

Pregnancy & Other Related Conditions - Students

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Fall 2026

Agenda

1. Title IX & State Laws
2. Pregnancy - Student Protections & Unique Student Circumstances
3. Other Related Laws
4. Documentations and Case Management



**Title IX (Educational
Amendments of 1972)**
prohibits discrimination **on
the basis of sex** in
educational programs or
activities receiving federal
financial assistance

Anyone participating in or
attempting to participate in
educational programs or activities



Title IX

Sex Discrimination
Sexual Harassment
Retaliation

Title IX's prohibition of sex discrimination applies to
pregnancy and other related conditions...

SB 412 Pregnancy and Parenting Policy for Students



- Requires IHE to provide **reasonable accommodations** for **pregnant students** relating to pregnancy, childbirth, or any resulting medical status or condition.
- Allows **pregnant or parenting students** (parent or legal guardian of a child under 18 years of age) **academic leave of absence without penalty**, if in good academic standing.
- Requires institutions to have a **policy** addressing pregnant and parenting related discrimination and accommodations available for this student population.
- The Texas Higher Education Coordinating Board (THECB) adopted administrative rules: [19 Tex. Admin. Code § 4.370-4.376](#) (2024)
- SB 412 is effective as of September 1, 2023, and the institution's pregnancy and parenting non-discrimination policy is effective as of January 15, 2024.

A blue-tinted photograph of a classical building facade. In the upper center, a statue of Lady Justice stands holding scales of justice and a sword. To her left, another statue is partially visible. Below them, the ornate pediment of the building features a large central sculpture of a seated figure, possibly a deity or historical figure, flanked by other decorative elements. The sky is visible in the background with some clouds.

Pregnancy & Parenting Protections & Provisions

Title IX prohibits discrimination based on a student or employee's “actual or potential” status:

Parental status

Marital status

Pregnancy

Childbirth

Miscarriage

False pregnancy

Recovery

Temporary disability
resulting from
pregnancy



Texas law provides protections for **pregnant or parenting students**:

Parenting

Pregnancy

Miscarriage

Childbirth

Recovery

Resulting
medical status
or condition



Examples of Student Pregnancy-Related Impacts & Needs

Class
Attendance &
Participation

Excused
Absences

Opportunity to
Make-up
Coursework

Tutoring
Accommodations

Breast Milk
Expression

Extracurricular
Activities

Intercollegiate
Sports

Scholarship
Status

Equal Participation under Title IX



An institution shall not discriminate against any student or exclude any student from its **education program or activity**, including any class or extracurricular activities, based on such **student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom**, unless the person **voluntarily participates in a separate program or activity** of the institution.

Title IX 34 CFR § 106.40(b)(1)

Separate Programs under Title IX

An institution which operates a portion of its education program or activity **separately** for **pregnant students**, admittance to which is **completely voluntary** on the part of the student as provided in paragraph (b)(1) of this section (*Equal Participation*) shall ensure that the separate portion is **comparable** to that offered to **non-pregnant students**.

Title IX 34 CFR § 106.40(b)(3)



The University of
Texas System





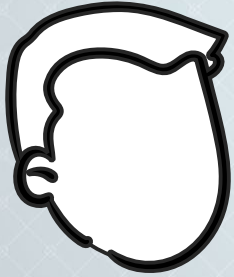
Pregnancy and Parenting Students under Texas Law

Institutions may not require a **pregnant or parenting student**, solely because of the student's status as a pregnant or parenting student or due to issues related to the student's pregnancy or parenting, to:

- Take a leave of absence or withdraw from the student's degree or certificate program;
- Limit the student's studies;
- Participate in an alternative program;
- Change the student's major, degree, or certification program; or
- Refrain from joining or cease participating in any course, activity, or program at the institution.

Tex. Edu. Code, Section 51.982(b)

“Parenting student” is defined as “a student who is a parent or legal guardian of a child under 18 years of age”.



Leave of Absence

Unenroll from
the student's
current courses

Eligible to
re-enroll in
future courses
and continue the
academic
program at a
**later term or
semester**

Excused Absence

Stay enrolled in
the student's
current courses

Opportunity to
make-up
coursework or
exams missed

Earn grades or
credit for these
current classes



The background of the slide is a photograph of a classical building facade, likely a university or government building, featuring ornate sculptures and a pediment. The image is overlaid with a semi-transparent orange filter. In the center, there is a white rectangular box with an orange border containing the title text.

Student Leave of Absence Provisions

Institutions must allow a **pregnant or parenting student** to:

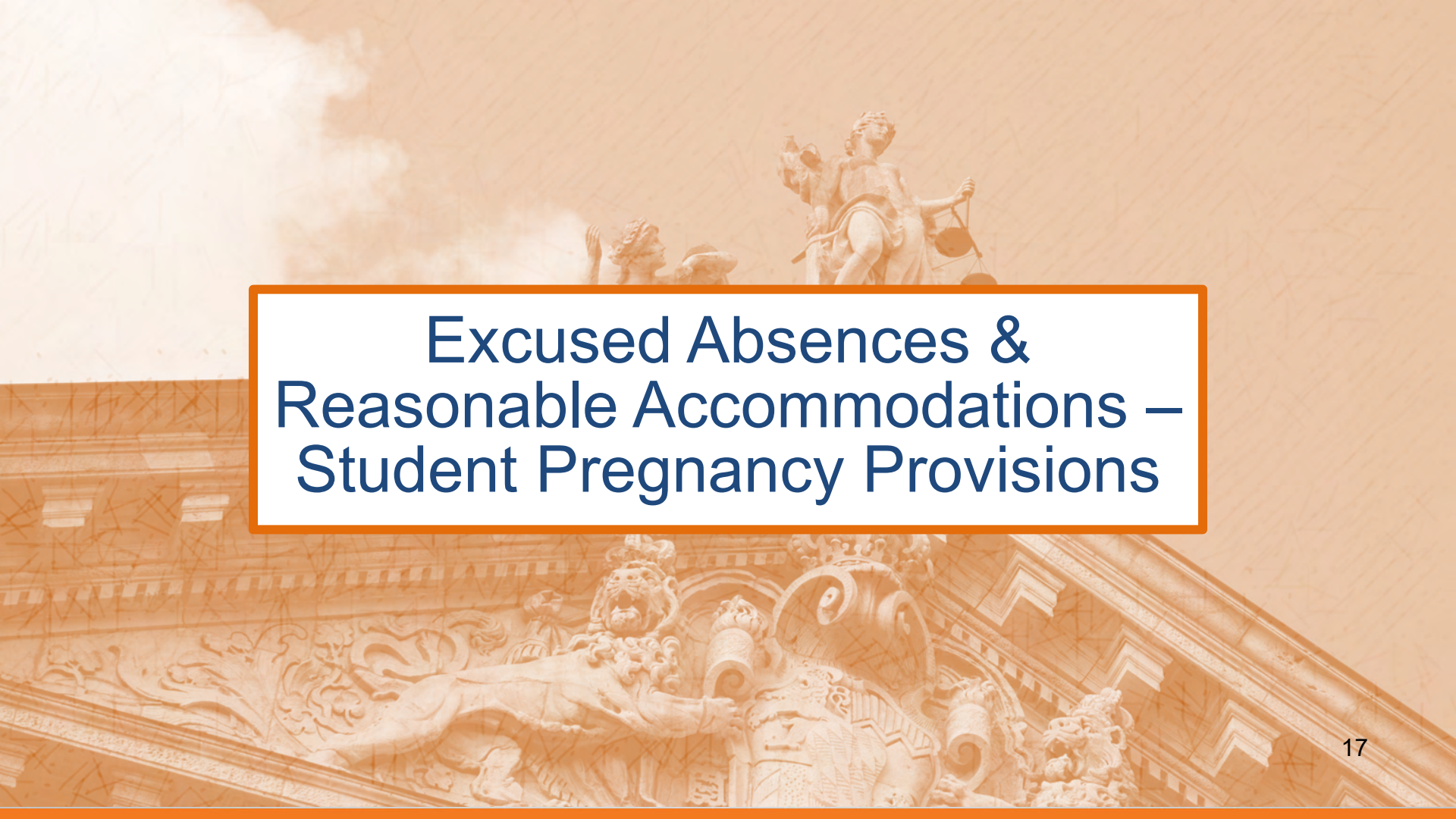
- Take a leave of absence; and
- If in **good academic standing** at the time of the leave of absence, return to the student's degree or certificate program in good academic standing **without being required to reapply for admission.**

Tex. Edu. Code, Section 51.982(e)

Note: Title IX doesn't have a condition on academic standing for **student pregnancy or related conditions**, related to the student's return to their degree program.



Leave of Absence under Texas Law

The background of the slide is a photograph of a classical building facade, featuring ornate sculptures and architectural details. A large, white rectangular text box with a thick orange border is centered on the slide, containing the title text. The overall color scheme is a warm, monochromatic orange.

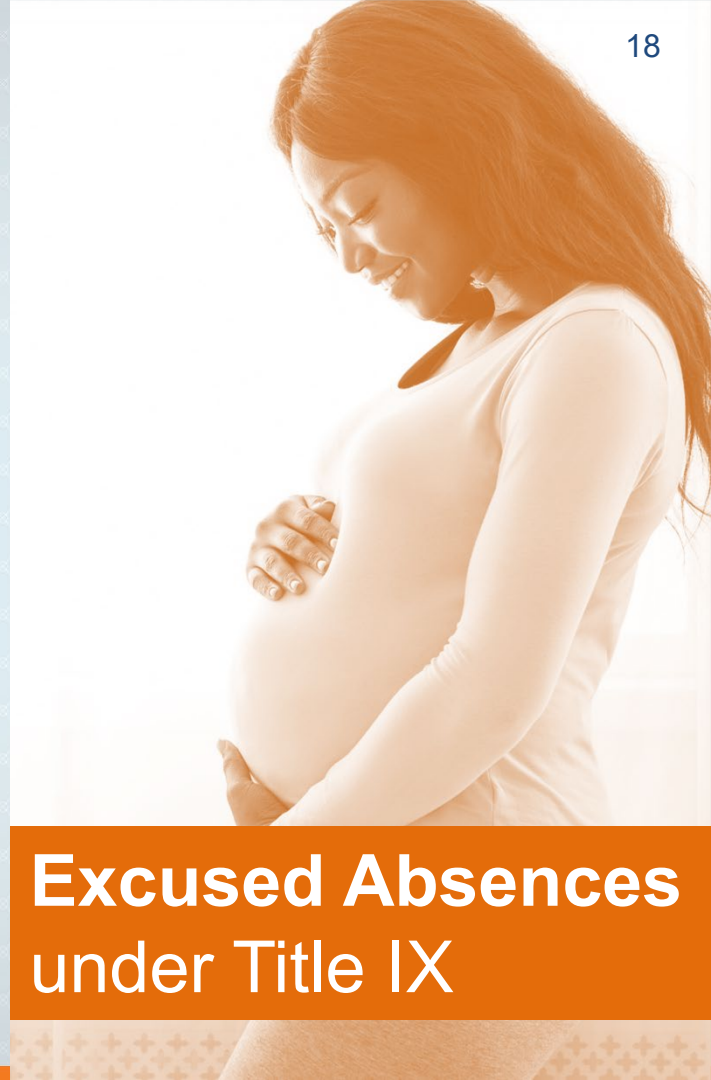
Excused Absences & Reasonable Accommodations – Student Pregnancy Provisions

The school must **excuse** a student's absences due to **pregnancy or any related conditions**:

- This means a student cannot be penalized for missing class due to **pregnancy or other related conditions**.
- Instead, the student must be given an **equal opportunity** to earn credit from missed classes or assignments, when it's due to their **pregnancy or related conditions**.
- Ultimately, the student is still **responsible** for earning course credit and completing the necessary coursework.



Excused Absences
under Title IX



Temporary Disability Policies under Title IX



An institution shall treat **pregnancy, childbirth, false pregnancy, termination or recovery therefrom** in the **same manner and under the same policies as any other temporary disability** with respect to any medical or hospital benefit, service, plan or policy which such institution administers, operates, offers, or participates in with respect to **students** admitted to the institution's educational program or activity.

Title IX 34 CFR § 106.40(b)(4)

ADA/Section 504

Federal law prohibits **disability discrimination** and requires institutions to provide reasonable accommodations to qualified individuals with a disability.

Applicable for students and employees.

A **disability** under ADA/504 is

1. A physical or mental impairment that substantially limits one or more **major life activities**;
2. A person who has a history or record of such an impairment; or
3. A person who is perceived by others as having such an impairment.



Pregnancy itself is not a disability, but **complications** from **pregnancy or childbirth** may qualify.

*Under ADA, accommodations that constitute **undue hardship** are not reasonable.*



Reasonable Accommodations under Texas Law



Institutions must provide **reasonable accommodations** to a **pregnant student**, including accommodations that:

- Would be provided to a student with a temporary medical condition; or
- Are related to the health and safety of the student and the student's unborn child, such as allowing the student to maintain a safe distance from substances, areas, and activities known to be hazardous or pregnant individuals or unborn children.

Tex. Edu. Code, Section 51.982(d)

Institutions must, for reasons related to a student's pregnancy, childbirth, or any resulting medical status or condition:

- Excuse the student's absences;
- Allow the student to make up missed assignments or assessments;
- Allow the student additional time to complete assignments in the same manner as the institution allows for a student with a temporary medical condition; and
- Provide the student with **access to instructional materials and video recordings** of lectures for classes for which the student has an excused absence (under this section) to the same extent that instructional materials and video recordings of lectures are made available to any other student with an excused absence.



Tex. Edu. Code, Section 51.982(e)

**Reasonable
Accommodations** under
Texas Law (Cont.)

Under the state law, it's **prohibited** from requiring documentation to excuse student absences when related to pregnancy, even when documentation would have been permitted to excuse absences that are otherwise “medically necessary” under Title IX.

If necessary, it is permissible to require documentation to simply verify the pregnancy status, but no additional documentation can be required of the student for the student to receive excused absences and the opportunity to make-up coursework.



Considerations for Reasonable Accommodations related to Pregnant Students

Length of absences from classes, clinicals, etc.

Timing of the absences

Course objectives

Content missed, as a result of the absences?

Are there alternative ways for the student to demonstrate competencies or skills?

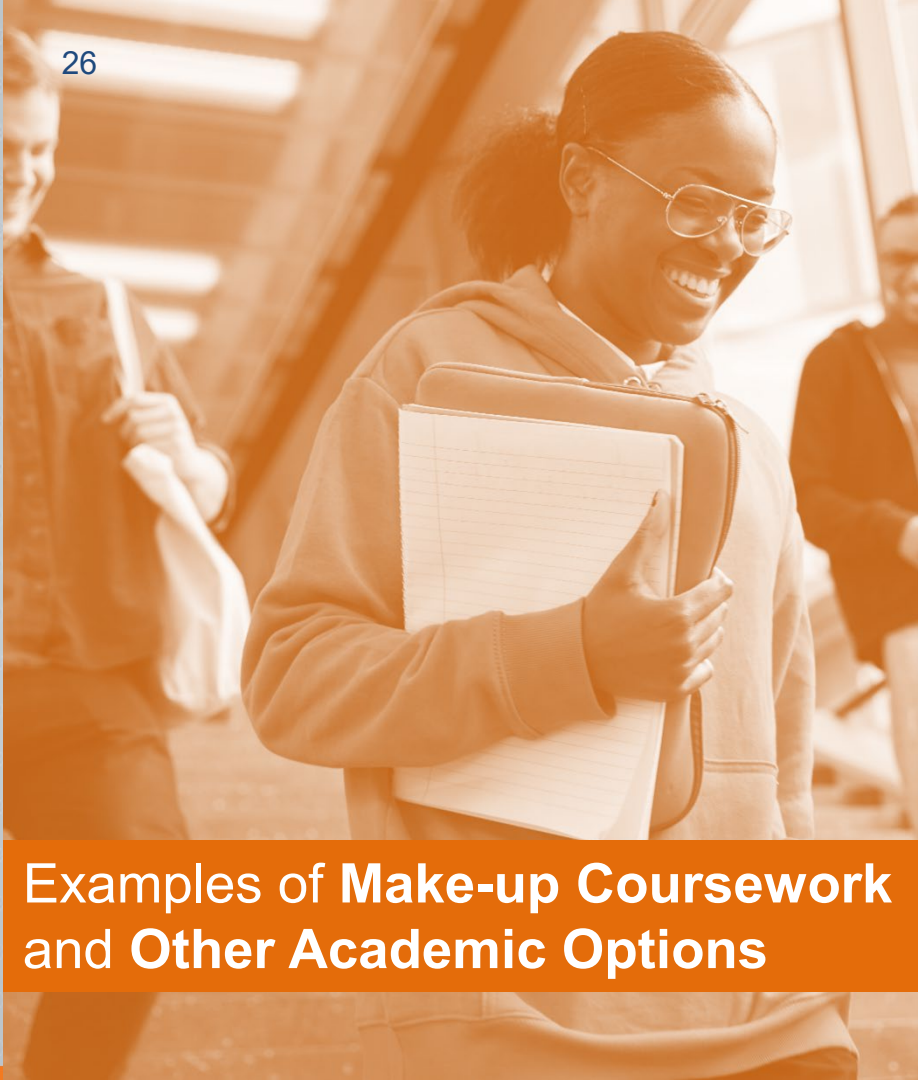
Fundamental alteration to the academic program or accreditation requirements?

Fundamental Alteration to the Academic Program

A "fundamental alteration" is a change that is so significant that it alters the essential nature of the approved course outline of record and the objectives of an individual course or course of study.

To determine the essential requirements for a course or program, faculty and staff should consider the following questions:

1. What fundamental course objective does the accommodation alter?
2. How does the requested accommodation alter this fundamental course objective?
3. What practical function does this fundamental objective serve in the academic program?
4. Is there documentation of the fundamental course objective (e.g. syllabus, professional association certification requirement, accreditation requirement, technical standard, etc.)?
5. Has this type of accommodation been approved for students without disabilities or for any other situation or reason in the class in the current semester or in the past? If so, Why?
6. Is there any alternative way the student could demonstrate competence without undermining the essential course objectives? *For example, an alternative accommodation that would not alter the essential objective of the course/program.*



Examples of Make-up Coursework and Other Academic Options

Flexible Attendance

Extensions on Coursework Deadlines

Reschedule Exam(s)

Re-weight Curriculum Coursework %

Alternative Assignments

Independent Study

Extra Credit Coursework

Remote Participation (Zoom/Teams)

Change Course to Pass/Fail Status

Reduced Courseload Status

Note: Not all of these examples may be reasonable or available, depending on the circumstances and/or course of study.

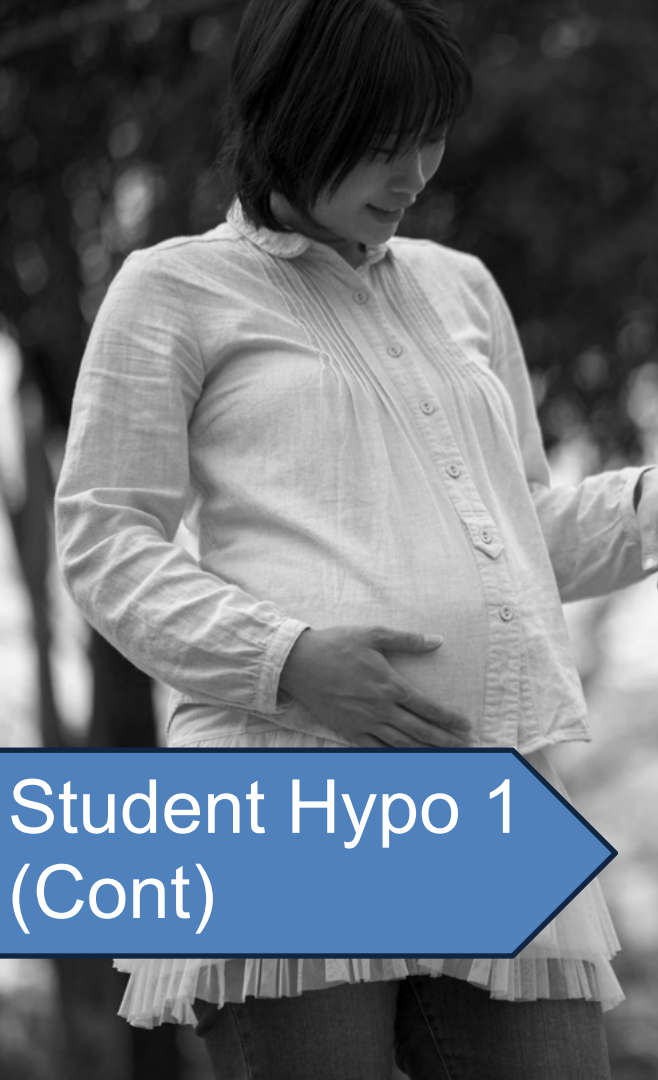


Student Hypo 1

Jin, a second-year undergraduate student, is in her third trimester and is due at the end of the semester. It's about half-way through the semester so far, and Jin has been missing classes periodically due to medical issues from the pregnancy and frequent doctor's appointments as a result.

Jin isn't sure how to handle her absences or what accommodations are available.

What are Jin's academic options at this time?

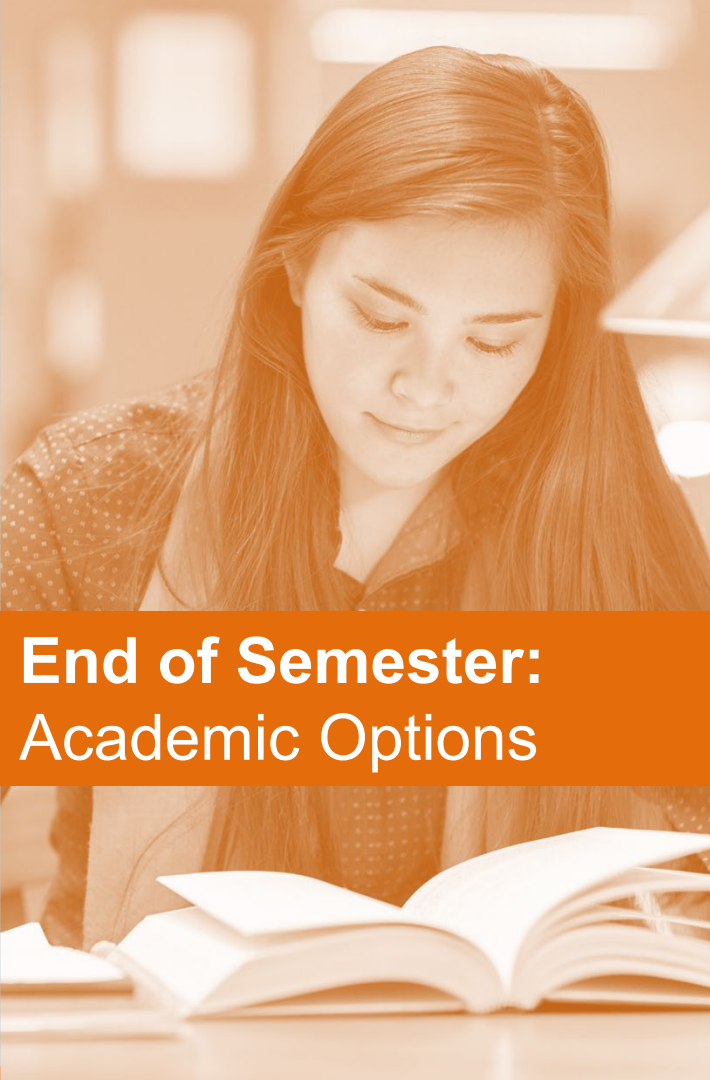


Student Hypo 1 (Cont)

Jin is due at the end of the semester. Jin has missed classes and assignments on a semi-regular basis due to ongoing medical issues from the pregnancy. Jin's professors have all provided Jin with multiple opportunities to make-up assignments and exams.

In one of her classes, Jin has only completed about 25% of the coursework, even with the opportunities offered by the professor to allow Jin to make-up the coursework missed. There is only one week left of classes, and Jin is due for delivery at the end of the week. Jin says she is unable to make-up the remaining coursework by the end of the semester and asks for an incomplete for the course so she can make-up the remaining work next semester.

The professor typically only considers giving incompletes when the student has completed more than half (>50% of the coursework) and is unsure what to do.



End of Semester: Academic Options

Dropping the Course
(w/o academic penalty)

Leave of Absence – Academic
Withdrawal from All Classes
(w/o academic penalty)

Incomplete Grade (if available,
depending on specific circumstances)



Student Hypo 2

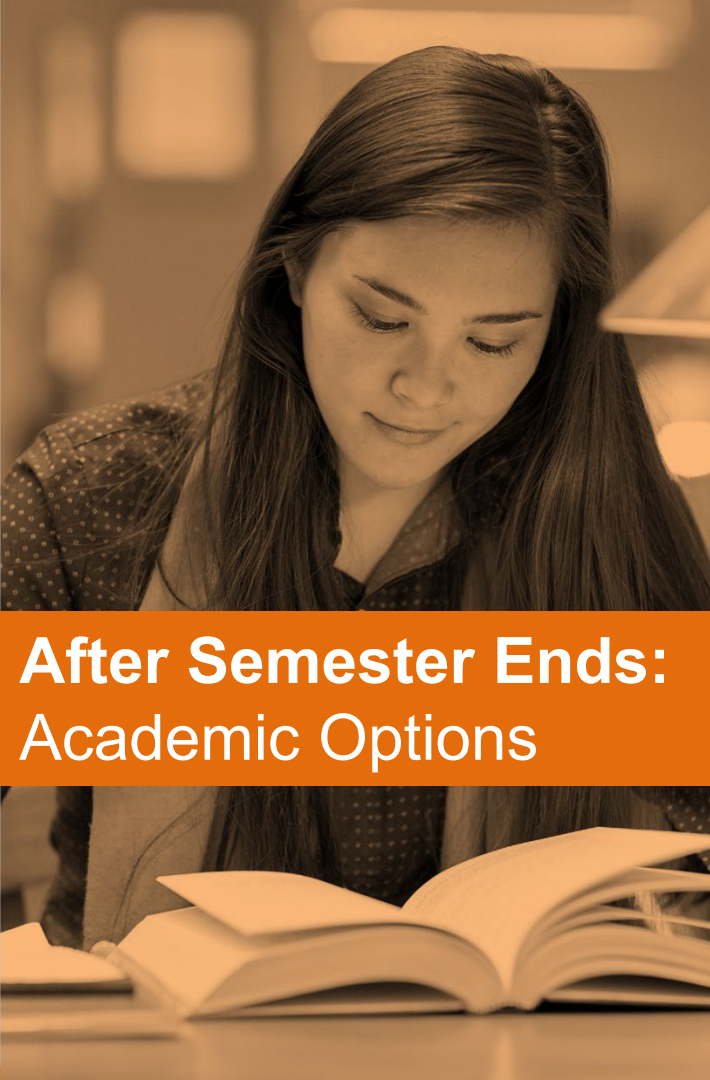
Lee had an emergency C-section due to third trimester pregnancy complications and needed to take a leave of absence (withdrawal from classes) during midterms.

As a result of the withdrawal, the Financial Aid Office is requiring that Lee pay back a portion of her financial aid award.

Lee requests that this repayment be waived due to the emergency circumstances of her pregnancy and delivery.

Or if the repayment cannot be waived, can Lee receive a tuition reimbursement since she was only enrolled for half of the semester.

What are Lee's financial aid and tuition reimbursement options at this time?



After Semester Ends: Academic Options

Retroactive Drop

Retroactive Withdrawal

*Note: Generally, retroactive academic options require additional paperwork, and documentation for the reason the student did not have the capacity to drop or withdraw **before** the original deadline.*

The decision of granting retroactive academic options for pregnant-related reasons is up the institution, depending on the specific circumstances.



Unique Student Scenarios

Medical Certification under Title IX



An institution may require such a student to obtain the **certification of a physician** that the student is physically and emotionally able to continue participation so long as such certification is **required of all students** for other physical or emotional conditions requiring the attention of a physician.

Title IX 34 CFR § 106.40(b)(2)

- A clinical rotation or internship cannot deny a student from **continuing participation** based solely on pregnancy.
- An academic clinical program may require **medical certification** of its students as long as it is a requirement of all students under the same circumstances.
- **Hospitals and clinics** that have a contractual arrangement formally integrating students through their education program -- must also adhere to Title IX compliance.

- Pregnant students are eligible for **reasonable accommodations** in clinical academic settings.
- If classes or clinicals are deemed “**unsafe**” for pregnant students, those students must be allowed to make-up work later or find a **reasonable accommodation** for the circumstances.
- Pregnant students can take a **leave of absence** (withdrawal from classes), if clinicals cannot be completed by end of term, and be **reinstated** to the same academic status held when the leave began.



Jamie just started a graduate nursing program and finds out she is pregnant. The program has a strict absence policy, in accordance with the program's accreditation requirements. If a student misses more than 3 days of classes or clinicals, the student will be dismissed.

Jamie has already missed 3 days of clinicals due to morning sickness (a common pregnancy-related condition) and she anticipates she will miss more clinicals again due to pregnancy-related conditions. There are no explicit exceptions in the syllabus addressing pregnancy-related absences.

Clinical Hypo

What are Jamie's academic options at this time?

- When the course has **participation or attendance-based grading** a pregnant student cannot be penalized when missing classes or participation based on pregnancy or related conditions.
- Pregnant students are eligible for **reasonable accommodations** in participation-based courses, including making-up participation-based coursework.
- **Academic alternatives** to participating in class may also be reasonable, if it's not a fundamental alteration to the curriculum or otherwise an undue hardship.



Participation-Based Courses



- Faculty cannot restrict pregnant students from **chemical or disease exposure** in lab settings; faculty cannot impose penalties for pregnant students who choose to abstain from chemical or disease exposure.
- **Reasonable restrictions** for health & safety are permitted (as determined by a physician or doctor's note **and** voluntarily provided by the student).
- Pregnant students are eligible for **reasonable accommodations** in labs, including making-up participation-based coursework in a safe environment (if available).
- If classes or labs are deemed “**unsafe**” for pregnant students, those students must be allowed to make-up work later or find a **reasonable accommodation** for the circumstances.

Lab Hypo

A black and white photograph of a woman with dark hair and glasses, wearing a white lab coat. She is holding a test tube in her right hand and looking upwards and to the right with a focused expression. The background is blurred, suggesting a laboratory setting.

Scout is pregnant and is taking a chemistry course that includes exposure to various chemicals for experiments. Grades are based heavily on attendance and lab participation. Scout asks the professor to complete her labs remotely (Zoom) with another student who has volunteered to facilitate Scout's experiments in person simultaneously in real time, under Scout's direction (to demonstrate her knowledge/comprehension of the course).

The professor doesn't usually allow for alternative lab participation but also doesn't think it's safe for a pregnant student to be exposed to chemicals. The professor recommends that Scout just drop the course and re-take in the future.

- Athletics programs cannot deny a pregnant student-student from **continuing sport participation** based solely on pregnancy.
- Athletics programs may require **medical certification** of its student-athletes as long as it is a requirement of all student-athletes under the same circumstances.
- Pregnant student-athletes may be eligible to apply for a **red shirt season**.
- Pregnant student-athletes can take a **leave of absence** from the athletics program due to pregnancy or related conditions and should be **reinstated** to the same student-athlete status which was held when the leave began.
- **Athletic financial awards** cannot be conditioned on not becoming pregnant and should be protected during the term of award.

- Under Title IX or state law, there are **no requirements** to provide parenting students or the co-prospective parent (non-pregnant person) reasonable accommodations for classes.
- Under state law, **parenting students** are eligible for a **leave of absence** (academic withdrawal from classes).
- Processes relating to **adoption, fostering, or fertility** are not explicitly addressed under 2020 Title IX Regulations or state law, but schools have discretion on how to apply **reasonable accommodations** and **leave of absences** under these circumstances.



Co-Prospective Parent (Non-Pregnant Person)



- Under Title IX, ADA, or state law, there are **no requirements** for institutions allow student's children in the classroom.
- Children in the classroom can **interfere** with the learning environments.
- **Childcare**, itself, is not considered “medically necessary” under Title IX.
- There are **no requirements** under Title IX for institutions to provide childcare for students, or excuse student absences due to lack of childcare available.



Childcare and Children in the Classroom

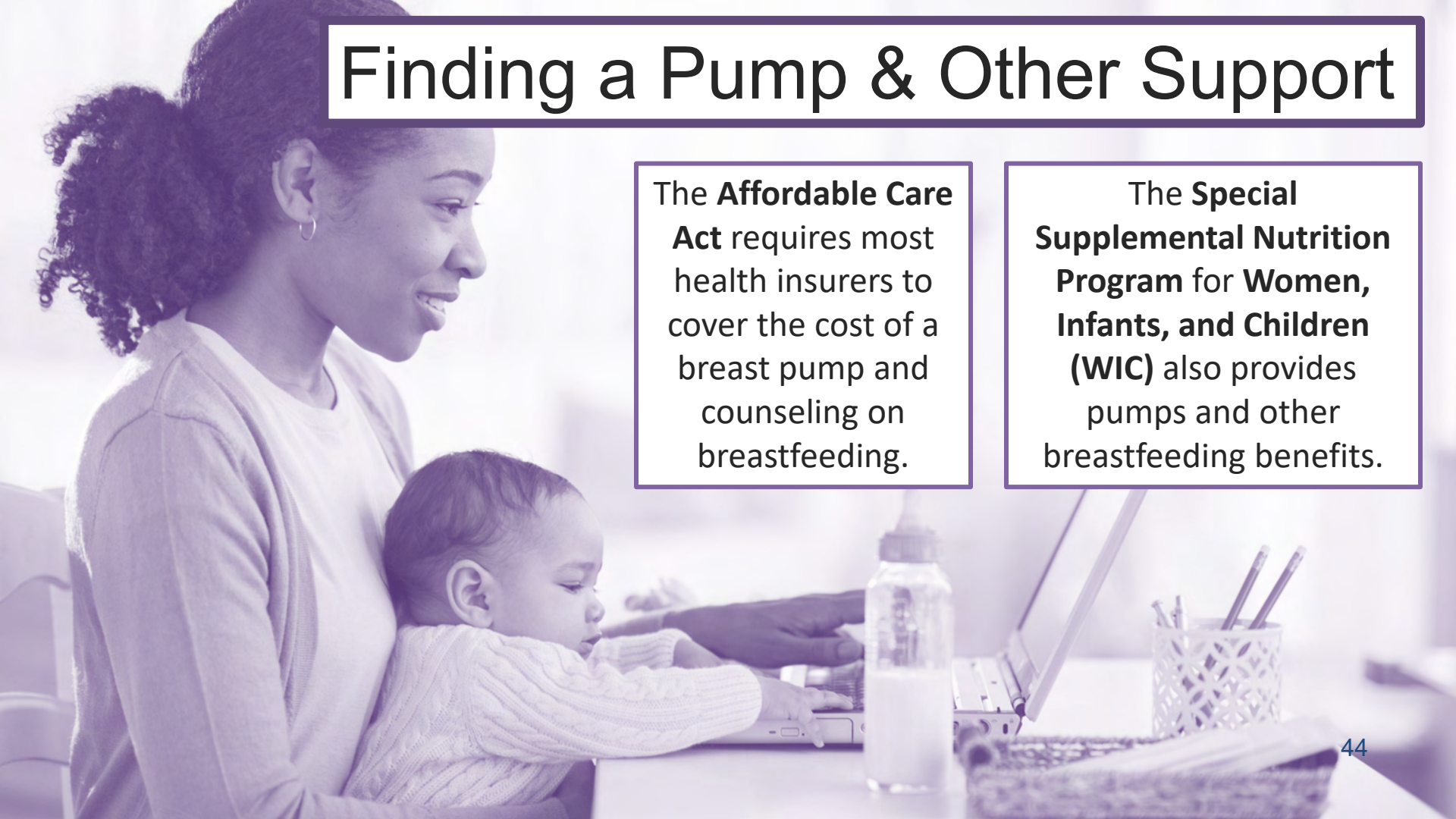


Lactation Hypo

Celina, a graduate student, recently delivered her baby two months ago. At the beginning of the semester, Celina approached one of her professors about needing to miss class periodically due to Celina's lactation/pumping schedule, and the professor said, *"We'll figure something out."*

Since then, Celina has missed parts of the class discussions, and two quizzes. When Celina attempted to make-up the quizzes and participation, the professor said that there will not be any make-up work, and the professor will just adjust the grading % to the other portions of coursework (e.g. research paper, end of semester exam).

Celina responds to the professor, saying that she prefers to have an opportunity to make up the missed work instead. With no academic policies addressing excused absences for lactating students, the professor says they have discretion on how to make class accommodations, as long as it's "fair" and "reasonable."

A woman with dark curly hair tied back is smiling and looking at a laptop. She is holding a baby in a white sweater. The baby is also looking at the laptop. On the desk, there is a bottle of milk and a pen holder with pens. The background is blurred.

Finding a Pump & Other Support

The **Affordable Care Act** requires most health insurers to cover the cost of a breast pump and counseling on breastfeeding.

The **Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)** also provides pumps and other breastfeeding benefits.

Parenting Student Support

Texas law requires IHE to provide **early class registration** to parenting students, if the IHE provides early registration to any other student groups.

Texas law requires IHE to have a designated **parenting student liaison** and provide local parenting-related resources to students.

*Tex. Edu. Code, Section 51.983; Tex. Edu. Code, Section 51.9357 (effective 9/1/23); 19 Tex. Admin. Code § 4.370-4.376 (2024) – IHE reporting requirements related to parenting students to the THECB **May or each year.***

Examples of Documentation and Record Keeping for Students

- Accommodation Requests
- Documentation for Requests (when applicable)
- Rationale for Approvals or Denials
- Professor Letters
- Modifications or Changes to Accommodations
- Concerns or Complaints
- Remedies or other Adjustments

Q & A



Contact Information

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