

Lactation Accommodation

Nursing Mother's at SRMH
Know your rights...it's the law.

https://www.dir.ca.gov/dlse/Lactation_Accommodation.htm

Lactation Accommodation

Pursuant to Labor Code Section 1030 every employer, including the state and any political subdivision, must provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission need not be paid. Pursuant to Labor Code Section 1033, the denial of a break or adequate space to express milk may result in the recovery of one hour of pay at the employee's regular rate of pay for each violation by filing a wage claim under Labor Code section 226.7. Additionally, an employee may report a violation of the lactation accommodations laws with the Labor Commissioner's Bureau of Field Enforcement (BOFE), and after an inspection or investigation, BOFE may issue a citation for one hundred dollars (\$100) for each day an employee is denied reasonable break time or adequate space to express milk.

1. Q. Does an employer have to provide an employee with additional break time to express breast milk?
A. Yes, an employer must provide additional break time to employees who need it.

2. Q. Does an employer have to pay for the additional time to express breast milk?
A. No. While the employer must allow an employee to leave the work area to pump, the employer does not have to pay for pumping time, beyond the standard break time.

3. Q. Can my employer demand a doctor's note or other medical documentation?
A. No. Your employer cannot require you to submit any documentation regarding your need to express breast milk.

4. Q. Does my employer have to provide me with a place to express breast milk?
A. Yes, your employer must provide you with the use of a room or other location, other than a bathroom, in close proximity to your work area, shielded from view, and free from intrusion while you are expressing milk in private. This may include the place where the employee normally works if it otherwise meets the requirements. The lactation room or location must be safe, clean, and free from hazardous materials, as defined in Labor Code section 6382, contain a surface to place a breast pump and personal items, contain a place to sit and have 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.

Access to a sink with running water and a refrigerator suitable for storing milk, in close proximity to the employee's workspace must also be provided by the employer. If your employer has less than 50 employees it may be exempt from the lactations law's requirements if it meets certain conditions. Multiemployer or multitenant worksites and agricultural employers are subject to different requirements. Please see the Enforcement and Interpretations Manual at Section 17 pg. 8 -9 located here:<https://www.dir.ca.gov/dlse/Manual-Instructions.htm> for more information.

5. Q. What happens if my employer does not provide me with the opportunity to take a break for lactation purposes?

A. If you feel your employer is not providing you with adequate break time and/or a place to express milk as provided for in Labor Code section 1030, you may file a wage claim to recover one hour of premium pay at the employee's regular rate of pay for each violation. See <https://www.dir.ca.gov/dlse/HowToFileWageClaim.htm>.

Additionally, you may also file a report/claim with the Labor Commissioner's Bureau of Field Enforcement (BOFE) at the BOFE office nearest your place of employment. See <http://www.dir.ca.gov/dlse/HowToReportViolationtoBOFE.htm>.

The Labor Commissioner's Office may, after an inspection, issue to an employer who violates any provision of this chapter, a civil citation (\$100.00 for each day an employee is denied a break or adequate space to express milk) that may be contested in accordance with the procedure outlined in Labor Code Section 1197.1 (Labor Code Section 1033).

In addition, any employee who is a victim of retaliation for either asserting or attempting to assert a right to lactation accommodation or for complaining to the Labor Commissioner about the failure of an employer to provide this accommodation may file a retaliation claim pursuant to Labor Code Section 98.7. An employee must file a retaliation claim with the Labor Commissioner's Office within a year of the retaliation. See <https://www.dir.ca.gov/dlse/HowToFileRetaliationComplaint.htm>.

6. Q. Who can I call if I have I have questions regarding Lactation Accommodation?

A. You may contact your local Labor Commissioner's office if you have questions about your rights under the Labor Code.