



Control Number	08-07
Division	Department of Health Services
Title/Purpose	LACTATION ACCOMMODATION
Date	July 2008; Revised Jan. 2015
Reference	29 USC 207 of the Fair Labor Standards Act; California Labor Code Section 1030; California Lactation Accommodation Law (2002)
Forms	None
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Background

The Department of Health Services (DHS) promotes and supports breastfeeding and the expression of breast milk by employees who are breastfeeding when they return to work. Federal and state laws require an employer to provide reasonable break time for an employee to express breast milk, for her nursing child for one year after the child's birth, each time such employee has need to express milk. The employer is not required to compensate an employee receiving reasonable break time for any work time spent for such purpose. The employer must also provide a place, other than a bathroom, for the employee to express breast milk.

Employers are required to provide a reasonable amount of break time and make a reasonable effort to provide a private space for employees who desire to breastfeed or express breastmilk. Employers are not required to provide additional break time beyond the usual time allotted for breaks if to do so would seriously disrupt the operations of the employer.

Typically, a lactating woman needs to express breastmilk about every 2-3 hours when she is away from her baby. Twenty to forty minutes is generally needed for each pump session, and includes the time to set up and clean equipment, collect, label, and store milk.

Procedure

Lactation Space

DHS Managers and Supervisors shall provide a lactating employee with the use of a room or other location, other than a bathroom, in close proximity to the employee's work area, for the employee to breastfeed or express milk in private. The designated room or location may include the place where the employee normally works if it provides sufficient privacy to the employee (e.g. the employee's private office, a supervisor's private office, or a conference room that can be secured). The space should be equipped with an electrical outlet, a locking door, and comfortable seating. When possible, the suggested best practice is to additionally provide a sink and refrigerator. Areas such as restrooms, closets or storage rooms are not appropriate spaces for lactation purposes. However, a separate anteroom (women's lounge) or separate changing

area within or next to the bathroom may be permissible. For non-office sites, the employee, the supervisor, and DHS Human Resources staff shall identify a reasonable accommodation.

Breaks

Lactating employees shall be provided a reasonable amount of break time necessary to breastfeed or express breastmilk for the employee's infant. In the event that standard employee break time does not provide sufficient time for the feeding or pumping session, an alternate work schedule shall be approved in advance by the supervisor. Any DHS Manager or Supervisor that intends to deny a request for lactation accommodation must provide rationale in writing to the Division Director and receive written approval to deny the accommodation. Prior to denying a request for accommodation, the Division Director shall review the rationale for denial with the Department Risk Manager.

Communication

A copy of this guideline shall be provided to:

- Managers and Supervisors upon adoption or revision;
- Included in the employee on-boarding materials; and
- To each employee prior to maternity or FMLA leave and also after returning to work.

Employee Benefits

DHS supervisors and Human Resources staff advise employees of employee benefits that support lactation, including health care insurance benefits and benefits eligible Health Reimbursement (HSA, HRA, FSA) expense and deductible under IRS CODE § 213(d).

Employee Request for Accommodation

To request reasonable accommodation for lactation, an affected employee shall advise her supervisor and DHS Human Resources staff of her request either verbally or in writing, before maternity leave for existing employees, and upon hire for new employees currently needing lactation accommodation. DHS managers and supervisors that receive a request for reasonable accommodation for lactation will review the request and prepare to make accommodations in a timely manner.

This guideline is effective immediately and remains in effect until amended or repealed.