

TULARE COUNTY OFFICE OF EDUCATION

Superintendent Policy

Personnel – All Personnel
SP 4033

Lactation Accommodation

Lactation Accommodation

Tulare County Office of Education (TCOE) recognizes the immediate and long-term health benefits of breast milk and desires to provide a supportive environment for any TCOE employee to express breast milk for an infant child upon returning to work following the birth of the child. TCOE prohibits discrimination, harassment, and/or retaliation against any TCOE employee for seeking an accommodation to express breast milk for an infant child while at work.

An employee shall notify the employee's supervisor and contact Human Resources in advance of the intent to request accommodation. TCOE shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor shall address scheduling to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless there exist limited circumstances, as specified in law. (Labor Code 1031, 1032; 29 USC 218d, 42 USC 2000gg-1)

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the County Superintendent or designee. When lactation accommodations are denied, the County Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

Policy Goal

- To establish guidelines promoting a work environment that supports breastfeeding and employees' right to request lactation accommodation.

Lactation Accommodation

- Employees have a right to request lactation accommodation.
- To request lactation accommodation, an employee should contact the Human Resources Department at 559-733-6306.
- Human Resources is obligated to respond to an employee's request for lactation accommodation.
- If TCOE cannot provide break time or a location that complies with the requirements in the policy, it will provide a written response to the employee.
- For at least a year after the birth of a child, 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.

Breaks

- Break time will be provided each time an employee needs to express milk.

- The break time shall, if possible, run concurrently with any break time already provided to the employee.
- If the time for an employee's break time does not run concurrently or when additional time is necessary, the break time shall be unpaid.
- With supervisory approval, the employee may use compensable leave or a flexed work schedule to cover any unpaid break time.

Lactation Space

TCOE will provide breastfeeding employees with space in close proximity to the employee's work area that is shielded from view and free from intrusion from co-workers and the public, to express breast milk. The room or location may include the place where the employee normally works if it otherwise meets the requirements of the lactation space. Multi-purpose rooms may be used as lactation space if they satisfy the requirements for space; however, use of the room for lactation takes priority over other uses. Restrooms are prohibited from being utilized for lactation purposes.

The lactation space will:

- Be safe, clean, and free of toxic or hazardous materials.
- Contain a place to sit, a surface to place a breast pump and personal items.
- Have 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.
- Have access to a sink with running water and a refrigerator suitable for storing milk in close proximity to the employee's work area.

Retaliation Related to Breastfeeding or Expressing Milk is Prohibited

TCOE expressly prohibits discrimination and retaliation against lactating employees for exercising, or attempting to exercise, their rights to request lactation accommodation under this policy and Labor Code sections 1030-1034. This includes those who request time to express breast milk at work and/or who lodge a complaint related to the right to lactation accommodations.

Employees have the right to file a complaint with the Labor Commission for any violation of their right to lactation accommodation under this policy and Labor Code sections 1030-1034.

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).

This policy will be provided to employees upon hire as well as upon an inquiry or request for parental leave.

Legal Reference:

EDUCATION CODE

200-262.4 – Prohibition of discrimination

CIVIL CODE

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

GOVERNMENT CODE

12925-12954 – Unlawful discriminatory employment practices

12945 – Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

LABOR CODE

1030-1034 – Lactation Accommodation

6382 – Procedure for listing hazardous substances

CODE OF REGULATIONS, TITLE 2

11035-11051 – Unlawful sex discrimination: pregnancy, childbirth and related medical conditions

UNITED STATES CODE, TITLE 29

1636 – Implementation of the Pregnant Workers Fairness Act

218c – Fair Labor Standards Act; protections for employees

218d – Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

UNITED STATES CODE, TITLE 42

2000gg-2000gg-6 – Pregnant Workers Fairness Act

Management Resources:

CA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATION

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CA DEPARTMENT OF PUBLIC HEALTH PUBLICATION

Lactation Accommodation for Employers

CDC PUBLICATION

Lactation Support Program Toolkit

CA CIVIL RIGHTS DEPARTMENT DECISION

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

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

Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work, rev. January 2023

Frequently Asked Questions: Pumping Breast Milk at Work

WEB SITES

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

<https://www.dol.gov/agencies/whd/nursing-mothers/>

Office of the Surgeon General: <https://www.hhs.gov/surgeongeneral/index.html>

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

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

California Women, Infants and Children Program:

<https://www.cdph.ca.gov/Programs/CFH/DWICSN/Pages/Program-Landing1.aspx>

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

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

<https://www.dir.ca.gov/DLSE/dlse.html>

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Tulare County Superintendent of Schools
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