Handout

Maternity Leave Rights for Pregnant and Nursing Students

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1. Purpose and scope of the new Maternity Protection Act (MuSchG)

The aim of the Maternity Protection Act (MuSchG) is the responsible balance between the health protection of a pregnant or nursing woman and her (unborn) child as well as the woman's self-determined decision about her gainful employment and training or higher education respectively.

Since 1st January 2018 this law also applies to pupils and students if their respective apprenticeship or educational institution predetermines place, time, and schedule of mandatory training events and if an internship is a mandatory part of their school and higher education.

2. What does it mean for me as a pregnant or nursing student?

Disclosure of pregnancy or nursing

In order to take reasonable steps for your maternity leave, the HafenCity Universität (HCU) is dependent on the pregnant or nursing student to inform them about their pregnancy and nursing respectively. All employees of the university are subject to confidentiality and information will only be forwarded within legal requirements.

The HCU Student Service Center is responsible for receiving your notification about a pregnancy or nursing.

Being a pregnant student, you need to inform the Student Service Center about your pregnancy and the estimated due date as soon as you know that you are pregnant. Besides this, you will need to provide evidence of your pregnancy by submitting a medical certificate like a maternity card or the certificate issued by your midwife. If you are nursing, please inform the Student Service Center as well as early as possible about it.

The employees of the Student Service Center will inform your faculty about the pregnancy or nursing disclosure and you need to book an appointment with the respective department programme management. They will inform you about the maternity leave regulations and conduct a risk assessment. Furthermore, they will assess with you together the conditions of studies for the relevant period. The purpose of the risk assessment it to protect you and your (un)born child from certain potential hazards.

The department programme management of your faculty will forward the risk assessment report to the Student Service Center, as they are legally obliged to inform the Occupational

Safety and Health Administration Office of the Free and Hanseatic City of Hamburg (FHH) about a pregnancy or nursing.

3. Regulations of the MuschG

3.1. Temporal health protection

During pregnancy and nursing, there are particular maternity leave rules that apply to students at the university. These specific health and safety requirements for students can also include the exclusion from the participation in compulsory courses and mandatory internships or from taking an exam ('Prohibition of Participation').

In detail, these health and safety requirements include the summarised information below:

Maternity leave period before delivery

During the last six weeks before the estimated due date, the pregnant student may not participate in the studies (exception: please see section 3.2). The estimated due date stated in the medical certificate or the midwife's certificate is decisive for the calculation of the maternity leave period before delivery. If the student does not deliver on the estimated due date, the maternity leave period before delivery will be shortened or extended accordingly.

Maternity leave period after delivery

Usually, the maternity leave period after delivery is eight weeks. In case of a premature birth as defined by medical terms, multiple births, and if the baby was medically diagnosed with a disability in regards to the meaning of article 2, paragraph 1, clause 1 of the Ninth Book of Social Law, the maternity leave period is extended to 12 weeks. During this time students are now permitted to study (exception: please see section 3.2). If there is a premature delivery, the maternity leave period will be extended after delivery by the period of the shortened maternity leave before delivery. When the baby is diagnosed with a disability, the maternity leave period after delivery can only be extended to 12 weeks if requested by the woman.

Prohibition of participation beyond maternity leave periods

The educational institution is not allowed to permit a pregnant or nursing student the participation in the studies between 8 pm and 6 am as well as on Sundays and public holidays (exception: please see section 3.2).

Leave for medical tests and nursing

Students must be exempt in order to perform required medical tests during pregnancy and motherhood. Nursing students are to be granted with leave on their request for necessary nursing time during the first 12 months after delivery.

If pregnant and nursing women miss lectures with compulsory attendance due to this reason, the absence has to be acknowledged with appropriate evidence. A missed exam can be taken again by being offered a new date.

3.2. Self-determined decision of the student

The pregnant student can request to be exempted from the prohibition of participation in the studies within the maternity leave period before and after delivery. This decision can be revoked by her at any time in the future.

The pregnant and nursing student respectively can be exempted from the prohibition of participation in the studies between 8 pm and 10 pm and on Sundays and public holidays, if the attendance is required for training purposes at this time. This decision can be revoked by her at any time.

In the event of the death of her child, the student may already attend the compulsory studies two weeks after delivery if she explicitly requests this and medical reports support her decision. She can revoke this decision at any time in the future.

3.3. Disclosure of pregnancy or nursing

A pregnant student shall inform the educational institution about her pregnancy and the estimated due date as soon as she knows that she is pregnant. When demanded by the educational institution, the pregnant student shall provide evidence of her pregnancy via a medical certificate or the midwife's certificate. A nursing student shall inform the educational institution as early as possible about the fact that she is nursing.

3.4. Health protection at the workplace – risk assessment by the university and determination of health and safety requirements

As soon as the student informed the educational institution about her pregnancy or that she is nursing, the educational institution has to perform a risk assessment immediately and determine the respective health and safety requirements. For each individual case, it needs to be identified whether health and safety requirements will not be necessary, if a change of the conditions of studies needs to be considered or if the participation in the studies has to be prohibited.

A prohibition of participation in the studies will be determined when

- in contact with hazardous material, certain biological substances and radiations or exposure to high noise, extreme temperatures, overpressure, and so forth
- the pregnant or nursing student is exposed to physical stress like heavy lifting (regularly 5 kg or sometimes 10 kg) or permanent standing with hardly any motion on a daily basis for more than four hours (from the fifth month of pregnancy) and frequent extensive stretching, bending, permanent squatting, and so forth respectively.

Furthermore, the educational institution has to provide the pregnant or nursing student with facilities to rest during breaks. For this, there is the **room 2.017 on the 2nd floor** available.

3.5. The Educational institution's obligation to inform the supervisory authority

As soon as a student informed about her pregnancy or nursing, the educational institution is obliged to immediately notify the supervisory authority about it. For the Free and Hanseatic City of Hamburg (FHH), the Occupational Safety and Health Administration Office represents the relevant supervisory authority.