

EMPLOYER BREASTFEEDING ACCOMMODATION GUIDE





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Breastfeeding offers numerous physical, mental, and economic advantages to mother and baby. Furthermore, employers can benefit from their employees choosing to breastfeed. It reduces the risk of health issues, thus decreasing absences due to sick children. It also promotes an earlier return from maternity leave and increases the retention of female employees.¹

It can be difficult as an employer to know the best ways to support breastfeeding employees. This guide provides suggestions and tools to aid in creating a comfortable environment for employees who wish to pump at work.

ACCOMMODATION LAWS

Before establishing a breastfeeding-friendly workplace, it is important to know the accommodation laws that are currently in place.

FEDERAL LAW

The U.S. Department of Labor has provided an overview of the Fair Labor Standards Act (FLSA) Section 7 - Break Time for Nursing Mothers Provision.² This law states:

1. "An employer shall provide a.) a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk; and b.) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk."
2. "An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose."
3. "An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business."
4. "Nothing in this subsection shall preempt a state law that provides greater protections to employees than the protections provided for under this subsection."

ACCOMMODATION LAWS

UTAH STATE LAW

In addition to federal law, Utah Legislature has passed two bills regarding workplace breastfeeding accommodations:

H.B. 242: This bill states that “a public employer shall provide for at least one year after the birth of a public employee’s child reasonable breaks for each time the public employee needs to express milk. The employer must also provide a room or other location in close proximity to the employee’s work area. It cannot be a toilet stall or bathroom, and must have an electrical outlet. The employer shall provide access to a clean and well-maintained refrigerator or freezer for the temporary storage of the employee’s breast milk. This law adopts policies to support breastfeeding; and prohibits a public employer from discriminating against an employee who is breastfeeding in the workplace.”³

S.B. 59: This bill explains a few provisions and additions from the previous bill. It states that the reasonable breaks “shall, to the extent possible, run concurrent with any other break period otherwise provided to the public employee.” It also includes information on discriminatory practices, stating that “an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matter of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of pregnancy, childbirth, or pregnancy-related conditions. An employer shall include in an employee handbook, or post in a conspicuous place, written notice concerning an employee’s rights to reasonable accommodations for pregnancy, childbirth, breastfeeding, or related conditions.”⁴

REASONABLE ACCOMMODATIONS

Although the laws as described previously provide guidelines for employers, there are many aspects that will be dependent on current worksite amenities and specific employee needs. What is “reasonable” for one workplace might not be for another. It is important to communicate with your employees to create an arrangement that everyone is comfortable with.

The most important goal is to designate a space for pumping that is shielded from view and free from intrusion. It can be used by other employees as long as breastfeeding employees have access to it when needed. It does not have to have a lock but should have signage or another way to inform others that it is in use. This space should also include a sitting area and an electrical outlet.

Pumping employees must be granted a “reasonable amount of time” during their work day to pump. This breaktime should be discussed with the employee. It includes the time it takes to gather items, walk to designated area, express milk, clean up, and return to work.

Lastly, employees should have access to a refrigerator or freezer to safely store breastmilk until they return home. If there is no refrigerator on site or the employee is working elsewhere, they should be provided a portable insulated cooler.

There are some additional accommodations that are not required but could be helpful for your breastfeeding employees. These include a sink, a couch or comfortable chair, a window offering plenty of light, and somewhere close to store their pumping supplies.



EMPLOYEE COMMUNICATION

The decided accommodations should be detailed in the employee handbook and discussed with new and existing employees. It is beneficial to keep an open line of communication between you and any individuals that will be needing these accommodations at any point. By discussing the planned arrangements with breastfeeding employees, it will help them to feel valued and that they have a say in the way these things will be implemented.

One recommended mode of communication is to send an email to employees as their parental leave comes to an end. This email can discuss the current accommodations and give them a chance to request any further needs. Employees who feel involved in the process are more likely to be satisfied with the offered accommodations and feel more comfortable returning to work.

REFERENCES

1. *Breastfeeding*. (n.d.). Retrieved from Environment, Policy & Improved Clinical Care: <https://choosehealth.utah.gov/worksites/benefits-of-worksite-wellness/breastfeeding.php>
2. *Section 7® of the Fair Labor Standards Act—Break Time for Nursing Mothers Provision*. (n.d.). Retrieved from U.S. Department of Labor: <https://www.dol.gov/agencies/whd/nursing-mothers/law>
3. State and Local Government Employee Policies, H.B. 242 (Utah State Legislature February 27, 2015).
4. Antidiscrimination and Workplace, S.B. 59 (Utah State Legislature February 29, 2016).