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Re: Amendments to Chancellor's Regulation A-740 – Pregnant and Parenting Students and Reproductive Health Privacy

Dear Julia Busetti and Panel for Educational Policy Chair Vanessa Leung,

Girls for Gender Equity (GGE) thanks you for reopening Chancellor's Regulation A-740 and for the new commitment to gender neutral language and access to lactation spaces. GGE writes today with several requests, particularly that the regulation be further revised to better emphasize care, informed consent, collaboration, and the City's strong commitment to pregnant and parenting students.

In our experience attending to issues of school pushout, and as supported by focus-group-driven research,¹ we understand that many pregnant and parenting students encounter multiple preventable barriers to school engagement:

- An environment of discouragement, stigma related to pregnancy, bullying, outright hostility or discrimination, and indirect or direct pressure to leave school;
- Citations for lateness or absences that should have been excused as pregnancy related, including absence policies that feel uniquely punitive;
- Lack of a support system or presence of trusted and caring school staff;
- Lack of needed accommodations, ranging from the enforcement of unreasonable dress codes, refused or unreliable access to elevators, strict rules around bathroom access,

¹ Education Law Center. (2019, June). Clearing the Path: Creating School Success for Pregnant and Parenting Students and Their Children. See also, National Women's Law Center. (2017) Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting. Retrieved from, https://nwlrc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Final_nwlc_Gates_PregParenting.pdf.



limitations on cell phone usage related to communicating pregnancy-related needs, or requiring students to sit at desks that are too small or cause discomfort;

- Incomplete or unclear explanations of all available student options, including emphasis on pushing pregnant or parenting students into alternative schools or programs; and
- Subsequent experiences with negative feelings, such as feeling badly, feeling upset about how they were treated, and symptoms of depression and post-traumatic stress disorder.

It is essential that pregnant and parenting students not only have access to education, but also experience the needed supports to engage and feel welcome in school. To that end, we recommend the following revisions be made to the amended Chancellor's Regulation A-740:

- (1) Detail Reporting Pathways
- (2) Broaden "Reasons" for Missing Class and Clarify "Medical Absences"
- (3) Designate Responsibility for Communication to Student's Adult of Choice
- (4) Remove Subjective Reference to "Disruptive"
- (5) De-emphasize Top-down Decision Making
- (6) Revise Presumption of Staff Expertise
- (7) Include Language on Postpartum Care

Recommendation 1: Detail Reporting Pathways

- Text on page 2, item D, currently reads "Students who believe that they have been subject to discrimination or harassment due to their pregnancy may make a report to the principal or the principal's designee or file a complaint with the Office of Equal Opportunity & Diversity Management (OEO) by online complaint form available at..."

We request that the text be adjusted to include access to reporting to a school staff member of the student's choice. We also encourage mention of Chancellor's Regulation A-832 (Student-to-student discrimination, harassment, intimidation and/or bullying), and A-830 (Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination), as gender-based discrimination, harassment, intimidation and/or bullying includes, in the regulation's definition, "actual or perceived gender, pregnancy, or conditions related to pregnancy or childbirth." Both A-832 and A-830 offer more clear reporting pathways, and A-832 includes the school's Respect for All Liaisons as a resource to students.

Research, and supported by our experiences, finds that pregnant students often report feeling stigmatized, isolated, and bullied, and are more likely than their peers to report they had experienced harassment or sexual assault. In one study, girls who are pregnant or parenting (64%) were more likely than girls overall (32%) to report that not feeling safe at school was a



barrier to attending school.² Pregnant and parenting students ranked protection from bullying and harassment among the most important things that schools could do to help them.³

The revised regulation must explain that students cannot be discriminated against on the basis of pregnancy, actual or perceived parenting status, childbirth, or related recovery.

Recommendation 2: Broaden “Reasons” for Missing Class & Clarify “Medical Absences”

- Text on page 2, item III.A.2., currently reads “Schools should provide pregnant and parenting students with assignments, classwork, and additional support to ensure they keep up with class requirements if they are absent for medical reasons.”

We request that “medical reasons” be broadened to include preparation and planning, the receipt of services associated with pregnancy and parenting, and consideration of needs relating to public assistance accommodations. It is important to note that pregnant students may experience pregnancy-related nausea, exhaustion, and other physically challenging experiences that do not require a doctor’s visit but nevertheless make it hard to attend school. DOE policy must be that all pregnancy related absences are excused.

- Text on page 3, item B, currently reads, “Please refer to Chancellor’s Regulation A-210 for information regarding standards and procedures for attendance and documentation of medical absences.”

According to Chancellor’s Regulation A-210, school policy must define the kinds of absences that will be excused and those that will not be excused, and must identify the supporting documentation that must be collected and maintained. There is currently no mention of “medical absences” in Chancellor’s Regulation A-210. Further, it is often difficult to obtain documentation within the requisite time period to receive an excused absence, in addition to differing standards of accepted or qualifying documentation. We ask that the Department of Education provide clear guidance to schools that broadens the understanding of needed absences. As a result of the current policy, what constitutes an excused absence varies by school and by school staff member. We recommend the regulation specify that attendance rules can be applied with greater flexibility to pregnant and parenting students, including flexibility in needed documentation and additional time to obtain documentation.

² Education Law Center. (2019, June). *Op. Cit.*

³ National Women’s Law Center. (2017) Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting.



- Text on page 4, item 4., currently reads, “If a pregnant student has a medical reason to limit participation in the student’s regular school program, it is the responsibility of the student/ or the student’s parent to provide the school with appropriate documentation from the student’s medical provider.”

Here, we are concerned that the label of “medical provider” may be limiting for students utilizing nontraditional health services or alternative birth workers. The rigidity of this language also conveys a level of suspicion for student absences, whereas the student may be best able to make decisions about reasons for absences. We encourage the Regulation to consider a diversity of experiences, and delete “from the student’s medical provider.”

Recommendation 3: Designate Responsibility for Communication to Student’s Adult of Choice

- Text on page 2, item III.A.3., currently reads, “The principal may designate responsibility for providing this information to a guidance counselor, health education teacher, or other appropriately trained personnel.”

We request that designating “responsibility” be done in consultation with the student. A conversation around access to information about this regulation or pregnancy-related health care, childcare, and/or related services should be facilitated by a school staff member that the student trusts and feels safe with. According to a case study carried out by the National Women’s Law Center, girls who are pregnant or parenting (61%) were less likely than girls overall (81%) to say that they had someone in their school who cared about them and wanted them to succeed.⁴ Further, students described a shift in how their teachers responded to them once their pregnancy was known. This research demonstrates the importance of shared trust between pregnant and parenting students and the supporting school staff member.

We are also concerned by the lack of clarity around “appropriately trained” and the process by which schools are determining appropriateness, in addition to the guidance given to schools by DOE central. Especially when considering the impact of adultism on the schooling experience of young parents, it is important that school staff supporting young parents receive training that includes understanding stigma and discrimination. Ideally, all students, including pregnant and parenting students, would have access to school and mental health counselors and social workers that are full-time, school-based, and able to offer continual support in collaboration with the student.

⁴ National Women’s Law Center. (2017). *Op. Cit.*



Recommendation 4: Remove Subjective Reference to “Disruptive”

- Text on page 3, item 5., reads, “ Upon request, the principal or designee of the school shall make reasonable efforts to provide a lactation space on an as-needed basis for a student, parent, guardian, or other person in a parental or custodial relationship to the student who needs to express breast milk in the school, provided that instructional services will not be disrupted.”

The caveat, “Provided that instructional services will not be disrupted,” is unclear as written and may be perceived to mean a student will not be permitted to leave class or delay their arrival to class. A lactation space must be provided when the student needs it. We request additional clarity on the extent of “make reasonable efforts” and under what circumstances access to a lactation space would be denied. A breastfeeding student will need to be excused from class temporarily in order to express milk. The mention of “disruption” raises the question of *to whom*, as missed or delayed access to lactation spaces can cause discomfort or other consequences that make difficult a student’s ability to engage in class. We ask that the clause be deleted and the addition be made that students shall not incur an academic penalty for using lactation spaces and shall be provided the opportunity to make up any work missed due to use of appropriate lactation spaces.

Recommendation 5: De-emphasize Top-down Decision Making

- Text on page 4, line 3, reads “If the student ~~indicates that she is in need of~~ needs child care, the school shall provide the student with information about the Living for the Young Family through Education program.”

We ask that the section be revised to remove the presumption of need and/or want, to avoid centering independent adult decision making. We recommend: “If the student and school staff designee jointly find a need for child care.” Again, we are concerned that this regulation as written and revised does not center the young parent as also knowledgeable of their own needs or wants, and rather presumes that they should not be a part of decision making.

- This is also clear on page 5, section E., that includes “Where the student expressed safety or other significant concerns regarding parental notification, the principal must make a decision taking into consideration the individual circumstances and rights of the student.”

As written, this caveat is incomplete. We ask that the regulation specifically clarify the process by which a student can safely express their concerns, and the process for understanding and determining the weight or legitimacy of the student’s concern.



Recommendation 6: Revise Presumption of Staff Expertise

- Text on page 5, section F., reads “Nothing herein should preclude staff from encouraging students to seek appropriate medical and support services.”

We are concerned, given what we have raised regarding adultism and stigma faced by young parents and also power dynamics in school settings, that this section invites discrimination, harassment, intimidation, and bullying of young parents by school staff. There is also a subjectivity in the determination of “appropriateness,” which we also raised in reference to the utilization of alternative birth workers. In our experience, and as supported by relevant case studies, students who are pregnant or parenting often come under increased scrutiny by school staff and are held to an unreasonable standard.⁵ These pressures can have a tremendous negative effect on students. We would appreciate a commitment to communication that is non-coercive, that it is clear any services referrals are voluntary, and encouragement is collaborative and conveyed with care.

Recommendation 7: Include Language on Postpartum Care

Research has recognized the value of parenting leave on both the development of the child and wellbeing of the parent.⁶ For this reason, we encourage the district to clarify in the regulation a formal reintegration process and consideration of postpartum care that support students upon their return to school, especially as it may be true that students lack any connection with teachers or school in the time following giving birth.

There must be strategic collaboration among teachers, guidance counselors, and supportive school staff to ensure that parenting students returning to school understand their rights, are supported to be able to engage in school and plan for graduation, access the full range of educational services, and are able to make informed decisions. We ask that the regulation identify the opportunity for the development of a *Parent Academic Plan*, specifically designed to offer these supports.

⁵ National Women’s Law Center. (2017). *Op. Cit.*

⁶ Children Benefit When Parents Have Access to Paid Leave (collecting studies) National Partnership for Women and Families (March 2015) available at www.nationalpartnership.org/our-work/resources/workplace/paidleave/children-benefit-when-parents.pdf; Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program, Findings and Recommendations from the New Jersey Parenting Project. Suma Setty, Curtis Skinner and Renée Wilson-Simmons, National Center for Children in Poverty (March 2016) available at nccp.org/projects/paid_leave_publications.html.



Conclusion

Attention to Regulation A-740 presents a unique opportunity to engage in meaningful dialogue regarding the tactics to keep pregnant and parenting students supported and thriving in school. GGE looks forward to collaborating with the Panel and the DOE on next steps toward creating safe, affirming, and educational environments within all DOE schools.

Sincerely,

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