

MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20101

95

DATE APR 16 1982

TO : Regional Civil Rights Directors
Regions I-X

THROUGH: Michael A. Middleton
Deputy Assistant Secretary
for Civil Rights

FROM : Antonio J. Califa
Director for Litigation, Enforcement
and Policy Service

SUBJECT: Non Responsive

Non Responsive

²The Title IX regulation covering admission does not apply to private undergraduate institutions or any institution that has "traditionally and continuously. . . had a policy of admitting students of one sex," but does cover public undergraduate and graduate, vocational, private graduate, and religiously controlled institutions (unless compliance with Title IX with respect to admissions would be inconsistent with a specific religious tenet of the controlling organization) that receive Federal financial assistance. (See Sections 106.15(d)(e) and 106.12(a)(b).)

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MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20301

TO: Regional Civil Rights Directors
Regions I-X

DATE: Feb. 26, 1982

THROUGH: Michael A. Middleton
Deputy Assistant Secretary
for Civil Rights

FROM: Antonio J. Califa
Director for Litigation, Enforcement
and Policy Service

SUBJECT:

Non Responsive

Non Responsive

The statutory exemption for educational institutions controlled by religious organizations is set forth, at Section 106.12(a) of

Non Responsive

the regulation, and section 106.12(b) establishes the procedure by which such institutions may claim such an exemption. If you contact an institution which claims a religious exemption, you should immediately contact the Postsecondary Education Division in headquarters to determine whether the institution has applied for and received such an exemption.

Non Responsive



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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 13 1988

Honorable Rudy Boschwitz
United States Senate
Washington, D.C. 20510

Dear Senator Boschwitz:

On July 29, 1988, the Department of Justice referred your inquiry concerning the Civil Rights Restoration Act (CRRA) to this office for reply. With your letter, you supplied communications from four of your constituents, raising questions about the scope of the CRRA.

The Office for Civil Rights (OCR) in the Department of Education (ED) enforces Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1973 (Section 504), Title IX of the Education Amendments of 1972 (Title IX), and the Age Discrimination Act of 1975 (ADA), which prohibit discrimination on the basis of race, color, national origin, handicap, sex, and age by recipients of funds from this Department. The Civil Rights Restoration Act, Pub.L. No. 100-259, 102 Stat. 28 (1988), amended those four statutes.

Your constituents have asked about the civil rights implications in many situations which they have described very briefly. Insofar as possible with such limited facts, I shall give a direct answer to each question. However, this letter cannot provide a determination of jurisdiction over any particular institution. Such a determination must be made on the basis of all of the facts in a case.

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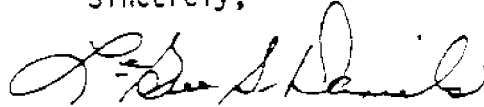
His sixth example was a "traditional theological church in which teachings hold that women are not to teach or minister to men." The example did not specify what Federal financial assistance was received. Your constituent can be informed, however, that Title IX and the CRRA (Section 3) explicitly exempt from requirements regarding discrimination on the basis of sex "any operation of an entity which is controlled by a religious organization if the application of [the Act] to such operation would not be consistent with the religious tenets of such organization." In accordance with the ED regulation implementing Title IX, OCR has provided exemptions to all religious educational institutions that have requested exemption for the specific purpose described by your constituent.

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I hope that this provides you with sufficient information to assist you in responding to your constituents.

Sincerely,

A handwritten signature in cursive script, appearing to read "LeGree S. Daniels".

LeGree S. Daniels
Assistant Secretary
for Civil Rights



U.S. Department of Justice

Civil Rights Division

JRB:ND:APS
DJ 169-017-39

Educational Opportunities Section
P O Box 65958
Washington, D.C. 20035-5958

JUL 29 1988

Alicia Coro
Acting Assistant Secretary
Office for Civil Rights
Department of Education
Switzer Building
Washington, DC 20202

Dear Mrs. Coro:

Enclosed is a copy of correspondence referred to the Justice Department by Senator Rudy Boshwitz. The letters contain questions about the coverage and application of the Civil Rights Restoration Act of 1987. Any information you may be able to provide to assist Senator Boshwitz in responding to his constituents will be greatly appreciated.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: *Adela P. Santos*

Adela P. Santos
Attorney
Educational Opportunities
Litigation Section

Enclosure

United States Senate

Respectfully referred to:

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Congressional Liason Office
U.S. Department of Justice
Main Justice Building, Room 1603
Pennsylvania and Constitution Avenues N.W.
Washington, D.C. 20530

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with return of the enclosure will be appreciated by

Sen. Rudy Boschwitz

U.S.S.

Attn: Anne McComb

Form #2

March 25, 1988

Senator Rudy Boschwitz
United States Senate
Washington, D.C. 20510

Dear Senator Boschwitz:

Could you please clarify some questions I have concerning the recently passed "Grove City" bill, the Civil Rights Restoration Act.

Under this law, could affirmative action specifically, or other civil rights requirements be enforced in any or all of these situations?

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A traditional theological church in which teachings hold that women are not to teach or minister to men?

Non Responsive

Thank you for your prompt response.

Sincerely,



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

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NOV 13 1990

William J. Reedy, Esquire
Legal Counsel
State of Vermont
Department of Education
Montpelier, Vermont 05602-2703

Dear Mr. Reedy:

The Office of Special Education Programs (OSEP) in the Department of Education recently referred your letter to them dated November 20, 1989, to this office. Your letter sought clarification of requirements of Part B of the Education of the Handicapped Act (EHA-B) as applied to private schools in which children with disabilities are placed or referred by public agencies.

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In the case of a private school that is a recipient of Federal financial assistance, the Federal civil rights statutes and the Department's implementing regulations are directly applicable. However, both Title IX and the Section 504 regulation place some limitations on the extent to which private schools must comply with these laws and regulations. For example, Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would not be consistent with the religious tenets of such an organization.

Non Responsive

Page 3 - William J. Reedy, Esq.

I hope that this information is useful to you. Should you have further questions, please feel free to contact this office or OCR's Boston Regional Office.

Sincerely,



Richard D. Komer
Deputy Assistant Secretary
for Policy
Office for Civil Rights

cc: Judy A. Schrag, Director, Office of Special Education
Thomas J. Hibino, Acting Regional Civil Rights Director, Region I

**TEENAGE PREGNANCY AND
PARENTHOOD ISSUES UNDER
TITLE IX OF THE EDUCATION
AMENDMENTS OF 1972**

**U.S. Department of Education
Office for Civil Rights
Washington, D.C. 20202-1328**

July 1991

INTRODUCTION

The U.S. Department of Education (ED), Office for Civil Rights (OCR), is responsible for enforcing several laws prohibiting discrimination in federally assisted education programs or activities. These laws include Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex. Title IX extends to instructional programs, as well as to other benefits and services offered by school systems in receipt of federal financial assistance.

*On April 18, 1991, the President announced **AMERICA 2000: An Education Strategy**. It is a bold, complex, and long-range plan designed to move every community toward the six national education goals that the President and the Governors adopted in 1990. Consistent with **AMERICA 2000**, the Office for Civil Rights has instituted a National Enforcement Strategy designed to help protect equal educational opportunity for all students. Providing equal educational opportunity to pregnant students is one of OCR's National Enforcement Strategies. The goals enumerated in **AMERICA 2000**,*

and the National Enforcement Strategy, will help in our nationwide crusade -- community by community, school by school -- to make America all that it should be.

*This pamphlet has been prepared for elementary and secondary school administrators, teachers, counselors, parents, and students. It describes school retention problems associated with teenage pregnancy and parenthood and the requirements pertaining to these issues contained in the ED regulation implementing Title IX. The pamphlet also includes information on approaches and programs that schools have developed to address the educational needs of students who become pregnant, married, or have children. These approaches and programs, however, are **not** legal requirements under Title IX.*

IMPACT OF PREGNANCY AND PARENTHOOD ON THE DROPOUT RATE

Marrying, becoming pregnant, or having a child while in high school are factors that are strongly linked to dropping out

of school. A major ED study, "Dropout Rates in the United States: 1988," cites only two behavioral factors significantly associated with dropping out of school: marriage and/or pregnancy; and, to a lesser degree, a history of discipline problems in school or problems with law enforcement officials.

Pregnancy is the leading reason for females to drop out of high school. Every year nearly 500,000 teens give birth. Almost half of the unmarried teens who have a child before age 18 will never complete high school. Nationally, the overall dropout rate is 17.3 percent. Forty-three percent of the females who drop out do so because of pregnancy, parenthood, or marriage. The problem is not limited to racial or ethnic minorities; in fact, 58 percent of pregnant teens are white.

The economic prospects for these dropouts are gloomy. Teenagers who become mothers double their risk of ending up on welfare. Although teenagers who drop out of school for reasons other than pregnancy, parenthood, or marriage often return, both male and female students who drop out because of these factors are less likely

to complete high school. Additionally, only 2 percent of teenage mothers enter college.

Few students will need a quality education more than these pregnant and parenting teens. Their future rests squarely on their young and inexperienced shoulders -- on their ability to grab hold of the opportunities available to people who opt for hardwork, discipline, and self-control. Pregnant and parenting teens need not confront their future all alone.

Before the passage of Title IX, students who married, became pregnant, or had children were often treated punitively and sometimes dismissed from school. Today, Title IX prohibits discrimination based on sex in the application of any rule concerning student pregnancy, parenthood, or marital status. Encouraging students who become pregnant or who marry to stay in school will have a positive impact on their lives, their spouses' lives, and their children's lives. The nation as a whole also will benefit from having a generation of young adults who are better educated and more economically self-sufficient.

TITLE IX REQUIREMENTS REGARDING TEENAGE PREGNANCY AND PARENTHOOD

Title IX provides that:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.**

**Educational institutions which are controlled by a religious organization may be exempt from Title IX. The Title IX statute states: "This section does not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such an organization." For application of this provision to a specific institution, please contact the appropriate regional office cited at the end of this brochure.*

The ED regulation implementing Title IX specifically prohibits discrimination against a student based on her pregnancy or childbirth. In addition, the regulation prohibits a school from applying any rule concerning a student's parental, family, or marital status which treats students differently on the basis of sex. Schools may not bar pregnant students from **any** part of their education program, including specific classes such as an honors class or program, or from any of the extracurricular programs, such as interscholastic sports or the debate team. Students cannot be expelled from school because of pregnancy. Schools may implement special instructional programs or classes for these students, but they must be offered on a voluntary basis and be comparable to regular classes. Additionally, when a student returns to school after giving birth, she must be allowed to return to the same academic and extracurricular status as before.

Male and female students who may require medical certification for participation in certain activities must be treated equally. A student who is pregnant or has given birth may be required to submit medical certification for school participation **only** if this type of

certification is required for all students who have been under the care of a doctor. A student who has been hospitalized due to childbirth, for example, should not be required to submit a medical certificate for re-entry to school if a certificate is not required of a student who has been hospitalized for other types of medical treatment.

If special programs or special schools exist for students who are pregnant or who have children, schools may not require these students to enroll in or transfer to these programs. **Such coercion is illegal.**

Additionally, recipients that offer these special schools or programs must ensure that they provide educational quality and academic offerings similar to those in the regular program.

APPROACHES FOR ADDRESSING THE EDUCATIONAL PROBLEMS OF TEENAGE PREGNANCY AND PARENTING

Educators are increasingly concerned about the needs of pregnant and parenting students in our schools. Administrators, teachers, and school counselors are seeking ways of

*providing the best opportunity for these students to continue their education and maintain their academic progress. Schools can provide leadership in coordinating the provision of education, health care, and child care services needed by pregnant and parenting students, as well as leadership in combating the myths surrounding teen pregnancy and parenting. Listed below are approaches used by some elementary and secondary schools to deal with the educational issues associated with teen pregnancy, marriage and parenting while complying with Title IX. These approaches are **not** legally mandated by Title IX or the ED regulation.*

Administrators:

- o *Encourage the superintendent's office and the school board to acknowledge the problem of teenage pregnancy and to do what is necessary to help pregnant and parenting students maximize their education.*
- o *Follow-up to determine the reason behind each student's decision to leave school before*

graduation. Collect and analyze this information to see the impact of marriage, pregnancy, or parenthood on your district's dropout rate.

- o *Consider administering a voluntary survey to parenting, pregnant, or married students to determine ways the school district could help them stay in school.*
- o *Encourage school boards to set policy that clarifies the intention of the schools to be responsive to the needs of pregnant, married, or parenting students.*
- o *Prepare guidance materials to assist teachers, school nurses, and counselors in responding to these students' needs so that they might stay in school.*
- o *Have the school district's attorney provide advice on any prevailing local or state law related to the provision of equal services based on sex, pregnancy, parenting or marital status.*

Teachers:

- o *Phone pregnant students who have dropped out of school to encourage them to return.*
- o *Encourage administrators to develop policy expressing a commitment to equal treatment of all students, regardless of their pregnancy, parenting, or marital status.*
- o *Request in-service workshops or speakers who can share information on the issue.*
- o *Inform school counselors of a pregnancy so they can encourage the student to remain in school.*
- o *Conduct followup counseling with pregnant students after they drop out of school if you provide counseling for students who drop out for other reasons.*
- o *Encourage the establishment of school policies and programs for pregnant and parenting teenagers. Counselors may take a leadership role in determining the nature of the policies and programs needed.*
- o *Set up support groups to help pregnant, parenting, or married students to stay in school.*
- o *Advise librarians, teachers, pregnant, and parenting students of books and materials that may be useful.*

Counselors:

- o *Anticipate the tendency to drop out of school and advise pregnant and parenting teenagers of the importance of staying in school. Let them know of any existing school assistance which may be available to them.*
- o *With the permission of the students, advise their parents of the availability of programs and services to keep the students in school and to maintain their educational progress regardless of pregnancy, marital status, or parenthood.*

- o Provide information on the General Education Development certificate program to all students who drop out of school so that they might obtain this accreditation.

PROGRAMS FOR PREGNANT AND PARENTING STUDENTS

Some school districts have gone beyond preventing discrimination against teen parents and pregnant students by initiating programs to influence students to stay in school and acquire the skills needed for the responsibilities of a family. Schools can provide leadership in coordinating the provision of education, health care, and child care services needed by pregnant and parenting students. These programs can reduce the dropout rate, give comprehensive prenatal care, and improve the health of student mothers and their children.

Most of the programs described below are supplementary or noncurricular and are offered to pregnant, parenting, or married students in addition to regular academic coursework.

- o Prenatal Care Programs: Pregnant students may need to learn about nutrition, drug abuse, exercise, and caring for themselves while pregnant. Some schools have developed courses for credit, special classes during free periods, and prenatal care services after school. Prenatal care programs may include both pregnant students and their male partners, who can give invaluable support during pregnancy and after birth.
- o Parenting Skills Programs: These programs provide information and training in parenting skills and child development. The program includes courses in childbirth, child health, and infant stimulation. Some programs include school nurseries where students gain practical experience in diapering, feeding, and bathing infants. Life skills courses can also be included to teach teen parents (both male and female) how to organize their home lives so they can continue and complete school.

- o Day Care Programs: These programs help keep parenting students in school by offering infant and toddler day care. The programs also enhance child care and parenting skills.
- o Dropout Prevention Programs: These programs identify potential dropouts, contact them, and respond in ways that will encourage them to remain in or return to school.

To obtain additional assistance, see OCR's list of its ten regional offices, which contains the address and telephone number for the OCR office that serves your area.

ED/OCR92-4R

