

**Policy 4033: Lactation Accommodation**

**Status:** ADOPTED

**Original Adopted Date:** 01/23/2013

The Governing Board recognizes the immediate and long-term health ~~advantages~~ **benefits** of breastfeeding ~~for infants and mothers~~ and desires to provide a supportive environment for any district employee to express **breast** milk for ~~her~~ **an** infant child upon ~~her return~~ **returning** to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee ~~who chooses~~ **for seeking an accommodation** to express breast milk for ~~her~~ **an** infant child while at work.

An employee shall notify the employee's supervisor or other appropriate district administrator in advance of the intent to request an accommodation. The supervisor or appropriate district administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor or appropriate district administrator shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless limited circumstances exist 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 Superintendent Chief Learning Officer or designee. When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent Chief Learning Officer or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent Chief Learning Officer or designee shall distribute this policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

#### **Break Time and Location Requirements**

The district shall provide a reasonable amount of break time to accommodate an employee each time ~~she~~ **the employee** has a need to express breast milk for ~~her~~ **an** infant child. (Labor Code 1030)

; 42 USC 2000gg-1; 34 CFR 106.57)

To the extent possible, ~~such~~ **any** break time **granted for lactation accommodation** shall run concurrently with the break time already provided to the employee. Any additional break

time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 207)

218d)

The employee shall be provided a **lactation space which may be used by the employee for expressing breast milk or breastfeeding as needed. The lactation space shall be a private room or location, other than a restroom, which bathroom, which may be the employee's work area or another location that is in close proximity to herthe employee's work area, and meetsshall meet the following requirements of:** (Labor Code 1031 and; 29 USC 207, as applicable.218d; 34 CFR 106.57)

~~Employees are encouraged to notify their supervisor or other appropriate personnel in advance of their intent to make use of the accommodations offered for employees who are nursing mothers. As needed, the supervisor shall work with the employee to address arrangements and scheduling in order to ensure that the employees' essential job duties are covered during the break time.~~

~~Lactation accommodations may be denied only in limited circumstances in accordance with law. (Labor Code 1032; 29 USC 207)~~

~~Before an employee's supervisor makes a determination to deny lactation accommodations, he/she shall consult the Superintendent Chief Learning Officer or designee. In any case in which lactation accommodations are denied, the Superintendent Chief Learning Officer or designee shall document the options that were considered and the reasons for denying the accommodations.~~

1. Is shielded from view and free from intrusion while the employee is expressing breast milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has 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
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing breast milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code 1031)

### Dispute Resolution

Complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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).

In addition, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)