San Bernardino County Superintendent of Schools
Policy 4033

LACTATION ACCOMODATION

The Superintendent recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any superintendent employee to express breast milk for an infant child upon returning to work following the birth of the child. The Superintendent prohibits discrimination, harassment, and/or retaliation against any superintendent 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 superintendent administrator in advance of the intent to request an accommodation. The supervisor or appropriate superintendent administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor or appropriate superintendent administrator 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-l)

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)

The superintendent shall include this policy in any set of policies that the superintendent 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

The superintendent 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-l; 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 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: (Labor Code 1031; 29 USC218d; 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)

Date 8/27/24

Ted Alejandre
County Superintendent of Schools
San Bernardino County, CA

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Approved: August 26, 2024