

Tahoe Truckee USD

Board Policy

Lactation Accommodation

BP 4033

Personnel

The Governing Board recognizes the immediate and long-term health ~~advantages~~ **benefits** of breastfeeding ~~for infants and mothers~~ and desires to provide a supportive environment for any district employee to express milk for ~~her~~ **an** infant child upon ~~her return~~ **returning** to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee ~~who chooses~~ **for seeking an accommodation** to express breast milk for ~~her~~ **an** infant child while at work.

(cf. 4030 - Nondiscrimination in Employment)

~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~

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 Chief Learning Officer or designee. When lactation accommodations are denied, the Superintendent Chief Learning Officer or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent Chief Learning Officer 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 Chief Learning Officer 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)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Break Time and Location Requirements

The district shall provide a reasonable amount of break time to accommodate an employee each time ~~she~~**the employee** has a need to express breast milk for ~~her~~**an** infant child. (Labor Code 1030)

To the extent possible, ~~such~~**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 ~~restroom~~**bathroom**, which **may be the employee's work area or another location that** is in close proximity to ~~her work area and meets the~~**the employee's work area**. **The room or location provided shall meet the following** requirements ~~of~~: (Labor Code 1031 ~~and~~; 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 applicable.**~~defined in Labor Code 6382~~

~~Employees are encouraged to notify their supervisor or other appropriate personnel in advance of their intent to make use of the accommodations offered for employees who are nursing mothers. As needed, the supervisor shall work with the employee to address arrangements and scheduling in order to ensure that the employees' essential job duties are covered during the break time.~~

~~Lactation accommodations may be denied only in limited circumstances in accordance with law. (Labor Code 1032; 29 USC 207)~~

~~Before an employee's supervisor makes a determination to deny lactation accommodations, he/she shall consult the Superintendent Chief Learning Officer or designee. In any case in which lactation accommodations are denied, the Superintendent Chief Learning Officer or designee shall document the options that were considered and the reasons for denying the accommodations.~~

- 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)

(cf. 4144/4244/4344 - Complaints)

Legal Reference:

EDUCATION CODE

200-262.4 ~~Prohibition~~**Educational equity; prohibition** of discrimination on the basis of sex
CIVIL CODE

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

GOVERNMENT CODE

12926 Definition of sex; breastfeeding

12940 ~~Discriminatory~~ **Unlawful discriminatory** employment practices

12945 ~~Discrimination~~ **Unlawful discrimination** based on pregnancy, childbirth, or related medical conditions

LABOR CODE

~~1030-1033~~**1034** Lactation accommodation

6382 Procedure for listing hazardous substances

CODE OF REGULATIONS, TITLE 2

~~7291.2 7291.16 - Sex~~**11035-11051 Unlawful sex** discrimination; pregnancy and related medical conditions

UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

~~FAIR EMPLOYMENT AND HOUSING COMMISSION DECISIONS~~

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

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

~~Minimum Requirements of the California~~ Lactation Accommodation **Law for Employers**

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

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

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Frequently Asked Questions- Break Time for Nursing Mothers

Fact Sheet #373: Break Time for Nursing Mothers under the FLSA, rev. ~~December 2010~~**April**

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WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse>

California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children **Program**: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers:

<http://www.dol.gov/whd/nursingmothers>

Policy TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT

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