



November 12, 2020

Office of the Chair
New York City Commission on Human Rights
22 Reade Street
New York, New York 10007
Via Email
policy@cchr.nyc.gov

Re: Proposed Rules on Discrimination Based on Pregnancy, Childbirth, or Related Medical Conditions

Dear Chair and Commissioner Malalis and New York City Commission on Human Rights,

Girls for Gender Equity (GGE) is writing to comment on the proposed amendments to Title 47 of the Rules of the City of New York. Thank you for the concerted effort to clarify the scope of protections with respect to pregnancy, childbirth, and related medical conditions and sexual and reproductive health decisions in the New York City Human Rights Law. As a youth-serving organization, we are excited at the prospect of new, strong amendments particularly to support pregnant and parenting young people.

We write primarily with two recommendations:

- (1) Broaden examples of violations to address additional public accommodations scenarios; and
- (2) Broaden § 2-08 and the definition of “sexual or reproductive health decisions” to include the full scope of health decisions to include neutral language or the absence of seeking services.

Overview of Our Concerns

In 2015, GGE, in partnership with the National Women’s Law Center, held a listening session in New York City on the needs of young women of color. Participants identified “stigmatizing pregnant and parenting students” as one key issue, and during the session, one young person shared, “Once I became pregnant, my academic advisor stopped wanting to meet with me.”¹ As potential policy solutions, the focus group

¹ National Women’s Law Center & Girls for Gender Equity (2015). Listening Session on the Needs of Young Women of Color | New York City. Retrieved from

recommended that (a) sexual health education should not stigmatize teen parenthood and should resist devaluing the experience and accomplishments of those who either have or are young parents, and (b) training staff so that they don't discriminate against pregnant and parenting students.

In a later 2017 survey of 1,000 girls conducted by the National Women's Law Center, pregnant or parenting girls overwhelmingly reported feeling that other students, teachers, or administrators did not want them in their schools.² For these reasons, we are offering comments to ensure pregnant and parenting young people and students are included in cooperative dialogues around their accommodation needs. For example, pregnant and parenting young peoples' ability to comply with directives or service plans are often a decisive factor in whether they are able to continue their education.

Recommendation #1 – Broaden Scenarios of Example Violations

In our experience attending to issues of school pushout, and as supported by focus-group-driven research,³ 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, 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, 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

https://nwc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/05/NWLC_GirlsforGenderEquity_Report_Final.pdf

² National Women's Law Center. (2017). Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting. Retrieved from

https://nwc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Final_nwlc_Gates_PregParenting.pdf

³ 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://nwc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Final_nwlc_Gates_PregParenting.pdf.

- 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 public accommodations such as education, but also understand protections under Human Rights Law that intend to support their engagement in school. To that end, we recommend that example scenarios – “examples of violations” – be broadened to address discrimination in the school-setting.

We offer the above collection of anecdotes as a starting place. As another example, the New York City Department of Education Regulation of the Chancellor A-740: Pregnant and Parenting Students and Reproductive Health Privacy, was amended earlier this year, and now clarifies protections in access to lactation spaces: “Students needing to express breast milk should be excused from class for that purpose and provided with assignments, classwork, and additional support...” We see an “example violation” in this text, where staff at a public accommodation tells a person needing to express breast milk to use the restroom, even though providing a legally-mandated lactation room would not pose an undue hardship. We strongly encourage the Commission to include examples of unlawful discrimination in public accommodations in the finalized rule to be most inclusive of scenarios relevant to young people.

Recommendation #2 – Broaden § 2-08 and the Definition of “Sexual or Reproductive Health Decisions”

We are collectively grappling with patronizing ideas of what and what kinds of reproductive health care is appropriate. Given the power dynamics at play in adult interactions with young people and the risk of coercive referrals to health services, we are recommending that the definition of “sexual or reproductive health decisions” be less limiting for young people, including for young people utilizing nontraditional health services or 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.⁴ These pressures can have a tremendous negative effect on students. Broadening this definition would potentially protect against harassing communication or coercive referrals to services.

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

To this end, we recommend “sexual or reproductive health decisions” (page 3) refer not only to any decision to receive services, phrased in the affirmative, but also any decisions to not receive services.

We would then also recommend § 2-08 Prohibition on Discrimination Based on Sexual or Reproductive Health Decisions (page 11) include not only “because of their decision to receive services related to sexual or reproductive health,” phrased in the affirmative, but also any decision to not receive services.

Short of ensuring cultural competence and inclusive understandings of pregnancy and parenting across New York City, we make this recommendation to be more inclusive of a diversity of decision-making related to pregnancy, childhood, or related recovery or conditions.

Conclusion

Amendments to Title 47 and this public comment process present a unique opportunity to engage in meaningful citywide dialogue regarding how we keep pregnant and parenting young people supported and thriving. GGE looks forward to collaborating with the Commission on next steps toward creating safe and affirming environments in employment, housing, and public accommodations.

Again, thank you for this opportunity to engage in the process, and we look forward to the work ahead.

Sincerely,

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