Lactation Accommodation

Adopted: 09/03/2024 **| Last Revised:** n/a **| Last Reviewed**: 09/03/2024

The Board of Education recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any district employee to express breast 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 district administrator in advance of the intent to request an accommodation. The supervisor or appropriate district administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor or appropriate district administrator shall address scheduling in order to ensure that the employee's essential job duties are covered during break time.

Lactation accommodations shall be granted unless circumstances exist as specified in law.

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the Superintendent or designee. When lactation accommodations are denied the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response for denying the accommodation(s).

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 this policy to new employees upon hire and when an employee makes an inquiry about or request parental leave.

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.

To the extent possible, any break time granted for lactation accommodate 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.

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk or breastfeeding as needed. The lactation space shall be 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, and shall meet the following requirements:

1. Is shielded from view and free from intrusion while the employee is expressing breast 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 breast 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.

Dispute Resolution

Complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with procedures specified in 34 CFR 106.44 and 106.45 and Rule 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Additionally, an employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the Providing Urgent Maternal Protections for Nursing Mothers Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodation pursuant to the Pregnant Workers Fairness Act.

In addition, 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.

Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Legal References:

STATE
CALIFORNIA CODE OF REGULATIONS
2 CCR 11035-11051 Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions
CIVIL CODE
43.3 Right of mothers to breastfeed in any public or private location
EDUCATION CODE
200-262.4 Prohibition of discrimination
GOVERNMENT CODE
12925-12954 Unlawful discriminatory employment practices
12945 Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
LABOR CODE
1030-1034 Lactation Accommodation
6382 Procedure for listing hazardous substances
FEDERAL
UNITED STATES CODE
20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex
29 USC 218c Fair Labor Standards Act; protections for employees
42 USC 2000gg-2000gg-6 Pregnant Workers Fairness Act
CODE OF FEDERAL REGULATIONS
106.1-106.82 Discrimination on the basis of sex; effectuating Title IX
MANAGEMENT RESOURCES
CA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATION
Rest Periods/Lactation Accommodation, Frequently Asked Questions
CALIFORNIA CIVIL RIGHTS DEPARTMENT DECISION
Department of Fair Employment and Housing v. Acosta Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATION
Lactation Accommodation for Employers
FEDERAL REGISTER
Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 78, No. 244, pages 80073-80079
OFFICE OF THE SURGEON GENERAL PUBLICATION
The Surgeon General's Call to Action to Support Breastfeeding, 2011
U.S. DOL, WAGE AND HOUR DIV., PUBLICATION
Education FAQs
Frequently Asked Questions - Pumping Breast Milk at Work
Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work, rev. January 2023
U.S. HHS OFFICE ON WOMEN'S HEALTH PUBLICATION
The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008
WEBSITES
CSBA District and County Office of Education Legal Services https://legalservices.csba.org/#
Equal Employment Opportunity Commission http://www.eeoc.gov/
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 Program 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 https://www.hhs.gov/surgeongeneral/index.html
U.S. Department of Labor, Wage and Hour Division, FLSA Protections to Pump at Work http://www.dol.gov/whd/nursingmothers

---

Policy Adopted: 09/03/2024