

Policy 4033: Lactation Accommodation

Status: DRAFT

Original Adopted Date: 12/11/2012 | Last Revised Date: 05/18/2021

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 **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 personnel ~~personnel~~ **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 limited circumstances exist as specified in law. (Labor Code 1031, 1032; 29 USC 207218d, **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 ~~the~~ **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 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; 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 207218d)

The employee shall be provided ~~a lactation space which may be used by the use of~~ **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. ~~The room or location provided, and~~ shall meet the following requirements: (Labor Code 1031; 29 USC 207218d; **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)
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 **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.

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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 References

2 CCR 11035-11051

Description

Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions

29 USC 218c

Fair Labor Standards Act; protections for employees

Civ. Code 43.3

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

Ed. Code 200-270

[Prohibition of discrimination](#)

Gov. Code 12925-12954

Unlawful discriminatory employment practices

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 References

20 USC 1681-1688

Description

Title IX of the Education Amendments of 1972; discrimination based on sex

29 CFR 1636

Implementation of the Pregnant Workers Fairness Act

29 USC 218d

Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

34 CFR 106.1-106.82

Discrimination on the basis of sex; effectuating Title IX

42 USC 2000gg-2000gg-6

Pregnant Workers Fairness Act

Management Resources References

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](#)

Management Resources References

Federal Register

Description[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****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](#)

Cross References

4219.11

4219.11

4219.12

4219.12-E(1)

4244

4261.8

4312.9

4312.9-E(1)

4313.4

4319.11

4319.11

4319.12

4319.12-E(1)

4344

4361.8

Description[Sex Discrimination and Sex-Based Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Complaints](#)[Family Care And Medical Leave](#)[Employee Notifications](#)[Employee Notifications](#)[Temporary Modified/Light-Duty Assignment](#)[Sex Discrimination and Sex-Based Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Complaints](#)[Family Care And Medical Leave](#)