

LEGAL REQUIREMENTS AND BEST PRACTICES

Listed below is a Best Practices and Legal Requirements Checklist which can help guide employers support breastfeeding employees who are returning back to work, meet legal requirements while creating functional and practical lactation spaces.

Space Legal Requirements

Room:

- Not a bathroom
- Private
- Shielded from view
- Free from intrusion by other employees or the public
- Available as needed
- In close proximity to employees' work area
- Is safe, clean, and free of toxic hazardous materials
- Has a place to sit
- Has a table/ desk or a surface to place a breast pump and personal items
- Has access to electricity
- Has access to a sink with running water
- Has access to a refrigerator
- May be a floating/multipurpose room such as office, conference room, storage room. Use of the room for lactation will take precedence over other use

Best practices for a lactation room could include the following amenities:

- Permanent, dedicated, private room that is suitable for preparation and storage of food
- A door that can be locked from inside
- Calendar or room reservation system
- Signage designating the room as the "Lactation Room"
- At least one electrical outlet
- Adjustable, wipe able, comfortable chair
- Adjustable lighting
- Ability to partition the room
- Refrigerator, with thermometer
- A sink with hot and cold running water
- Hospital-grade breast pump(s)
- A full length mirror
- A microwave- for sanitizing pump parts

- Tape and pen- for labeling containers of expressed milk
- Adjustable temperature controls
- Footstool
- Clock
- Bulletin board
- Resource station such as a bookcase, for educational literature
- Wi-Fi
- Telephone for emergencies
- Artwork, décor
- Lockers or other storage for breast pump and supplies
- Regular cleaning by janitorial staff

Time Legal Requirements

Breaks:

- When requested by Employee
- As long as the employee desires to provide breastmilk to her child
- Reasonable amount to enable mother to get to the lactation room, express milk, clean up and come back to her workstation
- During paid break time or additional unpaid breaks

*The frequency of breaks needed to express milk as well as the duration of each break will likely vary.

Best practices for work schedule and scheduling lactation breaks:

Work schedule:

- Temporary reduced hours(if requested by the employee)
- Temporary change in job duties (if requested by the employee)
- Job sharing

- Flex time
- Compressed work week
- Telecommuting

Other accommodations for breastfeeding mothers:

- Adopt baby at work policy
- Allow caregiver to bring child to the workplace for feedings

Breaks:

- Reasonable employer paid break time excluding employees earned sick and vacation pay.



Lactation Policy and Request Process Legal Requirements

Policy:

- Written lactation in the workplace policy
- Accessible to all employees
- Distributed to new employees upon hiring
- Distributed when an employee enquires about pregnancy or parental leave
- Distributed when an employee requests parental leave
- Includes statement about an employee's right to request lactation accommodation
- Includes process to request for lactation accommodation
- Include policy in employee resources such as employee handout or online employee resources

Request Process:

- Respond to an employee's request for lactation accommodation within 5 days
- Maintain a written record of requests for three years from the date of request
- Provide written response to the employee if denying Lactation Accommodation request and maintain written record for three years

References:

1. Patient Protection and Affordable Care Act (P.L. 111- 148, 2010) amended 29 USC 207 of the Fair Labor Standards Act (FLSA) https://www.dol.gov/whd/nursingmothers/Sec7rFLSA_btnm.htm
2. Ca. Lab. Code §§ 1030-1033 <http://californiabreastfeeding.org/breastfeedingrights/california-breastfeeding-laws/>
3. SF Ordinance No. 131-17. <http://sfbos.org/sites/default/files/00131-17.pdf>