



# Lactation Accommodation in the Workplace

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Office of Labor Standards Enforcement

# Legislative History

- The purpose of the ordinance “is to provide a supportive work environment to enable employees who are nursing mothers to breastfeed or express breast milk during work hours”
- Complements State and Federal law
  - Amended the San Francisco Police and San Francisco Building Codes



# Covered Employers and Employees

- All employers – except for government entities – that have employees working in San Francisco\* are covered
- All employees working within the geographic boundaries of San Francisco\*, including part-time employees, are covered

\*Federal Enclaves and the San Francisco International Airport are not considered San Francisco



# Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

- Break time shall, if possible, run concurrently with any break time already provided to the employee
- Break time that does not run concurrently with the rest time authorized under State law may be unpaid



# Employer Requirements – Lactation Location 1/2

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee's work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a surface
  - Contains a place to sit
  - Has access to electricity
  - Is not a bathroom



# Employer Requirements – Lactation Location 2/2

- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own
- Employers must provide, in close proximity\* to the employee's work area, access to a refrigerator and a sink with running water



# Definition of “Close Proximity”

It depends on the specifics of the situation, but it must be close enough that its location does not deter a reasonable employee from using it.



# Employer Requirements – Lactation Accommodation Policy

1. Identify the process by which an employee may submit a request
2. Employer must respond within 5 business days
3. Must engage in an interactive process with employee to determine the appropriate
  - a) lactation break period(s)
  - b) location



# Denying the Request

If you deny the request, you must provide the employee a written response that identifies the basis upon which the you have denied the request.



# Exemptions 1/2

- An employer may establish an exemption from a requirement in the Ordinance to provide lactation breaks and/or a lactation space.
- Such exemptions may not be available under state law.
- **Employer must still comply with all other requirements of the Ordinance, as well as all state and federal legal requirements.**



# Exemptions 2/2

Undue hardship exemption under the Ordinance - Significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the employer's business.

- Examples of an undue hardship could, in some circumstances, include:
  - building a room
  - undertake a construction project
  - remove seating from a restaurant
  - remove retail floor space.



# Best Practices (1/2)

- Learn about lactation
- Create/Have a lactation accommodation policy
- Use sample policies to make your own
- Read the Rules and Regulations on our website
- Read the FAQ our website\*\*



# Best Practices (2/2)

- Distribute policy at the time of hire and/or issue a memo with a copy of the policy to current employees
- Make sure the policy is in your handbook
- Retain records
- Contact OLSE if you have any questions





# Frequently Asked Questions



Office of Labor Standards Enforcement

# FAQ 1

Q: Are employees at the San Francisco International Airport covered by the Ordinance?

A: No. The San Francisco Ordinance only covers employees who work within the geographical boundaries of San Francisco, which does not include the San Francisco International Airport. Note that state law provides similar protections to workers at the Airport.



## FAQ 2

Q: Are employers required to provide breaks for lactation?

A: Yes. Employers must provide a reasonable amount of break time to accommodate an employee to express breast milk for the employee's child. The break time may run concurrently with any break time already provided to the employee. The length of the break, and the number of breaks that an employee needs, may vary over time and from employee to employee. See Lactation in the Workplace Rule 1 for more information.



# FAQ 3

Q: What is a lactation break?

A: A lactation break is the break time an employee needs to express breastmilk, which includes, but is not limited to, pumping, breastfeeding, and hand expressing. An employer is required to provide an employee with this time.



## FAQ 4

Q: Are employers required to pay for lactation breaks?

A: No. Lactation break time should be provided during an employee's existing paid breaks if possible. Where it is not, employers are not required to pay employees during lactation break time, but employers may choose to pay an employee for this time.



# FAQ 5

Q: Will a bathroom satisfy an employer's requirement to provide a location for lactation?

A: No. The lactation space may not be a bathroom.



# FAQ 6

Q: Can the lactation space be the employee's normal work area?

A: Yes. The space where the employee normally works can be the lactation location if it otherwise meets the requirements of the Ordinance.



# FAQ 7

Q: Can the lactation space be used for other purposes?

A: Yes. An employer may designate a room as a lactation space that is also used for other purposes, as long as the primary function of the room is a designated lactation space for the duration of an employee's need and as long as lactation accommodation takes priority. During the period when the room is being used as a lactation space, the employer is required to provide notice to other employees that the primary use of the room is a lactation location, which takes precedence over other uses.



# FAQ 8

Q: Must all employers have a policy regarding lactation accommodation?

A: Yes. Each employer must develop and implement a policy regarding lactation accommodation.



# FAQ 9

Q: Where can I find a sample accommodation policy?

A:

1. OLSE Webpage

[www.sfgov.org/olse/lactation-workplace](http://www.sfgov.org/olse/lactation-workplace)

2. Department of Public Health

[www.sfdph.org/dph/comupg/oprograms/NutritionSvcs/WIC/LactationAcc.asp](http://www.sfdph.org/dph/comupg/oprograms/NutritionSvcs/WIC/LactationAcc.asp)



# FAQ 10

Q: When must an employer distribute its lactation accommodation policy to its employees?

A: At an employee's time of hire. The employer must also offer a copy of the policy to any employee who inquires about or requests pregnancy or parental leave. If the employer has an employee handbook or set of policies that the employer makes available to employees, the lactation accommodation policy must be included.



# FAQ 11

Q: What records must an employer retain to comply with the Ordinance?

A: Employers are required to maintain a record of the initial written request for lactation accommodation or any update to the initial request, including name, date of the request, and its resolution. Employers must also retain any written response provided to an employee.



# FAQ 12

Q: How long must employers retain the required records?

A: Employers must retain the required documentation for three (3) years from the date of the request for lactation accommodation and are required to allow OLSE access to such records.





# Webpage Tour



Office of Labor Standards Enforcement



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## Lactation in the Workplace

### Overview


Employers must provide employees with lactation breaks and a lactation location, and must have a policy that explains how employees will make a request for lactation accommodation.

The Lactation in the Workplace Ordinance also defines minimum standards for lactation accommodation spaces, requires that tenant improvements in buildings designated for certain uses include lactation rooms, and outlines lactation accommodation best practices.

If you have questions about the Lactation in the Workplace Ordinance or wish to report a violation of the law, call 415-554-6406 or email [lactation@sfgov.org](mailto:lactation@sfgov.org).

### Statutory Authority

The San Francisco Board of Supervisors passed the Lactation in the Workplace Ordinance on June 20, 2017.

- [Lactation in the Workplace Ordinance, San Francisco Police Code, Article 33I](#)
- [Text of the Legislation](#) (Police & Building Code)
-  [Rules Implementing the Lactation in the Workplace Ordinance](#)

### Forms and Documents














 [Frequently Asked Questions](#)

### CITYWIDE LAWS

[Minimum Wage Ordinance](#)  
[Paid Sick Leave Ordinance](#)  
[Health Care Security Ordinance](#)  
[Paid Parental Leave Ordinance](#)  
[Fair Chance Ordinance](#)  
**[Lactation in the Workplace](#)**  
[Formula Retail Employee Rights Ordinances](#)  
[Consideration of Salary History](#)  
[Family Friendly Workplace Ordinance](#)  
[Worker Protections Ordinance](#)  
[COVID-Related Employment Protections Ordinance](#)

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## Forms and Documents

-  [Frequently Asked Questions](#)
- Sample Lactation Accommodation Policy  [English](#)  [Spanish](#)  [Chinese](#)  [Filipino](#)
- Sample Lactation Accommodation Request Form  [English](#)  [Spanish](#)  [Chinese](#)  [Filipino](#)
- Lactation in the Workplace Guide for Employees and Employers  [English](#)  [Spanish](#)  [Chinese](#)  [Filipino](#)

## Resources

- [San Francisco Department of Public Health - Workplace Lactation Accommodation Program](#)
- [U.S. Department of Labor - Break Time for Nursing Mothers](#)

## Contact Us

- Please email [lactation@sfgov.org](mailto:lactation@sfgov.org) or call 554-6406 with any questions regarding your rights and responsibilities under the Lactation Accommodation Ordinance.
- [Sign up](#) for email updates! Join the OLSE email list to receive periodic updates about San Francisco labor laws.

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# OLSE – Lactation in the Workplace

[www.sfgov.org/olse/lactation-workplace](http://www.sfgov.org/olse/lactation-workplace)

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

[lactation@sfgov.org](mailto:lactation@sfgov.org)

