

Personnel

LACTATION ACCOMMODATION

BP 4033

The Governing Board recognizes the immediate and long-term health benefits of breast milk 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 the break time.

Lactation accommodations shall be granted unless there exist limited circumstances, 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)

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 requests parental leave. (Labor Code 1034)

Break Time and Location Requirements

For at least a year after the birth of a child, 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; 42 USC 2000gg-1)

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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 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 USC 218d)

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

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)

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

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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).

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 Governing Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State

2 CCR 11035-11051

Civ. Code 43.3

Ed. Code 200-262.4

Gov. Code 12925-12954

Gov. Code 12945

Lab. Code 1030-1034

Lab. Code 6382

Federal

29 CFR 1636

29 USC 218c

29 USC 218d

42 USC 2000gg-2000gg-6

U.S. DoL, Wage and Hour Div.,
Publication

Management Resources

CA Department of Industrial
Relations Publication

California Civil Rights Department
Decision

California Department of Public
Health Publication

Office of the Surgeon General
Publication

U.S. DoL, Wage and Hour Div.,
Publication

U.S. DoL, Wage and Hour Div.,
Publication

Description

[Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions](#)

[Right of mothers to breastfeed in any public or private location](#)

[Prohibition of discrimination](#)

[Unlawful discriminatory employment practices](#)

[Unlawful discrimination based on pregnancy, childbirth, or related medical conditions](#)

[Lactation Accommodation](#)

[Procedure for listing hazardous substances](#)

Description

[Implementation of the Pregnant Workers Fairness Act](#)

[Fair Labor Standards Act; protections for employees](#)

[Fair Labor Standards Act; Providing Urgent Maternal](#)

[Protections for Nursing Mothers \(PUMP\) Act](#)

[Pregnant Workers Fairness Act](#)

[Education FAQs: Pump at Work Frequently Asked Questions](#)

Description

[Rest Periods/Lactation Accommodation, Frequently Asked Questions](#)

[Department of Fair Employment and Housing v. Acosta Tacos \(Chavez\), FEHC Precedential Decision 09-03P, 2009](#)

[Lactation Accommodation for Employers](#)

[The Surgeon General's Call to Action to Support Breastfeeding, 2011](#)

[Frequently Asked Questions: Pumping Breast Milk at Work](#)

[Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work, rev. January 2023](#)

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4319.11	<u>Sexual Harassment</u>
4319.12	<u>Title IX Sexual Harassment Complaint Procedures</u>
4319.12-E(1)	<u>Title IX Sexual Harassment Complaint Procedures</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4361.8	<u>Family Care And Medical Leave</u>

Policy

PASADENA UNIFIED SCHOOL DISTRICT

Adopted: November 22, 2011

Pasadena, California

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