

Federal and California Law Support Breastfeeding

FEDERAL LAW EFFECTIVE MARCH 2010: REASONABLE BREAK TIME FOR NURSING MOTHERS

Section 7 of the Fair Labor Standards Act of 1938 3(29 U.S.C. 207) is amended by adding at the end the following:

(1)(1) An employer shall provide (A) a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth, each time such employee has need to express the milk; and (B) a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk.

(2) An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.

(3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship considered in relation to the size, financial resources, nature, or structure of the employer's business.

(4) Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection.

CALIFORNIA LACTATION ACCOMMODATION LAW (Chapter 3.8, Section 1030, Part 3 of Division 2 of the Labor Code)

This law requires all California employers to provide a reasonable amount of break time and to make a reasonable effort to provide space other than a toilet stall, close to the employee's work area, to accommodate an employee desiring to express breast milk for her baby. The break time shall be unpaid if the break time does not run concurrently with the rest time authorized for the employee. An employer is not required to provide break time for pumping if taking break time beyond the usual time allotted for breaks would seriously disrupt the operations of the employer. Violation of this chapter is subject to a civil penalty of \$100.

Additional Breastfeeding Laws in California:

California Civil Code § 210.5 (2000) allows a breastfeeding mother to postpone jury duty for one year and specifically eliminates the need for the mother to appear in court to request the postponement. The law also provides that the one-year period may be extended upon written request of the mother. [Chap. 266 (AB 1814)]

California Civil Code § 43.3 (1997) allows a mother to breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present. (AB 157)

Useful Web Sites

Academy of Breastfeeding Medicine, The (ABM) - www.bfmed.org

American Academy of Family Physicians (AAFP) - www.aafp.org

American Academy of Pediatrics (AAP) - www.aap.org

American College of Nurse-Midwives (ACNM) - www.midwife.org

American College of Obstetricians and Gynecologists, The (ACOG) - www.acog.org

American Dietetic Association (ADA) - www.eatright.org

Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN) - www.awhonn.org

Breastfeeding Task Force of Greater Los Angeles, The - www.breastfeedingtaskforla.org

California Department of Public Health (CDPH) - www.cdph.ca.gov

California Women, Infants & Children (WIC) - www.wicworks.ca.gov

Centers for Disease Control and Prevention (CDC) - www.cdc.gov

LA Best Babies Network - www.labestbabies.org

La Leche League International (LLL) - www.llli.org

National Association of Neonatal Nurses (NANN) - www.nann.org

National Association of Nurse Practitioners in Women's Health (NPWH) - www.npwh.org

National Association of Pediatric Nurse Practitioners (NAPNAP) - www.napnap.org

National Institutes of Health (NIH) - www.nih.gov

National Medical Association (NMA) - www.nmanet.org

Office on Women's Health, The (OWH) - www.4women.gov/owh

United Nations Children's Fund (UNICEF) - www.unicef.org

US Department of Agriculture (USDA) - www.usda.gov

US Department of Health and Human Services (HHS) - <http://www.womenshealth.gov/breastfeeding/programs/business-case/>

World Health Organization (WHO) - www.who.int

Notes and References

End Notes

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3. Bartick, M. and Reinhold, A. *The Burden of Suboptimal Breastfeeding in the United States: A Pediatric Cost Analysis.* Pediatrics 2010 0: peds.2009-1616.

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U.S. Department of Health and Human Services. *Healthy People 2010: Conference Edition.* Vol 1 & 2. Washington, D.C.; U.S. Department of Health and Human Services, Public Health Service, Office of the Assistant Secretary for Health, 2000-2, 47-48.

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Acknowledgments

We gratefully acknowledge First 5 LA for funding this project.

We thank the following individuals and agencies for their contributions to the development of this project:

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Breastfeeding-Friendly Workplace Policies

LA BEST BABIES NETWORK

 Healthy Babies. Our Future.

Supporting Breastfeeding in the Workplace

Human milk is acknowledged to be the best nutrition for infants. Leading health organizations strongly advise mothers to exclusively breastfeed their babies for the first 6 months, and continue for at least one to two years, as long as it is mutually desired by mother and baby.

Many women stop breastfeeding, however, when they return to work. More than half of mothers in the US with children under age 3 work. Approximately one-third of mothers return to work within 3 months of giving birth, and half return before the baby is 6 months old.

Mothers who want to keep breastfeeding after returning to work have only a few simple needs. Employers who create a breastfeeding-support program in the workplace that helps mothers breastfeed babies longer will find that they have made a sound business decision. They will also help to bolster babies' health.

Benefits of Providing a Breastfeeding-Friendly Work Environment

For Employers and Employees

- Cost savings
- Increased job productivity
- Improved corporate image
- Decreased absenteeism
- Lower healthcare costs
- Improved employee satisfaction and morale
- Greater employee loyalty and retention
- Additional recruitment incentive

For every \$1 spent to support breastfeeding in the workplace, companies save \$3.^{1,2} Because breastfed babies are healthier, breastfeeding mothers will take fewer days off to care for a sick child. The company will spend fewer healthcare dollars on both mother and infant. In addition, employers report less staff turnover because employees are more satisfied with their jobs. An added benefit is that a family-friendly work environment makes an excellent recruitment tool.

For the Working Mother Who Breastfeeds

- Better health
- Easier transition back to work
- Increased self-confidence and self-reliance
- Cost savings
- A healthier baby
- Less conflict between career and motherhood
- Greater work satisfaction
- Increased child spacing (time between births)

Women who breastfeed their babies for longer accrue significant health benefits. Breastfeeding is linked to a reduction in risk for many diseases, such as breast and ovarian cancers, osteoporosis and Type 2 diabetes. Breastfeeding has a calming effect on the mother and helps her better manage stress. It also has a contraceptive effect, which can lengthen the time between pregnancies and help make the next child healthier. Financially, breastfeeding means families will save on formula costs, healthcare expenses, and alternative care when a baby is sick.

For the Baby

- Recommended method of feeding by all health authorities
- Healthier immune system
- Fewer doctor visits and hospitalizations
- Protection against chronic diseases
- Decreased risk of Sudden Infant Death Syndrome (SIDS)
- Stronger mother-baby attachment

Health experts worldwide recognize that breastfeeding is the best way to feed an infant (see "Useful Web Sites" for a list of professional health organizations). Breastfed babies have fewer ear, respiratory and intestinal infections; are less likely to have allergies and asthma; and less risk of developing chronic diseases and conditions, such as SIDS, diabetes, childhood cancers, obesity and high cholesterol. All of these factors aid in reducing medical visits, prescriptions and hospitalizations. The benefits of breastfeeding last a lifetime.

For the Community

- Reduced healthcare costs
- Environmental friendliness
- Enhanced long-term health

A 2010 study published in *Pediatrics* found that the U.S. would save \$13 billion per year and prevent over 900 infant deaths if 90% of mothers were to breastfeed exclusively for 6 months.³ US taxpayers would save \$478 in Women, Infants, and Children (WIC) costs and Medicaid expenditures for each infant breastfed during the first 6 months of life.⁴ Breastfeeding in the workplace requires no environmental costs in terms of production, packaging or waste disposal.



Breastfeeding-Friendly Workplace Policy Template

This template can be customized by employers to individual workplaces. It can be downloaded as a Word document at: www.LABestBabies.org/templates/bfwp.doc.

Purpose

To establish guidelines for promoting a breastfeeding-friendly work environment at [Agency].

Policy

[Agency] recognizes that breast milk is the optimal food for the growth and development of infants, and encourages employees and management to have a positive, accepting attitude to working women who are breastfeeding. [Agency] promotes and supports breastfeeding and the expression of breast milk by employees who are breastfeeding when they return to work.

Discrimination and harassment of breastfeeding mothers in any form is unacceptable and will not be tolerated by [Agency].

It shall be the policy of [Agency] to provide:

Training

[Agency]'s Breastfeeding-Friendly Workplace policy shall be disseminated to every incoming and current employee.

Information about breastfeeding support after returning to work shall be provided to employees prior to their maternity leave.

Time to Express Milk or Breastfeed (Lactation Time)

Lactation times shall be established for each employee, based on her work schedule. If possible, the lactation time is to run concurrently with any break time already allotted.

Lactation time beyond the regular break is unpaid and will be negotiated between the employee and [Agency].

Space and Equipment for Expressing Milk or Breastfeeding

Employees shall be provided the use of a clean, comfortable space or "Lactation Area." A toilet stall shall not serve as the lactation area. For ideas on the use of office space as a lactation area, visit <http://www.cdph.ca.gov/programs/wicworks/Pages/WICBFEmployerResources.aspx>.

The Lactation Area shall:

- Be equipped with an electrical outlet
- Be in close proximity to the employee's work area
- Contain comfortable seating

Ideally, the Lactation Area will be near:

- A sink, with hot water and soap, for hand washing and cleaning of equipment.
- A refrigerator, for storage of expressed breast milk.

Atmosphere of Tolerance

Breastfeeding shall not be the cause of discrimination in the workplace nor in access to employment. It is prohibited under this policy to harass a breastfeeding employee. Such conduct unreasonably interferes with an employee's work performance and creates an intimidating, hostile and offensive working environment.

Any incident of harassment of a breastfeeding employee will be addressed in accordance with [Agency]'s policies and procedures for discrimination and harassment.



Recommendations

Additional recommendations for providing breastfeeding promotion and support include:

Highly recommended:

- The breastfeeding employee may be offered a flexible schedule to accommodate pumping or breastfeeding.
- The breastfeeding employee may be offered flexible assignments to accommodate pumping or breastfeeding.
- The employer may provide appropriate labeling for the "Lactation Area." (Images of bottles or pacifiers are not suitable symbols.)
- The employer may provide a refrigerator labeled exclusively for breast milk storage.
- Appropriate signage and/or other security measures may be used to identify the occupied status of the "Lactation Area."
- [Agency]'s visitors, clients and customers who breastfeed will be welcomed and appropriately accommodated.

Also suggested:

- The employer may provide the option of part-time work, telecommuting/working from home, or job sharing to the breastfeeding employee.
- The employer may extend maternity leave beyond the period stipulated by the Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA).
- The employer may provide on-site or nearby day care.
- The employer may provide referrals to breastfeeding resources and services in the community.
- The employer may incorporate breastfeeding information into the employee wellness program.
- The employer may provide on-site or agency-wide lactation services that include some or all of the following:
 - Professional lactation personnel.
 - Purchase of electrical pump(s) for the "Lactation Area."
 - Discounted breast pump purchasing/rental program for employees.
 - A breastfeeding support group for working mothers.
 - Healthcare benefits with a lactation services coverage rider.