

Old

4033 BP: Lactation Accommodation

Lactation Accommodation

Adopted: November 16, 2023

The Governing Board 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)

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 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)

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

Ed. Code 200-262.4 Prohibition of discrimination

Gov. Code 12926 Definitions

Gov. Code 12940 Unlawful discriminatory employment practices

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Policy MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT

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Gov. Code 12945 Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

Lab. Code 1030-

1034 Lactation Accommodation

Lab. Code 6382 Procedure for listing hazardous substances

Federal Description

29 USC 207 Fair Labor Standards Act

Management Resources Description

CA Department of Industrial

Relations Publication

Rest Periods/Lactation Accommodation, Frequently Asked Questions

California Department of Public

Health Publication Lactation Accommodation for Employers

CDC Publication Lactation Support Program Toolkit

Fair Employment and Housing

Commission Decision

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

Federal Register Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 78, No. 244, pages 80073-70079

Health Resources & Services

Admin Publication

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

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 Frequently Asked Questions- Break Time for Nursing Mothers

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

Publication

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

Website CSBA District and County Office of Education Legal Services

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

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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, Break Time for Nursing Mothers

Cross References

Code Description

0410 Nondiscrimination In District Programs And Activities

4030 Nondiscrimination In Employment

4030 Nondiscrimination In Employment

4112.9 Employee Notifications

4112.9-E(1) Employee Notifications

4144 Complaints

4144 Complaints

4161.8 Family Care And Medical Leave

4212.9 Employee Notifications

4212.9-E(1) Employee Notifications

4244 Complaints

4244 Complaints

4261.8 Family Care And Medical Leave

4312.9 Employee Notifications

4312.9-E(1) Employee Notifications

4344 Complaints

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4344 Complaints

4361.8 Family Care And Medical Leave