

Lactation Accommodations

Department Policy Training



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This PowerPoint was designed as a brief overview on the County of Los Angeles Lactation Accommodation Policy (PPG 705) to be used at the department level.

Funding for this work was made possible by the US Department of Health and Human Services through the Los Angeles County Department of Public Health. For more information about this and other public health initiatives, please go to: www.Choosehealthla.com

It's The Law



- CA State Labor Code § 1030
- Federal Lactation Accommodation Law FLSA § 7(r)

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Providing Lactation Accommodations IS THE LAW! California's Labor Code § 1030 was enacted in 2001 and is stronger than the Federal Law. It applies to all employers and employees and requires that employers provide lactating employees with reasonable breaks and space (not a toilet) to express breast milk.

Federal law was enacted in March 2010 through the Patient Protection and Affordability Care Act. The Federal law amends the Fair Labor Standards Act of 1938 (FLSA) and applies to "Wage and Hourly" employees (non-exempt) and also requires employers to provide reasonable break time and space for lactating employees to express breast milk.

There are other California statutes and case law that relate to lactation and are referenced below.

References:

California's Labor Code § 1030 <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=01001-02000&file=1030-1033>

California Labor Code FAQ: http://www.dir.ca.gov/dlse/faq_restperiods.htm

California DFEH vs. Acostas Tacos: "The Commission [Fair Employment and Housing Commission] designates the decision as precedential on the basis of the holding that breastfeeding is an activity intrinsic to the female sex."

California Pregnancy Discrimination Regulations: Page 5, section "r" – Lactation is now a defined "other related medical condition."

Federal Law: <http://www.dol.gov/whd/regs/compliance/whdfs73.htm>

County of Los Angeles

- Countywide Employee Worksite Lactation Accommodation Policy
 - PPG 705
http://hr.lacounty.gov/wps/portal/dhr/employee_benefits
 - Departments implement Policy
 - Support from DHR, Employee Benefits, Lactation Accommodation Program

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It is the County of Los Angeles' policy to promote breastfeeding. As part of that promotion, the County of Los Angeles has adopted a worksite Lactation Accommodation Policy (PPG 705) to support employed mothers to continue to breastfeed after they return to work. This policy was written to ensure compliance with the Federal and State laws.

READ the policy and the FAQs available at:

http://hr.lacounty.gov/wps/portal/dhr/employee_benefits

All departments must adopt and implement this policy at the department level.

Any questions regarding implementing this policy, should be directed to DHR, Employee Benefits, Lactation Accommodation Program.

HR Matters



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Human Resources professionals, managers and supervisors matter! When employers communicate support for lactating women, they remove the barrier to breastfeeding for employed mothers.

DHRMs, Return-to-Work Coordinators, FMLA Coordinators, managers and supervisors: You are the front line defenders of this policy. You matter because you help an employed mother during this critical time when you:

1. COMMUNICATE that the policy exists
2. TRAIN staff and supervisors of the policy and it's importance
3. SHARE the County's resources
4. PROVIDE encouragement

Then we achieve the goals of supporting employee rights and improve the health of the workforce.

Employed Mothers Need....

- Time
 - Remove milk
 - Store milk
 - Clean up
- Space
 - Private
 - Clean
 - Close proximity
 - Not a bathroom/toilet stall
- Pump



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It helps to understand the mechanics (or physiology) of breastfeeding: Lactation, the process of making milk for babies is different from other bodily processes. It requires consistent, predictable removal of milk from a mother's breasts to maintain milk supply, for comfort and to prevent illness. Milk removal requires the mechanical process of pumping the breast, either with an electric pump or through manual expression.

Therefore an employed mother needs:

Time

- Typically it takes about 20 minutes to pump milk, store milk and clean up.
- Some mothers may be able to pump quicker and some might take longer.
- Employed mothers need time to properly store their milk and clean up. This includes washing hands, buttoning up or tucking in shirts, etc.

Space

- Employed mothers need a space to do this that is private, clean, close to their work environment and is not within a bathroom/toilet stall.

Pump

- Employed mothers need a pump: Ideally a double (both sides at the same time) electric pump. For most employed mothers, this will be the most efficient way to remove milk. If a mother has a single sided pump, her lactation break time will increase. A pump is not required by law (the employee needs to provide their own pump). However, it's critical for employers to understand that the most efficient method of milk removal will most likely be a double electric pump as pictured.)

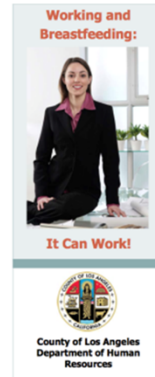
If a mother is prevented from consistently and adequately removing milk, she may suffer from:

- Decreased milk supply (a lack of milk for her baby, causing her to have to supplement with artificial infant milk or wean)
- Plugged ducts and mastitis (these are breast infections that may require an absence)

Resources

Internet Based Tool Kit

- http://hr.lacounty.gov/wps/portal/dhr/employee_benefits
 - Brochure
 - FAQs
 - Lactation Rooms and Coordinators
 - Manual
 - Policy (PPG 705)
 - Poster
 - Resources/Helpful Links
 - Training Presentation



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You will find a tool kit for departments to utilize for implementation at the DHR, Employee Benefits, Lactation Accommodation Program page on the internet:

http://hr.lacounty.gov/wps/portal/dhr/employee_benefits

- A Brochure (employee handout) to explain the policy and the County's resources
- Break Room Poster
- Department Policy Training PowerPoint Presentation
- List of dedicated spaces within the County's facilities
- Benefits checklist that supports the policy
- Community resources list

Now let's review key components of the policy. (Refer to your copy of the policy.)

Policy: Break Time

- Reasonable Break Time
 - Can use existing breaks
 - Additional unpaid breaks
 - Can use accrued paid time
 - Can adjust work schedule



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Please refer to your copy of the Policy, Section 1.

(Read directly from the policy.)

Policy: Private Location



Room with:

- Electrical outlet
- Comfortable seating
- Can lock, if possible
- Private
- Not bathroom/toilet stall
- Close proximity

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Policy requires the following for the Private location: (Read slide.)

Photo credit: South Carolina Department of Health

Policy: Dedicated Space



- Shows commitment
- Reduces conflicts



A list of designated space is available through:

DHR, Employee Benefits,
Lactation Accommodation Program

Best practice suggestion, not mandated by law



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FAQ: Do I have to build a dedicated space similar to the requirement of the American Disabilities Act (ADA) where I have to build ramps?

No, both the Federal and the State law do not require built lactation lounges.

Dedicated space, however shows commitment and reduces conflicts. If you elect to create a permanent dedicated mother's lounge, or you have one already, the American Disabilities Act requirements are only relevant if the dedicated space is a permanent location within the building.

A list of designated space is available through DHR, Employee Benefits, Lactation Accommodation Program.

Photo credit: County of Los Angeles' DHR / Assessor's Dedicated Lactation Space, Hall of Administration, 3rd floor and 2nd floor keyless entry

Policy: Temporary Space



- Private office
- Supervisor's office
- Conference room/secured
- Women's lounges *
- Cot rooms
- Wellness rooms
- Closet or storage **

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Temporary space is completely within the law. (Read the slide.)

The goal is to identify space that is in the closest proximity to the employed mother.

If there isn't a dedicated space, or if the dedicated space is not located close to the employed mother, consider these alternatives: (Read the slide.)

*Women's lounges or anterooms that are next to bathrooms may be permissible. It is possible that if there is a private changing area within a bathroom and it is significantly separate enough, that space may be acceptable.

** Please note that closet and storage space can be utilized as long as it doesn't contain any noxious materials that would pose a health hazard.

Photo Credit: Public Health Foundation Enterprises Women, Infants & Children (PHFE WIC) Program

Alternate Space Ideas



US Pentagon

Multi-User Rooms

- Accommodates many
- Co-worker support
- Increased milk supply

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Many mothers have found that pumping in multiuser rooms actually increases milk supply. Privacy screens can be installed to create privacy in the space. Many employed mothers find that having co-worker support helps them to breastfeed longer.

(Make note of the photo credit.)

Photo Credit: U.S. Department of Defense / Pentagon

Space: Helpful Tips



- ▶ Near sink
- ▶ Refrigerator
- ▶ Multi-user pumps
- ▶ Message board

Best practice suggestions, not mandated by law

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It is helpful if the lactation space has the following. They are not a requirement of the law.

Near a sink for hand washing and cleaning pump parts.

Refrigerator: For storing milk. If there is not a refrigerator, encourage mothers to bring their own coolers.

Pumps: multi-user pumps make it easier for women, so that they don't have to bring a pump. Some locations may elect to purchase a multi-user pump, but it will require someone to manage and monitor it's use.

Message Board: Many women like to post pictures of their babies or other noteworthy items.

Employed mothers who work in a traditional office setting can easily be accommodated. Accommodating employed mothers in the non-traditional work environment will require creative thinking. (See next slide.)

Photo Credit: Iowa State Capitol Building

Policy: Non-Traditional

Field and Traveling Staff

- ▶ Good faith, interactive process
- ▶ Identify reasonable accommodations



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Section 3 of the policy addresses employees who work in a non-traditional worksite (i.e., not in an office setting).

The policy requires that the Department's Return-to-Work Coordinators and the employee enter into a good faith interactive process to identify reasonable accommodations.

The goal is to accommodate the employed mother's request. Return-to-Work Coordinators should use the County's guidelines on engaging in the "interactive process."

Policy: Non-Traditional

Some Reasonable Accommodations are:

- ▶ Limited Light Duty
- ▶ Reassignment
- ▶ Modified work schedules



The goal is to accommodate the employed mother's request.

You will find more specific suggestions in the Frequently Asked Questions pages.

Policy: Notification

Provide copy of policy

- Every incoming employee
 - At new hire and transfer orientations
- Pregnancy or adoption leaves
 - FMLA Coordinators before they go on leave
 - Return-to-Work Coordinators when they return

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Please refer to the Policy, Section 4.

Every incoming employee must receive a copy of the policy.

FAQ: Does this include men and women over childbearing age? Yes, it is important for everyone to understand the policy so that the County maintains a supportive environment. If your department offers a New Hire Orientation, please make sure new hires are given this policy during the training.

FMLA Coordinators are required to also provide the policy before a women goes out on a pregnancy related leave (PDL, FMLA).

Return-to-Work Coordinators are required to provide a copy of the policy when they come back and complete "Appendix A" form, attached to the Policy.

Policy: “Appendix A”

Return-to-Work Coordinators

- Complete the form
- Files original copy
 - Copies to:
 - Employee
 - Direct supervisor
- Monitoring

COUNTY OF LOS ANGELES
LACTATION ACCOMMODATION REQUEST

Department _____ Division _____
Employee Name _____ Supervisor _____
Payroll Title _____ Date of Request _____

Approximate Lactation Break Schedule: (insert requested break schedule)

Covered Employees: Flexible Schedule Accrual Time Unpaid

Notes:
[] I Desires Mother's Lounge (location) _____
[] Office space (location) _____
[] Employee work area if private and secure (location) _____
[] Other _____

I have received a copy of and read the Countywide Policy on Lactation Accommodation Program, and I agree to comply with the Program Guidelines. I understand that my rights as an employee and the Return-to-Work Coordinator do not require a lactation accommodation.

EMPLOYEE'S SIGNATURE _____ DATE _____

COMMENTS _____

MANAGEMENT REVIEW AND APPROVAL (Signature)
Return-to-Work Coordinator _____ Date _____
Printed Name _____ Printed/Typed Title _____

NOTE: All signatures, give a copy to the Employee and a copy to their supervisor. The original is retained by the Return-to-Work Coordinator.

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Return-to-Work Coordinators are required to provide a copy of the policy when an employed mother comes back from a pregnancy or adoption related leave.

Attached to the policy is a copy of a form entitled “Appendix A”.

Return-to-Work Coordinator needs to review the form “Appendix A” with the employee and complete the form.

- Provide a copy to the employee and her direct supervisor.
- Return-to-Work Coordinators should maintain a copy of the form in their files
- The form “Appendix A” files should be maintained for periodic DHR audits

Direct supervisors should file their copy of the form “Appendix A” in the employee's file.

Policy: Atmosphere of Tolerance

- County policy:
 - Breastfeeding and lactation are promoted
 - No discrimination of breastfeeding women
 - No harassment of breastfeeding women

- Discrimination or Harassment
 - Interferes with work performance
 - Creates a hostile workplace
 - Is sex discrimination

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Refer to Policy, Section 6.

Breastfeeding Support Resources

- Health Care Provider
- WIC
- Community Resources



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For employees who need additional support:

1. Refer them to their health care providers.
2. Women, Infants, & Children (WIC) can provide nutrition education and breastfeeding support, including breast pumps for participants who are eligible.
3. The DHR, Employee Benefits, Lactation Accommodation Program website has other community resources to provide support for employed mothers.

Implementation Tool Kit

Tool Kit

- Website
 - Brochure
 - FAQs
 - Lactation Rooms and Coordinators
 - Manual
 - Policy (PPG 705)
 - Poster
 - Resources/Helpful Links
 - Training Presentation

http://hr.lacounty.gov/wps/portal/dhr/employee_benefits



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As a reminder, these items can all be accessed at the listed link:

Use these resources to communicate this policy to your employees.

We encourage you to post the Break Room Poster in copy rooms, break rooms, employee bulletin boards.

Use the Brochure for new employees or when an employee becomes pregnant.

Use the Training PPT for annual policy updates, or to educate managers and supervisors about the policy.

Thank You



Contact:

DHR, Employee Benefits Lactation
Accommodation Program

http://hr.lacounty.gov/wps/portal/dhr/employee_benefits



DHR

Department of Human Resources
County of Los Angeles



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Choose Health LA is made possible by funding from the Department of Health and Human Services through the Los Angeles County Department of Public Health.

For more information:

- www.breastfeedingworks.org
- www.choosehealthla.com
- www.breastfeedla.org
- gcolvin@breastfeedla.org