

Fertility Treatment, IVF, & Your Rights at Work

This guide gives an overview of your legal rights and options at work when you are undergoing fertility treatments such as in vitro fertilization (IVF) or other forms of reproductive assistance.

We understand that it can be difficult to assert your rights at work, especially when it comes to reproductive health care. But you do have legal rights. Knowing them can help you feel confident in asking for what you need. We hope this information helps you to protect yourself and your job.

You Should Know:

- Most workers have a right to seek reproductive health care, including IVF, without facing harassment, discrimination, or retaliation at work.
- Most workers undergoing fertility treatments have the right to changes at work or time off for IVF treatments and other fertility health needs.
- If you need help understanding how the legal rights described below apply to your situation, or if you think your employer is breaking the law, you can contact the Center for WorkLife Law's [free legal helpline](https://www.worklifelaw.org/free-legal-helpline) at (415) 703-8276 or hotline@worklifelaw.org.

Harassment and Discrimination Are Illegal

For most workers, it is illegal for your employer to fire, harass, or penalize you because you are undergoing or thinking about starting IVF treatments or using other forms of reproductive assistance.

For most workers, it is illegal for your employer to take negative actions against you because of your fertility issues or treatment. The [Pregnancy Discrimination Act \(PDA\)](#) and similar state laws protect employees against discrimination and harassment because of pregnancy and related medical conditions, like needing IVF. Your employer's actions may also violate the [Americans with Disabilities Act](#) if your need for reproductive assistance is related to a disability, such as an ovulation disorder, fallopian tube damage, uterine fibroids, a genetic disorder, or cancer. While the national protections only apply to employers with 15 or more employees, many workers at smaller businesses still have protections under state or local laws.

If after learning about your IVF treatments or other reproductive assistance care, your employer reduces your hours, gives you worse assignments or shifts, or makes harassing comments to you or about you, they may be breaking the law. If you feel like this is happening to you, take detailed notes about what is happening and report it to your human resources department.

For more information, contact [our free legal helpline](#). You can also find additional resources and file a complaint with the [Equal Employment Opportunity Commission](#) (EEOC) or your state’s civil rights agency.

Taking Time Off Work

Most workers have the right to take time off work for fertility treatments, including time off to attend IVF appointments or to manage side effects from the treatment that interfere with their ability to work. **If your employer has 15 or more employees, you have a right to receive time off as a reasonable accommodation under the [Pregnant Workers Fairness Act](#)**, unless it would be significantly difficult or expensive for your employer. There is no set amount of time you can take off under the Pregnant Workers Fairness Act. Your employer must give you time off for your health needs related to your fertility and reproductive health, so long as it is not significantly difficult or expensive to do so. This applies even if you are not eligible for leave under the Family Medical Leave Act (FMLA).

If you are covered¹ by the [Family Medical Leave Act \(FMLA\)](#), you may be able to use FMLA leave for fertility treatment and related health needs. Under the FMLA, your employer must give you the time off no matter what and must continue paying its part of your health insurance costs. However, under the FMLA you have a right to receive only 12 weeks of leave per year, and the time you take off for fertility treatment may use up the time you have available during pregnancy and following childbirth.

What if I work for a small employer?

You may have rights to take time off under state and local laws that apply to small employers. Check out [a list of state and local paid sick time laws](#) and [state pregnancy accommodation laws](#).

Is paid leave available?

Your employer is not required to pay you during your leave, but they may be required to allow you to use any sick, vacation, or other PTO you have available. You may also be able to receive pay from your state’s temporary disability or family and medical leave program. You should ask your human resources about what is available to you, or check out [a list of available state programs](#).

Contact our [helpline](#) to learn what you qualify for and how these laws and programs work together.

Changes At Work

Most workers have a right to “reasonable accommodations” because of pregnancy and related medical conditions, like fertility treatments. If your employer has 15 or more employees, you have a right to reasonable accommodations under the *Pregnant Workers Fairness Act* that applies in all

¹ Employees are eligible for FMLA leave if they have worked for their employer at least 12 months at any time, and at least 1,250 hours over the past 12 months. They must also work at a location where the company employs 50 or more employees within 75 miles.

states. If your employer does not have 15 employees, you may have rights under other [similar state or local laws](#).

“Reasonable Accommodations” are changes to how, when, and where your job is done. Your employer must make these changes unless doing so would be significantly difficult or expensive. Examples of changes you may need while undergoing fertility treatments:

- Time off to attend treatments;
- A change in schedule or hours;
- Breaks to take medication;
- Temporarily working from home (telecommuting);
- Other changes to address nausea, pain, or complications from fertility treatments.

You can reach out to human resources or your boss to ask for accommodations. Tell them you are requesting a reasonable accommodation under the Pregnant Workers Fairness Act because you need changes at work for a medical condition related to pregnancy. If possible, try to make your request in writing or, after asking in person, follow up with an email or text to confirm your request. Your employer must grant your request or have a conversation with you about possible other accommodations that would meet your needs. Your employer cannot require you to take leave if there is a reasonable accommodation that would allow you to keep working.

See below to learn what information your employer is allowed to ask for in a medical note. You can also contact [our free legal helpline](#) for more information or to discuss your specific situation.

Are my rights different if the reason I am using reproductive assistance is not related to fertility?

If the need is related to your own pregnancy, childbirth, or related medication condition, you have the same rights to leave and reasonable accommodations no matter the reason you are using reproductive assistance technology. This is because the need for leave or a reasonable accommodation is still related to pregnancy, childbirth, or a related medical condition.

Are my rights different if I am acting as a surrogate?

No. Surrogates have the same workplace rights as all other pregnant people.

Do I have to tell my employer that I am undergoing fertility treatments, such as IVF?

Generally no. It is your choice whether to tell your boss or coworkers. However, if you need time off or changes at work related to the IVF treatments, you may have to disclose you need the leave or changes due to “a pregnancy-related medical condition.” If you are undergoing fertility treatment because of an underlying disability (like cancer), you could also tell your employer that your workplace needs are related to that disability.

See below for more information on medical paperwork and what information you may have to provide to your employer.

What information am I required to give my employer when I ask for time off or accommodations?

This depends on what laws apply to you and how you make your request. If you have paid sick days available, state or local laws may allow you to use those days without having to tell your employer the reason you need to take time off. You can just ask for time off for a “doctor’s appointment” or “health issue.” It is possible your employer will allow you to take time off without asking for more information.

To take time off or to receive another accommodation under the *Pregnant Workers Fairness Act*, you may have to provide more information. You do not need to tell your employer that you are undergoing IVF, but you do have to tell your employer that you need workplace changes or time off for “a medical condition related to pregnancy.”

Your employer may be allowed to ask for limited medical documentation from your healthcare provider. See the next question to learn about what information it can ask for.

What do I do if my employer asks for a medical note?

If you request an accommodation for a medical condition related to pregnancy, your employer may ask you for a medical note when it is “reasonable,” or you may want to provide one to support your request for time off or changes at work. If your employer requests medical information, it is allowed to ask for only:

- Your work limitation, which is your physical or mental condition, an impediment, or a problem, such as needing to rest, reduce risk, or alleviate pain. This can be something that you need at work to stay healthy, like going to healthcare appointments or recovering from childbirth.
- A simple statement that your limitation or need is related to pregnancy, childbirth, or a related medical condition.
- The accommodation or change that you need at work.
- The expected timeframe for the accommodation.

Your doctor, midwife, therapist, doula, or other healthcare provider can write the note or complete the form. The healthcare provider submitting the documentation does not need to be the same one who is actually treating you for the condition.

Once you have provided this information, your employer is not allowed to ask for more information or to delay giving you what you need. Your employer also cannot require you to be examined by a doctor or provider they’ve chosen.

For more information, check out our [FAQs on Doctors Notes and Medical Paperwork](#).

Keep in mind that the medical paperwork rules are different if you do not say that your needs are for “a medical condition related to pregnancy”; your employer may be allowed to ask for more information from your healthcare provider in that case.

Does my employer have to keep the information I provide them confidential?

If your employer has 15 or more employees, they are required under the *Americans with Disabilities Act* to keep all your medical information private. This means your employer is not supposed to tell your coworkers or supervisor about your medical information, unless there is a good reason to do so, like telling a human resource employee who handles time off requests. Even if your employer does not have 15 employees, state or local laws may provide other privacy protections.

Unfortunately, there is never a guarantee that employers will follow the law and keep your information private.

To let your employer know you expect them to keep your information private, you may also want to say to them, in writing, if possible: “Please keep this private, protected medical information confidential, and do not share it with my coworkers, supervisor, or anyone else who does not have a legitimate reason to know it. If you need to share it beyond Human Resources for any reason, please contact me first. Please keep this information separate from my general employee records, as may be required by state and federal law. Thank you for protecting my privacy.”

What if I work for a religious organization?

Workplace rights related to IVF treatments are more complicated when the employer is a religious organization. The protections you have will depend on the details of your specific situation. If you work for a religious organization and want more information on your rights, [contact our free helpline](#).

Can my family member take time off to go to fertility treatments with me?

Your spouse, parent or other family member may have a right to take time off work to accompany you while you attend fertility treatments or to care for you afterwards, if they are covered by the [Family Medical Leave Act \(FMLA\)](#) or a similar state or local law that provides paid sick days or family and medical leave. They may also be able to receive pay from your state’s family leave program. They should ask their human resources about what is available to them for caregiving leave, or check out [a list of available state programs](#).

Questions?

For more information about work and pregnancy, please visit www.pregnantatwork.org or contact our [free legal helpline](#) at (415) 703-8276 or hotline@worklifelaw.org.