

Choose life or scholarship: The pregnant athlete dilemma

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This past year pregnant student-athletes have become headline news. On September 18, 2007 Teri Rhodes, an 18-year-old freshman volleyball player at Mercyhurst University was charged with murdering her newborn daughter after delivering her in the shower of a dormitory bathroom. In the spring of 2007, seven female Clemson student athletes announced that they had terminated their pregnancies primarily because they were afraid of losing their scholarships. Connie Neal, a basketball player at the University of Louisville concealed her pregnancy and continued to play until early contractions after a three hour practice at the end of her eighth month sent her to the hospital. These are just a few examples of female student athletes who, at one time, had one thing in common: fear. This fear might have been alleviated if the student-athletes had understood their rights under the law.

Some colleges and universities have contributed to that fear by forcing female athletes to relinquish their scholarships. The women's track coach at Clemson University gave student-athletes a policy that threatened a "modification of your grant-in-aid money" if she became pregnant (Ertelt, 2007). Track athletes at the University of Memphis were forced to sign a document stating that they would lose their scholarships if they become pregnant (AP, 2007). Sarah Brady sued Sacred Heart University for taking away her scholarship at the end of the 2001-02 basketball season when it was discovered she was pregnant (Casavant, 2003).

Pregnancy is central to the legal discourse regarding women's equality: it is truly the ultimate undeniable biological difference between men and women. Pregnancy is also an area where race and class intersect, with society in general disapproving of young, unmarried women bearing children. For a college student, pregnancy is likely to be unplanned and creates a variety of stresses: deciding whether to carry or abort, telling the father, telling parents, medical bills, living arrangements, etc. Pregnant students that drop out of school are less likely to return and are more likely to be unemployed and dependent on public support. Women without a college degree have more limited future employment opportunities at positions that pay significantly less than those of their male counterparts. Education plays a critical role in promoting economic security for women and their families. Educating pregnant student-athletes about their rights is essential.

The NCAA is a voluntary membership organization that operates under a principle of institutional autonomy. Unless there is an NCAA or athletics conference rule on an issue, the institution has discretion in handling the situation. The NCAA does not have a specific policy protecting pregnant athletes' scholarships, and member institutions have varied in how they treat athlete pregnancy. In response to the negative media portrayal, the NCAA Committee on Women's Athletics suggested that the Division I Academics/Eligibility/Compliance cabinet sponsor emergency legislation to amend the NCAA bylaws to establish a uniform practice for college athletics departments.

However, the NCAA is not the only authority with power to regulate this situation. In the summer of 2007, the Office of Civil Rights (OCR) sent a letter to all educational institutions receiving federal funding which clarified the pregnancy regulation under Title IX of the Education Amendments of 1972. Essentially, Title IX provides a strong legal guarantee to all pregnant students at educational institutions that receive federal funding that they will not be discriminated against because of pregnancy. Practically applied to college athletics programs, Title IX prohibits coaches from revoking a pregnant student-athlete's scholarship during the current year. As scholarships are renewed on a yearly basis under NCAA legislation, the protection provided by Title IX loses power when the year ends. Similarly, athletes that voluntarily withdraw from the team or from school in order to manage pregnancy, deliver, or care for a newborn will lose their scholarship, as Title IX only provides protection for current students. However, the Equal Protection Clause of the fourteenth amendment provides legal protection by requiring institutions to treat a pregnant student-athlete in the same way that other athletes (male or female) would be treated for temporary medical disability. Although almost any right can be contractually waived, forcing female student-athletes to sign a contract that forfeits their rights (and their athletics scholarship) if they become pregnant would likely render the agreement unenforceable due to coercion.

In this presentation, the rights of pregnant student-athletes under Title IX and constitutional law will be explained. Issues related to contractually waiving rights will also be discussed. Finally, due process concerns regarding athletics department policies and procedures will be explored, culminating in a proposal for a uniform model policy.