

Pregnant & Parenting Students' Rights Under New Title IX Regulations (Starting August 1, 2024)

By law, you have the right to learn free from sex-based discrimination, including discrimination because of your pregnancy or related conditions. This law is called Title IX.¹

This fact sheet provides an overview of your rights under Title IX. All educational programs or activities that receive federal funding must follow Title IX.² That includes most colleges and universities, public K-12 schools, and even private K-12 schools if they receive federal funds.³ Title IX applies across the country.

UPDATE: On April 19, 2024, the U.S. Department of Education released [final regulations](#) strengthening the rights of pregnant and parenting students under Title IX. **These regulations will go into effect on August 1, 2024.** This fact sheet discusses your rights beginning August 1, 2024. For help understanding your rights *prior* to August 1, or if you otherwise need assistance, please contact A Better Balance's free and confidential legal helpline at 1-833-NEED-ABB (1-833-633-3222) or visit <https://www.abetterbalance.org/get-help/>.

You have the right to stay at your school.

- Some schools offer separate educational programs or schools for pregnant students. Your school cannot pressure or force you to attend one of these separate programs. It must be your choice.⁴
- If your school offers a separate program, that program must be “comparable” to your school’s traditional program.⁵ That means the program must offer you similar kinds of academic and extracurricular opportunities.⁶

You have the right to stay in your same classes and extracurricular activities.

- Your school may not exclude you from any classes or activities because of your pregnancy or a related condition, such as childbirth, miscarriage, abortion, or lactation.⁷
- That means you must be allowed to continue participating in your honors and AP classes, honor society, sports, extracurriculars, clubs, and leadership opportunities.
- Your school cannot force you to provide a certification in order to participate in a class or extracurricular activity, except in very limited circumstances.⁸

You have the right to the reasonable modifications you need to continue learning.

Your school must make certain adjustments, known as “reasonable modifications,” so that you can continue to learn while you are pregnant, recovering from childbirth, lactating, or experiencing any condition related to pregnancy.⁹ (That includes pregnancy-related conditions like morning sickness, fatigue, nausea, prenatal or postpartum depression, mastitis — and more.)¹⁰

Examples of reasonable modifications include:

- Breaks during class to take care of pregnancy-related health needs, like eating, drinking, using the restroom, or expressing milk
- Excused absences to attend medical appointments
- Access to online or remote educational programs
- Changes in schedule or course sequence
- Extensions of time on coursework
- Rescheduling of tests and exams
- Allowing you to sit or stand
- Allowing you to carry water or keep water nearby
- Counseling
- Changes in physical space or supplies, like a larger desk or footrest
- Elevator access
- Protective gear, such as for science lab
- Other changes to school policies, practices, or procedures

Your school cannot force you to accept a modification you do not want or need.¹¹ Likewise, your school can only require you to provide medical documentation of your need for a modification in certain, limited circumstances.¹²

Your school must offer you modifications regardless of whether they provide modifications to non-pregnant students. Likewise, your school must provide you modifications unless it can show that the modifications would “fundamentally alter” the nature of the school’s program or activity.¹³

You have the right to excused absences for pregnancy-related needs, including childbirth, without penalty.

- Your school must excuse your absences due to pregnancy or related conditions, such as to recover from childbirth, obtain an abortion, or recover from pregnancy-related illnesses, like mastitis.¹⁴ Your school must excuse these absences for at least as long as your health provider says is medically necessary.¹⁵
- Your teachers may not punish you for these pregnancy-related absences.¹⁶ For example, your teacher may not refuse to allow you to submit an assignment late because of pregnancy-related absences. Likewise, if your teacher bases students’ grades on class participation or attendance, they should allow you to make up the credits you missed, so that you are not penalized for your absences.¹⁷
- When you return from leave, your school must restore you to the same academic status (and, where possible, extracurricular status) as before you went on leave.¹⁸ That includes the opportunity to make up work you missed while you were away. For example, you could ask to get extra time to finish the class at a later date, to attend an online course credit recovery program, or to retake the semester.¹⁹ Generally, your school should allow you to decide how you want to make up the work.²⁰

You have the right to lactation space and breaks during class to pump milk.

- Your school must provide you a clean, private space to pump milk or breast/chest-feed.²¹ This space cannot be a bathroom.
- Your school must also provide you breaks during class to pump milk or breast/chest-feed.²²
- Your school must provide you other reasonable modifications related to lactation, such as modification of a school uniform to allow for lactation, as long as doing so would not fundamentally alter the nature of the school program or activity.

You have the right to learn free from harassment.

- Your school must take steps to protect you from sex-based harassment related to your pregnancy or a related condition, like childbirth, miscarriage, abortion, or lactation.
- Unlawful harassment includes unwelcome physical touching, name-calling, sexual jokes, sexual propositions, or spreading rumors about your sexual activity.²³
- Your school must take prompt, effective action to stop the harassment and prevent it from happening again.²⁴ For example, your school may need to provide you an escort to walk you to class.²⁵ Your school must also address the impact the harassment had on you. For instance, your school may need to adjust poor grades you received as a result of the harassment.²⁶

You have the right to learn free from sex discrimination based on your parental status.

- Your school may not discriminate against you based on your sex. That means sex discrimination related to your current, potential, or past parental status, family status, or marital status is unlawful.²⁷
- For example, it is unlawful to treat students differently based on gendered stereotypes about how a parent should act. A school may not have a policy or practice of offering excused absences to mothers but not fathers to take children to the doctor, for instance.
- Your school also has a responsibility to protect you from sex-based harassment related to your parental status, family status, or marital status.

You have the right to be told about your rights.

- By law, every school or school district must have a Title IX Coordinator and must publish their contact information.²⁸
- If you tell a school employee that you are pregnant or have a related condition (like lactation), they must tell you how to contact your Title IX Coordinator. They must also explain that the Title IX Coordinator can tell you more about your rights.²⁹
- If you choose to tell the Title IX Coordinator that you are pregnant or have a related condition, the Title IX Coordinator must promptly inform you of your rights, including your rights to reasonable modifications, a voluntary leave of absence, and lactation space.³⁰ The Title IX Coordinator must also help you access these rights.³¹

You may have additional rights under other nationwide laws, state laws, or local laws.

- You may have rights under other nationwide laws. For example, if you have a pregnancy-related disability, you may have additional protection from discrimination at school under Title II of the Americans with Disabilities Act or Section 504 of the Rehabilitation Act.³² Or, if you are also a student employee, you might have rights under the [Pregnant Workers Fairness Act](#) or [PUMP for Nursing Mothers Act](#).
- Depending on where you go to school, you may have additional rights under state and local laws as well.³³

If your rights are not being respected, you have options.

- **Call us.** If you have questions about your rights, or if you are having trouble getting what you need at school, call our free, confidential legal helpline at 1-833-633-3222 or write to us at <https://www.abetterbalance.org/get-help/>.
- Ask your school's Title IX Coordinator for help, or report discrimination to them.
- You can file a formal complaint with the U.S. Department of Education's Office for Civil Rights,³⁴ or a lawsuit in court.

The information in this fact sheet is not legal advice. It is always advisable to consult an attorney about your individual circumstances.

¹ The full name of the law is "Title IX of the Education Amendments of 1972." 20 U.S.C. § 1681(a).

² 20 U.S.C. § 1681(a).

³ *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination at School*, U.S. DEPT. OF ED. OFF. OF CIV. RTS., <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>; see also *Discrimination Based on Pregnancy and Related Conditions*, U.S. DEPT. OF ED. OFF. OF CIV. RTS. (Oct. 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-pregnancy-resource.pdf> ("For example, an after-school program run by a local nonprofit agency that rents the school's facilities at a reduced rate and is advertised and promoted by the school may not exclude a pregnant student from enrolling.").

⁴ 34 C.F.R. § 106.40(b)(1) ("A recipient does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity *provided* the recipient ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.") (emphasis added).

⁵ 34 C.F.R. § 106.40(b)(1).

⁶ 34 C.F.R. § 106.40(b)(1). To determine what is "comparable," the U.S. Department of Education considers factors like "policies and criteria of admission; the educational benefits provided, including the quality, range, and content of the curriculum and other services and the quality and availability of books, instructional materials, and technology; the qualifications of the instructors; and the quality, accessibility, and availability of facilities and resources provided." Preamble to Final Rule (Apr. 29, 2024), <https://www.federalregister.gov/d/2024-07915/p-3192>.

⁷ 34 C.F.R. § 106.2 (covering "pregnancy, childbirth, termination of pregnancy, or lactation"; "medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation"; and "recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions").

⁸ 34 C.F.R. § 106.40(b)(5). A school may only require certification if (1) a certain level of physical ability is actually necessary to participate in the class or activity, (2) it requires the same certification of *all* students participating in the class or activity *and* (3) the information obtained is not used as a basis for unlawful discrimination.

⁹ 34 C.F.R. § 106.40(b)(3)(ii).

¹⁰ 34 C.F.R. § 106.2; see also Preamble <https://www.federalregister.gov/d/2024-07915/p-2920>.

¹¹ 34 C.F.R. § 106.40(b)(3)(ii)(A)-(B) (explaining that reasonable modifications "[m]ust be based on the student's individualized needs" and "[t]he student has discretion to accept or decline each reasonable modification offered by the recipient").

¹² 34 C.F.R. § 106.40(b)(3)(vi). Your school cannot require medical documentation unless that documentation “is necessary and reasonable” for your school to determine what modifications to make. For example, it is not “necessary and reasonable” when your need for modification is obvious (like if you need a bigger uniform). Likewise, it is not “necessary and reasonable” when you need modest modifications like breaks to eat, drink, or use the restroom; lactation needs; a bigger desk; to sit or stand; or to carry or keep water nearby.

¹³ 34 C.F.R. § 106.40(b)(3)(ii)(A) (“A modification that a recipient can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.”); *see also* Preamble

<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal#h-365> (confirming that it is the school’s burden to demonstrate that a particular modification would rise to the level of “fundamental alteration”).

¹⁴ 34 C.F.R. § 106.40(b)(3)(iv) (requiring schools to “allow the student to voluntarily take a leave of absence . . . to cover, at minimum, the period of time deemed medically necessary by the student’s licensed healthcare provider”); *see also* 34 C.F.R. § 106.40(b)(3)(ii)(C) (noting that reasonable modifications include “intermittent absences to attend medical appointments”).

¹⁵ 34 C.F.R. § 106.40(b)(3)(iv); U.S. DEPT. OF ED., OCR-00069, SUPPORTING THE ACADEMIC SUCCESS OF PREGNANT AND PARENTING STUDENTS 10 (June 2013), <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.

¹⁶ 34 C.F.R. § 106.40(b)(3)(iv); *see also* Preamble, <https://www.federalregister.gov/d/2024-07915/p-3203> (“[R]einstating a student to the academic status that the student held when voluntarily leave began, consistent with § 106.40(b)(3)(iv), necessarily will require a recipient to provide a student a meaningful opportunity and reasonable time to make up any coursework or exams missed while on leave.”).

¹⁷ *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination at School*, U.S. DEPT. OF ED. OFF. OF CIV. RTS., <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>; *see also* *Discrimination Based on Pregnancy and Related Conditions*, U.S. DEPT. OF ED. OFF. OF CIV. RTS. (Oct. 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-pregnancy-resource.pdf>.

¹⁸ 34 C.F.R. § 106.40(b)(3)(iv).

¹⁹ U.S. DEPT. OF ED., OCR-00069, SUPPORTING THE ACADEMIC SUCCESS OF PREGNANT AND PARENTING STUDENTS 10 (June 2013), <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.

²⁰ U.S. DEPT. OF ED., OCR-00069, SUPPORTING THE ACADEMIC SUCCESS OF PREGNANT AND PARENTING STUDENTS 10 (June 2013), <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>.

²¹ 34 C.F.R. § 106.40(b)(3)(v).

²² 34 C.F.R. § 106.40(b)(3)(ii)(C).

²³ *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination at School*, U.S. DEPT. OF ED. OFF. OF CIV. RTS., <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>.

²⁴ U.S. DEPT. OF ED., OCR-00069, SUPPORTING THE ACADEMIC SUCCESS OF PREGNANT AND PARENTING STUDENTS 10 (June 2013), <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf> (“Schools must take prompt and effective steps reasonably calculated to end pregnancy-related harassment, prevent its recurrence, and eliminate any hostile environment created by the harassment.”).

²⁵ 34 C.F.R. § 106.44(g)(1) (describing “campus escort services” and other supportive services for victims of harassment).

²⁶ *See, e.g.*, 34 C.F.R. § 106.44(g)(1) (describing “extensions of deadlines and other course-related adjustments”); Preamble <https://www.federalregister.gov/d/2024-07915/p-1535> (explaining that “extensions of deadlines, adjustments to transcripts, or tuition reimbursements” are all examples of retroactive supportive measures that may be appropriate to restore a student’s access to education).

²⁷ 34 C.F.R. § 106.40(a). *See also* 34 C.F.R. § 106.2 (defining parental status as “the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability,” is: a biological, adoptive, foster, or step- parent, a legal custodian or guardian, in loco parentis, or is “actively seeking legal custody, guardianship, visitation, or adoption”).

²⁸ 34 C.F.R. § 106.8(a)(1), (c)(1).

²⁹ 34 C.F.R. § 106.40(b)(2).

³⁰ 34 C.F.R. § 106.40(b)(3)(i).

³¹ 34 C.F.R. § 106.40(b)(3).

³² 28 C.F.R. § 35.130(b)(7)(i) (“[A] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.”); 34 C.F.R. § 104.44(a) (requiring federal funding recipients to make reasonable modifications to academic requirements when necessary to avoid discrimination against students on the basis of disability). *See also* *Disability Discrimination*, U.S. DEPT. OF ED. OFF. OF CIV. RTS., <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/disability.html> (describing the protections students may have under Title II and Section 504).

³³ See, e.g., CAL. ED. CODE §§ 66023.5, 66027.4, 66027.6, 66025.81, 66027.81 (AB 2881) (2022); TEXAS ED. CODE § 51.982 (SB 412) (2023); see also *New Protections for Pregnant and Parenting Students in Texas*, The Pregnant Scholar (July 25, 2023), <https://thepregnantscholar.org/new-protections-for-pregnant-and-parenting-students-in-texas/>.

³⁴ To file a complaint with the U.S. Department of Education, visit <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.