

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 616
Ways and Means

(Delegate Atterbeary, *et al.*)
Education, Health, and Environmental Affairs

Education - Pregnant and Parenting Students - Attendance Policy

This bill requires that a student's absence due to pregnancy or parenting needs is a lawful absence. Each local board of education must develop a written attendance policy for pregnant and parenting students that at least meets specified requirements, and must publish the policy on its website. In addition to home and hospital services, the school may allow the student to make up the work that the student missed in a time period that equals at least as many days that the student was absent. The student may choose one of the following alternatives to make up the missed work: retake a semester; participate in an online course credit recovery program; or allow the student six weeks to continue at the same pace and finish at a later date.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. Maryland State Department of Education operations and finances are not affected.

Local Effect: None. Local school systems currently have policies in place that allow for absences related to pregnancy and parenting and that provide alternatives for pregnant students to complete required schoolwork. Any changes to existing local school system practices and policies and posting the policies on school system websites as required by the bill can be done using existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The local board of education attendance policy must excuse all absences due to pregnancy- or parenting-related conditions, including absences for labor, delivery, recovery, and prenatal and postnatal medical appointments. The policy must also:

- provide at least 10 days of excused absences for a parenting student after the birth of the student's child;
- excuse parenting-related absences due to an illness or a medical appointment of the student's child, including up to four days of absences per school year for which the school may not require a note from a physician; and
- excuse any absence due to a legal appointment involving the pregnant or parenting student that is related to family law proceedings, including adoption, custody, and visitation.

Current Law: The Code of Maryland Regulations (COMAR) specifies the conditions that constitute a lawful absence from school. Among these conditions are:

- illness of the student – the principal or pupil personnel worker must require a physician's certificate from the parent or guardian of a student reported continuously absent for illness; and
- other emergency or set of circumstances that, in the judgment of the superintendent or designee, constitute a good and sufficient cause for absence from school.

A pregnant student is eligible to be on home and hospital services. COMAR establishes a minimum requirement for the provision of these instructional services to public school students who are unable to participate in their school of enrollment due to a physical or emotional condition.

Under COMAR a local school system is responsible for providing appropriate school programs for all students including pregnant girls, married or unmarried. These programs must include provisions for counseling, pupil personnel work, social work, and psychological services as needed. A girl, 16 years old or older, who is pregnant and who has not completed her high school education may elect to remain in the regular school program. The decision to modify this program or provide an appropriate alternative educational program must be reached in joint consultation with the girl and appropriate educational and medical personnel. Also, a girl who is pregnant and who is under

compulsory school age may voluntarily withdraw from the regular school program provided that she enrolls in an appropriate educational program.

Title IX of Education Amendments of 1972

Under federal law – Title IX of the Education Amendments of 1972 – discrimination on the basis of sex in educational programs and activities is prohibited for all schools receiving federal funding. Federal regulations implementing Title IX prohibit discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions and prohibit a school from applying any rule related to a student’s parental, family, or marital status that treats students differently based on their sex.

Schools may not exclude a pregnant student from participating in any part of an educational program. Schools may implement special instructional programs or classes for a pregnant student; participation must be completely voluntary on the part of the student, and the programs and classes must be comparable to those offered to other students.

Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student. If a school provides special services, such as homebound instruction or tutoring, for students who miss school because they have a temporary medical condition, it must do the same for a student who misses school because of pregnancy or childbirth.

A school must excuse a student’s absences because of pregnancy or childbirth for as long as the student’s doctor deems the absences medically necessary. A school may require a pregnant student or student who has given birth to submit medical certification for school participation only if the school also requires such certification from all students with physical or emotional conditions requiring the attention of a physician. When a student returns to school, she must be allowed to return to the same academic and extracurricular status as before her medical leave began.

Background: Carroll County Public Schools (CCPS) advises that the bill would cover approximately 10 of its students per year, and that it currently excuses absences due to pregnancy-related issues and could, for a parenting student who is absent due to his/her child’s illness, code the absence as an other emergency or circumstance, consistent with COMAR. CCPS further advises that students presently are allowed time to make up work, and that an online credit recovery program is available to students.

St. Mary’s County Public Schools (SMCPS) advises that each year approximately 25 of its students are pregnant, that pregnant and parenting students have equal access to schools and activities, and that all separate programs are completely voluntary. SMCPS excuses

absences due to pregnancy and childbirth for as long as it is deemed medically necessary. Parenting and/or pregnant students are provided with the opportunity to progress with their education through home/hospital, school-based child care programs, and online credit opportunities. The individual needs of the students are evaluated to determine the best course of action in order to encourage the students to complete their education.

Additional Information

Prior Introductions: None.

Cross File: SB 232 (Senator Manno, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Carroll, Montgomery, and St. Mary's counties; Maryland State Department of Education; U.S. Department of Education; Department of Legislative Services

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