

OFFICE OF THE ASSISTANT SECRETARY

June 25, 2007

Dear Colleague:

As we celebrate the 35th anniversary of *Title IX of the Education Amendments of 1972 (Title IX)*, 20 U.S.C. §§ 1681 *et seq.*, I want to remind you of the *Title IX* regulatory requirements specifically applicable to the nondiscriminatory treatment of pregnant students, so that you may ensure that your institution is in compliance. I am concerned over recent media reports regarding the current or past practice of some postsecondary education institutions to terminate scholarships of female athletes on the basis of pregnancy and the impact that this has on female athletic participation. Some reports also indicate that some female athletes are choosing to terminate their pregnancy for fear of losing their athletic scholarships.

As you know, the Office for Civil Rights (OCR) in the United States Department of Education is responsible for enforcing *Title IX* and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs or activities by recipients of federal financial assistance.

Specifically, the *Title IX* regulation at 34 C.F.R. § 106.40(a) prohibits recipients from applying “any rule concerning a student’s actual or potential parental, family or marital status which treats students differently on the basis of sex.” The regulation also states, in part, that:

[a] recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student’s pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient. 34 C.F.R. § 106.40(b)(1).

In addition, the *Title IX* regulation states that in providing financial assistance to any of its students, a recipient shall not “apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.” (See 34 C.F.R. § 106.37(a)(3)).

Although pregnant students may be required to obtain a physician’s certification of fitness to continue in the regular education program or activity, a recipient may do so only if it requires such a certification from all students for other physical or emotional conditions requiring the attention of a physician. (See 34 C.F.R. §106.40(b)(2)). In fact, the *Title IX* regulation instructs recipients to treat

pregnancy or childbirth in the same manner and under the same policies as any temporary disability. (*See* 34 C.F.R. § 106.40(b)(4)).

I want to reiterate that terminating or reducing financial assistance on the basis of pregnancy or a related condition is prohibited under *Title IX*. Subjecting only students of one sex to additional or different requirements, such as requiring female athletes to sign athletic contracts listing pregnancy as an infraction, or excluding students from participating in a recipient's program or activity, including extracurricular activities and athletics, on the basis of the student's pregnancy or a related condition is also prohibited under *Title IX*.

This letter is not intended to suggest that these or similar practices are currently ongoing at your institution. However, I want to ensure that institutions are aware of the federal civil rights requirements, and I urge you to evaluate whether your institution is in compliance.

I am committed to the vigorous enforcement of *Title IX* and to ensuring equal opportunities in education for all students. OCR remains willing to support you in your voluntary efforts to comply with *Title IX*. We provide technical assistance to recipients that request such assistance in voluntarily complying with the civil rights laws enforced by this office. If you need additional information about *Title IX*, have questions regarding the Department's policies, or seek guidance, please contact the OCR enforcement office that serves your state or territory for further assistance. The Department's Web site at <http://wdcrobcop1.ed.gov/CFAPPS/OCR/contactus.cfm> provides the addresses and telephone numbers for those offices.

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure all students are afforded the opportunity to participate and enjoy the benefits of this nation's education programs and activities.

Sincerely,

Stephanie J. Monroe

cc: Athletic Director
Title IX Coordinator