

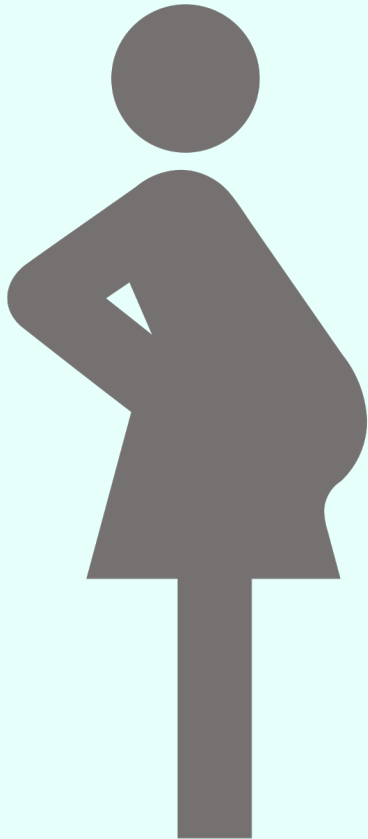


Title IX Proposed Regulations:

New Legal Protection for Pregnant People & Nursing Mothers

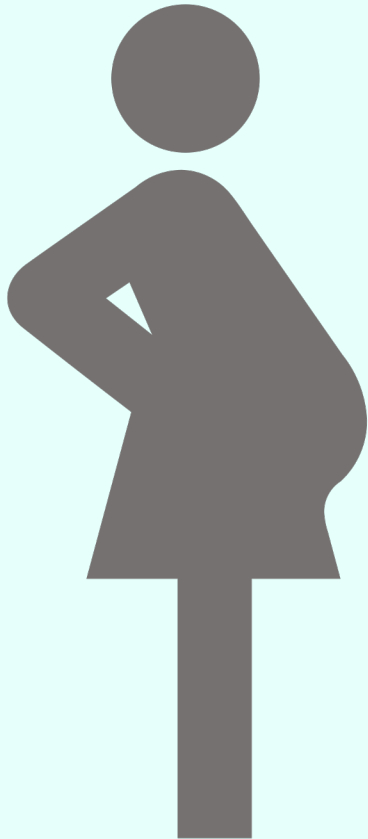
Northwest ISD
November 9, 2023

Student Pregnancy



- Proposed changes to 34 CFR § 106.40
 - Schools must not discriminate in their educational programs or activities based on a student's current, potential, or past pregnancy *or related conditions*.
 - 34 CFR § 106.40(b)
 - Must allow:
 - Voluntary leave of absence for a period of time “deemed medically necessary by the student’s physician” or other licensed healthcare provider
 - Voluntary reasonable modifications to the school’s policies, practices, or procedures
 - Lactation breaks & space

Student Pregnancy



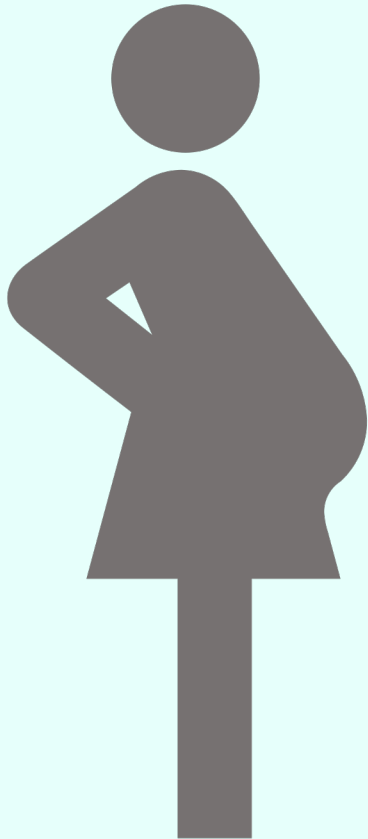
Mandatory referral to Title IX Coordinator

- Any school employee who “is informed of a student’s pregnancy or related condition” by the student or someone with a “legal right to act on behalf of the student must promptly tell the student or representative how to notify the Title IX Coordinator and give them the Coordinator’s contact information unless the employee reasonably believes the Coordinator already knows.

Title IX Coordinator’s duty

- Must promptly inform the student of her right to:
 - (1) Reasonable accommodations in programs, policies & procedures
 - (2) Voluntarily participate in a separate program, have access to a lactation space, and file grievances
 - (3) Request a voluntary leave of absence

Reasonable Accommodations



- Must be provided on an “individualized and voluntary basis depending on the student’s needs” unless the modification would “fundamentally alter” the program or activity.
 - “A fundamental alteration is a change that is so significant that it alters the essential nature” of the program or activity.
- Must be effectively implemented, coordinated & documented by the Title IX Coordinator
- Examples
 - Breaks during class to attend to related health needs, expressing breast milk or breastfeeding
 - Intermittent absences for medical appointments
 - Access to online or homebound education
 - Changes in course schedule or sequence
 - Extended time for coursework
 - Rescheduling of tests & exams
 - Counseling
 - Changes in physical space or supplies
 - Elevator access

Proposed 34 CFR § 106.40(b)(4)

Medical Certification



- Current regulation
 - Allows medical certification of a student's physical & emotional ability to participate in school programs or activities "so long as such certification is required of all students for other physical or emotional conditions" requiring physician attention
 - 34 CFR § 106.40(b)(2)
- Proposed regulation
 - May not require a student who is pregnant or has related conditions to provide medical certification of physical ability to participate unless:
 - (1) The certified level of physical ability or health is necessary for participation,
 - (2) Certification is required from all participating students, *and*
 - (3) The information obtained is not used as a basis for prohibited discrimination
 - Proposed 34 CFR § 106.40(c)(6)

Students & Lactation

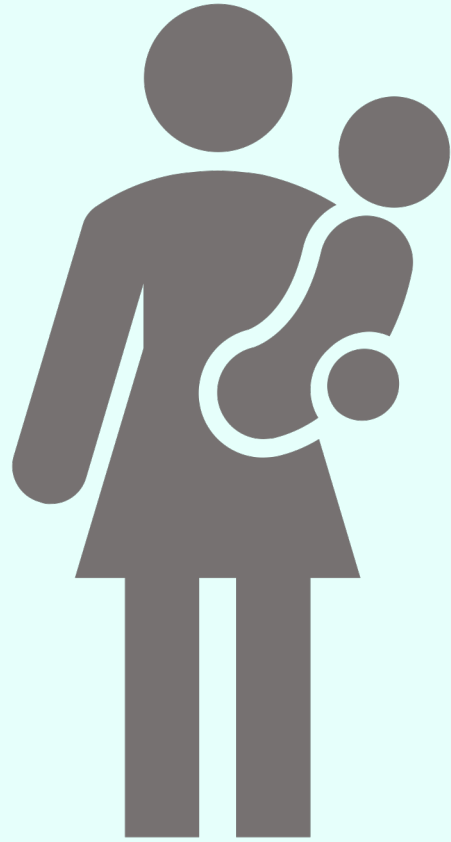
Space

- Not a bathroom
- Clean
- Shielded from view & free from intrusion
- Used for breastfeeding or pumping

Breaks

- Allowed during class to attend to health needs, breastfeeding, or pumping





Questions?