

# Sample Worksite Lactation Program Policy

## Policy:

\_\_\_\_\_ will provide a supportive environment enabling lactating employees to express breastmilk during work hours.

## Purpose:

The purpose of establishing a worksite lactation support policy is to reduce barriers to breastfeeding among employees and their family members. The goal is to assist them in transitioning back into the workplace to increase the duration of breastfeeding which is beneficial for both mother and baby.

## Intent, Scope, and Periodicity:

This policy is intended to comply with the Patient Protection and Affordable Care Act which was signed into law and became effective on March 23, 2010 (P.L. 111-148). This law amended Section 7 of the Fair Labor Standards Act (FLSA), including break time requirements for nursing mothers.

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

This policy applies to all full-time, part-time, and temporary employees of \_\_\_\_\_.

This policy will be revised as needed. However, the most recently-approved version remains in effect until a revision is approved.

## Procedures:

- I. The following sections are the responsibility of \_\_\_\_\_ in support of breastfeeding families.
  - A. All employees will receive education about the Worksite Lactation Support Program (WLSP).
    1. All employees will receive an initial orientation and annual review on the components of the \_\_\_\_\_ WLSP. All new employees will receive educational/informational materials about the WLSP during New Employee Orientation and established employees will receive these educational/informational materials through a Medical Staff Meeting, Division Meeting, and/or orientation/training in their work area by their supervisor, as applicable and appropriate. The initial orientation and annual reviews will be documented.
    2. Supervisors will refer all employees requesting Family Medical Leave (FML) for maternity leave to the Lactation Consultant to help assure that employees understand how the WLSP applies to them and can assist the employee regarding their plans to continue breastfeeding after they return to the worksite.
  - B. All TCPH employees will assist in establishing and maintaining a culture of support regarding breastfeeding.
    1. It is the responsibility of a manager/supervisor to familiarize themselves with the WLSP for guidance on such employee requests to maintain breastfeeding upon returning to work and reasonable accommodations.
    2. A manager/supervisor will receive communication/requests from participating employees returning to the worksite regarding their needs. Managers/supervisors

will make reasonable accommodations to meet the needs of both the participating employee and the organization.

3. It is recognized that when an employee that is lactating and returns to work, it may be necessary during the first few weeks for frequent milk expression breaks in order to establish milk supply while both mother and baby adjust to the work-time separation.

**C.** A private area (in some cases, a lactation room), not a toilet stall or restroom, will be made available to participating employees for breastfeeding or milk expression.

1. The area will be private, clean/sanitary, located near a sink with running water for hands and rinsing out equipment, and have an electrical outlet. If the participating employee prefers and such is agreed to by the employee's manager/supervisor, the employee may also breastfeed or express milk at their private work area, or in another private, comfortable location.

2. In some cases, a designated refrigerator may be provided in a lactation room for participating employees for temporary storage of expressed milk. Expressed milk can also be stored in the employee break room refrigerators or in the employee's personal cooler.

3. \_\_\_\_\_ Health will provide for the general cleaning of these facilities through its environmental services contract. However, participating employees using the provided facilities will also be responsible for keeping these areas clean for the next user. Employees should use anti-microbial wipes to clean the pump and area around it. The mutual responsibility extends to both designated milk expression areas, as well as other areas where milk expression will occur.

**II.** The following sections are the responsibility of the \_\_\_\_\_ employee who participates in the Worksite Lactation Support Program.

**A.** It is the responsibility of employees to familiarize him/her-self with the content this document and to attend and participate in required trainings. Individual employees are responsible for understanding \_\_\_\_\_ Worksite Lactation Support Program, and for negotiating practices with their supervisor/manager to facilitate their breastfeeding goals.

1. Employees who participate in WSLP and breastfeed or express milk during work hours shall inform their manager/supervisor in advance of returning to the worksite and communicate their needs so that reasonable accommodations can be made to meet the needs of both the employee and the organization.
2. Participating employees are allowed to breastfeed or express milk during work hours using their normal breaks and meal times. For any time that may be needed beyond these times, employees may request accommodations from their manager/supervisor *prior* to returning to the worksite. It is the responsibility of the employee to familiarize themselves with the WLSP Operating Plan for guidance on such conversations.

**B.** More than one participating employee may need to use the designated facilities.

1. It is each participating employee's responsibility to communicate clearly with other participating employees and to negotiate use times that are mutually convenient and beneficial.
2. Participating employees using the provided facilities will be responsible for keeping these areas clean for the next user. Employees should use anti-microbial wipes to clean the pump and area around it. This responsibility extends to both designated milk expression areas, as well as other areas where milk expression will occur.

**C.** Participating employees will label all containers of expressed breastmilk with their name and date collected, so as to avoid inadvertent confusion with another participating employee's milk. Each participating employee is responsible for proper storage of her milk using her personal cooler, the employee break room refrigerators, or the refrigerator provided in designated lactation areas.

Approved by:

\_\_\_\_\_ Date \_\_\_\_\_

**Attachments:**

Department of Labor Fact Sheet for Employers about Fair Labor Standards Act provision, Break Time for Nursing Mothers

Health & Safety Code Title 2. Chapter 165. Breastfeeding

## Attachment 1

### U.S. Department of Labor Wage and Hour Division



(July 2010)

## Fact Sheet #73: Break Time for Nursing Mothers under the FLSA

This fact sheet provides general information on the break time requirement for nursing mothers in the Patient Protection and Affordable Care Act (“PPACA”), which took effect when the PPACA was signed into law on March 23, 2010 (P.L. 111-148). This law amended Section 7 of the Fair Labor Standards Act (FLSA).

### General Requirements

Employers are required to provide “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.” Employers are also required to provide “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.”

The FLSA requirement of break time for nursing mothers to express breast milk does not preempt State laws that provide greater protections to employees (for example, providing compensated break time, providing break time for exempt employees, or providing break time beyond 1 year after the child’s birth).

### Time and Location of Breaks

Employers are required to provide a reasonable amount of break time to express milk as frequently as needed by the nursing mother. The frequency of breaks needed to express milk as well as the duration of each break will likely vary.

A bathroom, even if private, is not a permissible location under the Act. The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing mother’s use, it must be available when needed in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing milk or made available when needed by the nursing mother is sufficient provided that the space is shielded from view, and free from any intrusion from co-workers and the public.

### Coverage and Compensation

Only employees who are not exempt from the FLSA’s overtime pay requirements are entitled to breaks to express milk. While employers are not required under the FLSA to provide breaks to nursing mothers who are exempt from the overtime pay requirements of Section 7, they may be obligated to provide such breaks under State laws.

Employers with fewer than 50 employees are not subject to the FLSA break time requirement if compliance with the provision would impose an undue hardship. Whether compliance would be an undue hardship is determined by looking at the difficulty or expense of compliance for a specific employer in comparison to the size, financial resources, nature, and structure of the employer’s

business. All employees who work for the covered employer, regardless of work site, are counted when determining whether this exemption may apply.

Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA's general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies. See [WHD Fact Sheet #22, Hours Worked under the FLSA](#).

#### **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website:**

**<http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

<p>This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations. The Wage and Hour Division will issue additional guidance on the break time requirement in the near future. <b>U.S. Department of Labor</b> Frances Perkins Building 200 Constitution Avenue, NW Washington, DC 20210</p>	<p><b>1-866-4-USWAGE</b> TTY: 1-866-487-9243 <a href="#">Contact Us</a></p>
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Texas Statutes  
Health & Safety Code Title 2.  
Chapter 165. Breast Feeding

SUBCHAPTER A. BREAST-FEEDING RIGHTS AND POLICIES

**Sec. 165.001. LEGISLATIVE FINDING.** The legislature finds that breast-feeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values. In compliance with the breast-feeding promotion program established under the federal Child Nutrition Act of 1966 (42 U.S.C. Section 1771 et seq.), the legislature recognizes breast-feeding as the best method of infant nutrition.

*Added by Acts 1995, 74th Leg., Ch. 600, SS1, eff. Aug . 28, 1995.*

**Sec. 165.002. RIGHT TO BREAST-FEED.** A mother is entitled to breast-feed her baby in any location in which the mother is authorized to be.

**Sec. 165.003. BUSINESS DESIGNATION AS "MOTHER-FRIENDLY."**

**(A)** *A business may use the designation "mother-friendly" in its promotional materials if the business develops a policy supporting the practice of worksite breast-feeding that addresses the following:*

1. *work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;*
2. *the provision of accessible locations allowing privacy;*
3. *access nearby to a clean, safe water source and a sink for washing hands and rinsing out any needed breast-pumping equipment; and*
4. *access to hygienic storage alternatives in the workplace for the mother's breast milk.*

**(B)** *The business shall submit its breast-feeding policy to the department. The department shall maintain a list of "mother-friendly" businesses covered under this section and shall make the list available for public inspection.*