a pregnant or parenting student to access the educational program.	When necessary, the district shall provide <i>reasonable</i> accommodations to enable a <i>student who is</i> pregnant or parenting, <i>or with related conditions</i> , to access the educational program. <i>The district shall consult with the</i>	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

				<i>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.</i>	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.
				<i>Reasonable modifications may include, but are not limited to:</i>	
				<i>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</i>	
				<i>2. Intermittent absences to attend medical appointments</i>	
				<i>3. Access to online or homebound education</i>	
				<i>4. Changes in schedule or course sequence</i>	
				<i>5. Extensions of time for coursework and rescheduling of tests and examinations</i>	
				<i>6. Allowing a student to sit or stand, or carry or keep water nearby</i>	
				<i>7. Counseling</i>	
				<i>8. Changes in physical space or supplies, such as access to a larger desk or a footrest</i>	
				<i>9. Elevator access</i>	
				<i>10. Any other change to policies, practices, or procedures</i>	
2			A pregnant student shall have access to any services available to other students with temporary disabilities or medical conditions.	A student <i>who is pregnant or who has a related condition</i> shall have access to any services available to other students with temporary medical conditions.	

3		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:	No change	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.
	1	Access to a private and secure room, other than a restroom, to express breast milk or breastfeed an infant child	Access to a private and secure room, other than a restroom, <i>that is clean, shielded from view, and free from intrusion by others</i> 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	No change	
	3	Access to a power source for a breast pump or any other equipment used to express breast milk	No change	
	4	Access to a place to store expressed breast milk safely	No change	
	5	A reasonable amount of time to accommodate the student's need to express breast milk or breastfeed an infant child	No change	
		<u>Complaints</u>	No change	
1		Any complaint alleging discrimination on the basis of pregnancy or marital or parental status, district noncompliance with the requirements of Education Code 46015, or district noncompliance with the requirement to provide reasonable accommodations for lactating students shall be addressed through the district's uniform complaint procedures in	Any complaint alleging discrimination on the basis of <i>a student's current, potential, or past pregnancy, family, or marital status</i> , district noncompliance with the requirements of Education Code 46015 <i>or 34 CFR 106.40</i> , or district noncompliance with the requirement to provide reasonable accommodations for lactating students, shall be <i>investigated and</i>	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

		<p>accordance with 5 CCR 4600-4670 and BP/AR 1312.3—Uniform Complaint Procedures. A complainant who is not satisfied with the district's decision may appeal the decision to the California Department of Education (CDE). If the district or CDE finds merit in an appeal, the district shall provide a remedy to the affected student.</p>	<p><i>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.</i></p>	<p>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.</p>
		<u>Program Evaluation</u>	No change	
1		<p>The Superintendent or designee shall periodically report to the Board regarding the effectiveness of district strategies to support 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.</p>	<p>The Superintendent or designee shall periodically report to the Board regarding the effectiveness of district strategies to support <i>current, potential, and past</i> 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.</p>	

Created: 8/6/24