

TITLE: Lactation Accommodation	
Approved by: <u>Rob Gregor</u> Rob Gregor, Superintendent of Schools	Series: Personnel Version: New Effective Date: August 1, 2024 Previous Policy Date: New Revised By: Committee Policy Number: SP 4033

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

An employee shall notify the employee's supervisor 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 218d, 42 USC 2000gg-1)

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 to any employee who was denied the accommodation(s). (Labor Code 1034)

Yuba County Office of Education shall include this policy in any set of policies that the County Office 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 requests parental leave. (Labor Code 1034)

Break Time and Location Requirements

Yuba County Office of Education 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; 42 USC 2000gg-1; 34 CFR 106.57)

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 218d)

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk. 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: (Labor Code 1031; 29 USC 218d; 34 CFR 106.57)

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. (Labor Code 1031)

Dispute Resolution

Complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 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 accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2).

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. (Labor Code 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.

State	Description
2 CCR 11035-11051	Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions
29 USC 218c Civ. Code 43.3	Fair Labor Standards Act; protections for employees Right of mothers to breastfeed in any public or private location
Ed. Code 200-262.4 Gov. Code 12925-12954 Gov. Code 12945	Prohibition of discrimination Unlawful discriminatory employment practices Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Lab. Code 1030-1034 Lab. Code 6382	Lactation Accommodation Procedure for listing hazardous substances
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
29 CFR 1636 29 USC 218d	Implementation of the Pregnant Workers Fairness Act Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act
34 CFR 106.1-106.82 42 USC 2000gg-2000gg-6	Discrimination on the basis of sex; effectuating Title IX Pregnant Workers Fairness Act
Management Resources	Description
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
Federal Register	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
U.S. DoL, Wage and Hour Div., Publication	Frequently Asked Questions - Pumping Breast Milk at Work
U.S. DoL, Wage and Hour Div., Publication	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
Website	CSBA District and County Office of Education Legal Services
Website	Equal Employment Opportunity Commission
Website	California Department of Industrial Relations, Division of Labor and Standards Enforcement
Website	California Department of Public Health
Website	California Women, Infants and Children Program
Website	Centers for Disease Control and Prevention
Website	Health Resources and Services Administration
Website	Office of the Surgeon General
Website	U.S. Department of Labor, Wage and Hour Division, FLSA Protections to Pump at Work

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4119.11	Sex Discrimination and Sex-Based Harassment
4119.11	Sex Discrimination and Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4144	Complaints
4144	Complaints
4161.8	Family Care And Medical Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
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4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4244	Complaints
4244	Complaints
4261.8	Family Care And Medical Leave
4312.9	Employee Notifications

4312.9-E(1)	<u>Employee Notifications</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
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	<u>Complaint Procedures</u>
4319.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4361.8	<u>Family Care And Medical Leave</u>