Maternity Protection for Students at the University of Bonn

Since January 1, 2018, the provisions of the Maternity Protection Act (MuSchG) also apply to all girls of school age and students “as far as the location, time and course of education and training with which they are provided are subject to prescription or they are engaged in an obligatory internship within the scope of school or further and higher education” (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) guidelines to the Maternity Protection Act, p. 15).

In order to receive the protections afforded to her by the Maternity Protection Act, the student is required to provide the University with written notification of her pregnancy. The requisite form must be completed together with the person responsible for the module or the degree program coordinators.

This section provides information about the following topics:

1. The framework conditions of the Maternity Protection Act - Maternity leave
2. The rights of students
3. The obligations of students
4. Risk assessment
5. Examinations, internships and disadvantage compensation
6. Maternity benefit and the employer’s maternity supplement
7. Semester(s) on leave
8. Contact persons at the University of Bonn

Detailed information about recent changes to the law and detailed explanations about the statutory maternity protection period is provided in the guidelines from the BMFSFJ.

1. The framework conditions of the Maternity Protection Act - Maternity leave

Pregnant and breastfeeding students are entitled to maternity leave during a certain period (§3, para. 3 MuSchG). This begins six weeks before the calculated birth date and usually ends eight weeks after birth. Exceptions are made in the case of premature births, multiple births or children born with a disability. In such cases, the period of maternity leave will be extended from eight to twelve weeks.

The following provisions apply:

- Students can decide themselves whether to take advantage of the maternity leave afforded to them.
- The University may not require students to participate in the courses and internships affected.
- If a student participates in courses without first having informed the University of her pregnancy, she will not able to make claim to the rights conferred on her by the terms of MuSchG.
- Pregnant and breastfeeding students are entitled to a leave of absence for medical appointments and will be granted free time to breast feed their child (min. 2x 30 min/day).
● The student can end her maternity leave prematurely after birth. She is required to make a written statement to the University of her intention to do so.

2. Selected rights of the student

● Pregnant students have the right to continue their studies as far as this is defensible under the MuSchG.
● The student has the right to receive information about the protections afforded to her from a suitable office of the University.
● The right to confidentiality: The University may not pass on information about the pregnancy or breastfeeding period to third parties. This does not apply to the forwarding of information to persons and offices in the University who are responsible for implementing the requirements arising from the maternity protection legislation.
● Overtime and working hours: The permissible scope of overtime must be subject to restriction. A minimum uninterrupted rest time of 11 hours must be accorded to the student. Work after 8:00 pm is usually impermissible. Exceptions for the period between 8:00 pm and 10:00 pm and on Sundays and public holidays can only be made if the student in question states her express wish to do so, and work is central to fulfilling the training aims. Work must cease after 10:00 pm.

3. Selected obligations of the student

● Students can only take advantage of the rights conferred on her by the terms of MuSchG if she provides the University with prior written notification of her pregnancy. This notification is to be issued to the degree program coordinators of the respective degree program and should be discussed beforehand with the Subject-Specific Study Advisory and Counseling Service. This does not represent an obligation, but guidance.
● Maternity leave is mandatory if:
  1. Dangers exist for the child or student. This requires written notification.
  2. If a doctor has ordered that a pregnant woman is forbidden to work. In this case, the University is not permitted to allow the student to participate in courses or internships.

4. Risk assessment

A risk assessment is conducted to determine whether the student can continue with her participation in the individual modules. As the persons responsible for the module at the respective institutes are required to draw up the risk assessment, the students should turn to them. The institutes can find out about the specific procedure to adopt from Circular 4/2019. The form for drawing up the risk assessment is available here.

● Case-independent risk assessment: The University is required to perform a risk assessment in accordance with §10 MuSchG. A specialist person conducts a study location related risk assessment of the conditions of study irrespective of whether a pregnant or breastfeeding student is currently studying at the University. Both physical and mental dangers to health are to be taken into account.
This is a responsibility of the employer requiring documentation.

- **Case-specific risk assessment:**
  After a student has informed the University of the fact of her pregnancy, the University is to perform an individual case-specific risk assessment.

**5. Examinations, internships and disadvantage compensation**

*Examinations during the maternity protection period*

- During the maternity protection period, a student can rescind her declaration of readiness to take part in an examination at any time (even immediately before the start of the examination).
- Registration for an examination during the maternity protection period is taken as a waiver declaration of the statutory protections. This does not mean that the student is not eligible to measures of disadvantage compensation (e.g. an extended completion time).
- Should a student choose not to sit an examination for which she has registered, she will be required to provide an explanation for her reasons.

*Internships*

It is necessary to differentiate between **individual internship agreements** and **agreements between the University and the internship provider**.

- Should a student have arranged an internship themselves (e.g. in a private company) the intern will be classed as an employee. The internship provider is required to draw up a risk assessment.
- Responsibility for risk assessments conducted within internships performed in an institution outside the University but as an integral part of a degree – e.g. internships performed as part of a teaching degree program or the training phases of a medical degree – are the responsibility of the University, as the training relationship has been arranged between the student and the University. As the provider of the internship is better placed to evaluate the dangers involved, the University and the internship provider are to work together to draw up the risk assessment.

*Disadvantage compensation*

Should a student be prevented on health grounds from completing examinations and internships during the maternity protection period, e.g. those performed in laboratories, the University must provide an alternative form of examination such as a term paper instead of a written examination. Only if the University is not in a position to enable the student to continue her studies through the provision of alternative examination forms, are measures of disadvantage compensation to be provided. This is intended to prevent discrimination against women during pregnancy, after birth and during the breastfeeding period.

Concrete disadvantages can include:

- A significant time extension of the study period (e.g. 3.5 months vs. 12 months).
- A repeat of academic achievement for example, because courses were interrupted.
A student is unable to a significant degree, to select her preferred courses.

General measures of disadvantage compensation are not appropriate in individual cases; the University should attempt to find individual measures of disadvantage compensation.

Selected recommendations from the Deutsches Studentenwerk:

- The granting of extra completion time for examinations and written assignments
- An alteration of the examination form
- The provision of alternative examination dates
- Dividing academic achievement into individual sections

Source: Deutsches Studentenwerk, Disadvantage compensation with examinations

6. Maternity benefit and the employer’s maternity supplement

Maternity benefit and the employer’s maternity supplement are classed as wage-replacement benefits and are paid during the maternity protection period. These monies are only paid if a pregnant woman is not in receipt of pay from salaried employment during the period in which she is claiming the statutory protections of MuSchG.

Would you like to check the level of your eligibility for financial support and find out how to apply for it? Please consult the Federal Office for Social Security. Separate rules apply to those employed with a minijob. Please consult your statutory health insurance provider.

7. Semesters on leave

Pregnant students and students with children can apply for up to ten semesters on leave in which to care for their children. Both parents can apply for a leave of absence on a semester-by-semester basis and can also alternate the semester in which they are on leave. The Application form for this purpose must be returned to the Student Registry by the deadline.

Exception: The criteria for a leave of absence develop at a later point. Students can submit a retrospective leave of absence by May 15 at the latest for a summer semester and November 15 for a winter semester.

Students should consider the consequences arising from a leave of absence:

- Students are not eligible for BAföG during a semester on leave. If a student is prevented from studying by pregnancy, BAföG payments will be continued for a maximum of three months (§ 15 para. 2a BAföG). The month in which the BAföG Office was informed of the pregnancy will not be included in this calculation.
- Parents under the age of 25 are not entitled to child allowance for themselves; mothers are however entitled to child allowance for themselves during maternity leave and in a transitional period of max. four months between the end of maternity leave and the continuation of their studies.
- Students granted a leave of absence cannot be employed by the university.
• Parents taking a leave of absence from their studies to care for their children will still be able to attain credits for academic achievement during this period.
• Students are entitled to unemployment benefit (ALG II), as they are not entitled to BAföG during this period.
• Semesters spent on leave will be counted as university semesters but not as program-related semesters. The BAföG funding period limit will be extended by the number of semesters spent on leave.
• Pregnant students are required to pay the full semester fee during their leave of absence.

8. Contact persons at the University of Bonn

• Division 1 - Anti-Discrimination
• Occupational Safety- and Environmental Protection Unit
• Staff physician
• Examination Offices
• Degree course coordinators/deans of studies (listed on the Faculty websites)
• Student representative body: General Students’ Committee (AStA)-Studying with a child
• Office of Family Services/Gender Equality Office