

Updated 6/2024

Under Title IX, students who are pregnant or experiencing pregnancy-related conditions have a right to reasonable modifications and leave. This guide offers an overview of how educational institutions may ask students to document their condition in order to access services.

Who can request medical documentation?

Title IX Coordinators are responsible for ensuring that individualized reasonable modifications for pregnancy-related conditions are provided to students who need them. Coordinators may delegate some duties as needed. The Coordinator and/or their designee may require documentation from a student, when necessary and reasonable.

Faculty members should not request medical documentation from students regarding their pregnancy-related conditions. Rather, faculty (and other employees) are required to provide the Title IX Coordinator's contact information and inform students that the Coordinator can facilitate modifications and leave. The Title IX Coordinator should only share with faculty information necessary for the faculty member to implement a modification or leave plan.

When can medical documentation be required?

The Title IX regulations do not *require* that educational institutions collect certain medical documentation to back up requests for modifications or leave/absences. As the Department of Education [notes](#), "In virtually all situations, proceeding without documentation, or based on a student's self-attestation of their needs, will be the least burdensome for the student and enable the recipient to meet the student's needs fastest." Nevertheless, the school may set their own standards about when documentation is required, so long as they do so in accordance with Title IX limitations on documentation requests.

Title IX regulations make clear that documentation can only be required when it is both reasonable *and* necessary in order for the institution to determine what actions to take under the circumstances (§ 106.40(b)(3)(vi)). [According to the Dept. of Education](#), the documentation requested should generally be limited to include, "no more than is sufficient to confirm—in a manner that is fair to the student under the circumstances—that a student has a need related to pregnancy or related conditions that requires a reasonable modification or other specific action..." For leave, healthcare providers should indicate that the time off is medically necessary and pregnancy related (§ 106.40(b)(3)(iv)). Institutions cannot deny a request for modifications or leave based on a failure to provide documentation that exceeds this Title IX standard.

The Department of Education [states](#) that **it is not acceptable to require documentation when:**

- The need is obvious

- The student has already provided enough documentation, or the information requested is *only* to confirm pregnancy.
- Other students are provided the change without submitting documentation.
- The modification requested is for a student who is pregnant or experiencing pregnancy-related conditions to:
 - Carry water or keep water nearby
 - Take breaks to eat, drink, or use the restroom
 - Access a bigger desk
 - Sit or stand
 - Access lactation breaks and space

Which care providers can provide medical documentation/certification?

The 2024 Title IX regulations expand the ability to offer medical certification beyond physicians. Now, any healthcare provider who is licensed (qualified to practice in their state) may submit medical documentation. Institutions are not required to verify licensure before accepting documentation. Healthcare providers may include nurse practitioners, nurse midwives, therapists, certified lactation consultants, and others.

Can students be required to certify their ability to participate during or following pregnancy?

The ability of educational institutions to request that their pregnant/postpartum students provide a certification to participate in their studies or extracurricular activities is limited under the 2024 regulations. It is now [impermissible](#) to request certification of a student's emotional ability to participate.

Further, institutions can only request that a student who is pregnant or experiencing pregnancy-related conditions certify their physical ability or health in order to participate when:

1. The level of ability/health is *necessary* for participation;
2. All students participating must certify their ability; *and*,
3. The information is not used to discriminate.

What privacy standards apply to medical documentation submitted to access Title IX reasonable modifications, leave, or other support?

Title IX Coordinators or designees responsible for assisting with pregnant/postpartum student requests for modifications, leave, or other supports, should only disclose to faculty or other employees the information necessary for them to meet their obligations under Title IX. For example, a Coordinator informing a faculty member of a student's modification to take an exam

a day late would not need to inform the faculty member of the nature of the student's pregnancy-related symptoms or medical history. Instead, they should simply indicate that the student has been granted a Title IX modification to delay the exam.

Critically, the institution and employees must also protect students' personally identifiable information (§ 106.44(j)). Personally identifiable information collected in the course of complying with Title IX (e.g. modification requests, complaints) cannot be disclosed except:

- When written consent has been provided
- To parents, guardians or other people with legal rights to disclosures on behalf of the student
- To meet Title IX obligations (e.g. addressing discrimination complaints)
- As required by federal law, regulations, or federal awards
- When required by state or local law or when permitted under FERPA, **IF not in conflict with Title IX**. *Remember, Title IX prohibits discrimination based on a students' past, current, or potential pregnancy or related conditions; this protects students undergoing fertility treatment or abortion.*

Need help?

Contact the Pregnant Scholar.

<https://thepregnantscholar.org/contactus/> | (415) 703-8276 | hotline@worklifelaw.org

Appendix (next page):

The page below is a sample form that educational institutions and healthcare providers can use to meet the documentation standards of the 2024 Title IX regulations. Feel free to add your branding or adapt the form to your unique needs.

Medical Certification Form

Student Modifications or Leave for Pregnancy, Childbirth, and Related Conditions

Student Name:

Date:

Please identify the student's limitations or need(s). This can be any physical or mental condition, impediment or problem, such as needing to rest or alleviate pain. It can also be for maintaining the health of the student or their pregnancy (if applicable), such as obtaining healthcare or avoiding risks. You are not required to provide a specific diagnosis.

Is the limitation or need related to pregnancy or related condition(s)?

Yes

No

This may include pregnancy, childbirth, termination of pregnancy, or lactation—as well as related medical conditions and recovery. Examples include pregnancy-related fatigue, dehydration (or need for increased water intake), increased body temperature, anemia; morning sickness or hyperemesis gravidarum; gestational diabetes; preeclampsia; pregnancy-induced hypertension; infertility; ectopic pregnancy; mastitis; and antenatal or postpartum depression.

Do you recommend any particular modifications or leave/absences to address the need or limitation? You may, but are not required to, suggest a specific accommodation or leave term.

If you are recommending leave, is the time off medically necessary to support the student's health or treatment plan? Under Title IX, healthcare providers have full discretion to determine whether time off is medically necessary based on their professional judgement. There is no severity/harm standard.

Yes

No

In part (please specify)

Certifying health care provider information

Provider Name and Title:

Provider Signature:

Date: