

SUBJECT: LACTATION ACCOMMODATION

ORIGINATING OFFICE: ASSISTANT SUPERINTENDENT, HUMAN RESOURCES

EFFECTIVE: OCTOBER 13, 2015

REVISED: **JUNE 9, 2020**

**All Personnel**

The Board of Trustees recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any district employee to express milk for an infant child upon returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee for seeking an accommodation to express breast milk for an infant child while at work.

An employee shall notify the employee's supervisor or other appropriate personnel in advance of the intent to request an accommodation. The supervisor shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless limited circumstances exist as specified in law. (Labor Code [1031](#), [1032](#); 29 USC [207](#))

Lactation accommodations may be denied only in limited circumstances in accordance with law. (Labor Code 1032; 29 USC 207)

Before a determination to deny lactation accommodations, the supervisor shall consult the Superintendent or designee. In any case in which lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute the policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

**Break Time and Location Requirements**

The district shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. (Labor Code [1030](#))

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code [1030](#); 29 USC [207](#))

The employee shall be provided the use of a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area. The room or location provided shall meet the following requirements: (Labor Code [1031](#); 29 USC [207](#))

1. Is shielded from view and free from intrusion while the employee is expressing milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code [6382](#)
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code [1031](#))

### **Dispute Resolution**

An employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code [1030](#)-1034. (Labor Code 1034)

#### Legal Reference:

##### EDUCATION CODE

200-262.4 Educational equity; Prohibition of discrimination on the basis of sex

##### CIVIL CODE

43.3 Right of mothers to breastfeed in any public or private location

##### GOVERNMENT CODE

[12926](#) Definition of sex; breastfeeding

12940 Discriminatory employment practices

12945 Discrimination based on pregnancy, childbirth, or related medical conditions

##### LABOR CODE

1030-1033 Lactation accommodation

[6382](#) Procedure for listing hazardous substances

##### CODE OF REGULATIONS, TITLE 2

[11035-11051](#) Unlawful sex discrimination; pregnancy and related medical conditions

UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Lactation Accommodation for Employers

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Fact Sheet #73: Break Time for Nursing Mothers under the FLSA, rev. April 2018

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse>

California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers:

<http://www.dol.gov/whd/nursingmothers>