

County of Monterey Board Policy Manual

Policy Name Lactation in the Workplace	Policy Number P-210	Page 1 of 7
Policy Category Personnel		

I. Purpose

1. To establish guidelines for promoting a breastfeeding friendly work environment that encourages and supports breastfeeding initiation and exclusivity, and continued lactation upon return to work.
2. To comply with California State and federal laws regarding breastfeeding and the expression of breast milk in the workplace:
 - 1997- State added section 43.3 to the Civil Code to provide for breastfeeding in public
 - 2002- State passed Labor Code Sections 1030-1033 to enable lactation accommodation in the workplace
 - 2010- Federal government passed the Patient Protection and Affordable Care Act (PPACA) which amended the Fair Labor Standards Act to require lactation accommodation in the workplace in all states
 - 2010- County of Monterey lactation in the workplace policy enacted, providing greater consideration for lactating County employees than required by state and federal statutes
 - 2012- State amended the California Fair Employment and Housing Act to prohibit employment and housing discrimination based on breastfeeding or medical conditions related to breastfeeding

II. Background

Scientific research indicates that breastfeeding and the use of human milk for infant feeding results in positive outcomes not only for the parents, child, and their family, but for the workplace, community, and environment as well. The American Academy of Pediatrics, the American Congress of Obstetricians and Gynecologists, and the American Academy of Family Physicians recommend that all babies, with rare exceptions, be exclusively breastfed for approximately six months and continue breastfeeding with appropriate complementary foods for at least one year. Suboptimal breastfeeding is associated with higher rates of pediatric disease including respiratory and gastrointestinal infections, obesity, certain types of cancer, and Sudden Infant Death Syndrome (SIDS). A parent who

breastfeeds is less likely to develop breast and ovarian cancer, type 2 diabetes, hypertension, and myocardial infarction (Bartick et al., 2017).

Optimal breastfeeding saves health care dollars. If families followed the recommendations of U.S. physician organizations, \$3 billion in direct and medical cost savings alone could be realized, not to mention indirect costs and the cost of premature death (Bartick et al., 2017). In addition, the United States government spends almost \$1 billion annually to purchase human milk substitutes (formula) for babies enrolled in the Women, Infants, and Children Supplemental Food Program (WIC) (Oliveira & Frazão, 2015).

Employers, employees, and society benefit by supporting a parent's decision to breastfeed and by helping reduce the obstacles of continuing to do so after returning to work. Employers clearly benefit by having lower health care costs, less employee absenteeism, and better morale, and employees are also more likely to return to work earlier from maternity leave if they do not foresee complications with being able to continue breastfeeding (USDHHS, 2010).

The community benefits from breastfeeding by a healthier population, with fewer medical interventions for acute childhood illnesses and the associated financial and quality-of-life costs associated with obesity, diabetes, and other chronic diseases. Monterey County directly benefits from breastfeeding due to its sustainability and minimal impact to the environment.

Most breastfeeding parents who return to work are able to maintain their milk supply by expressing their milk every 2-3 hours. If milk is not removed by the baby or expressed manually or with a breast pump, a decrease in milk supply or an infection may result. The required frequency and length of lactation breaks depends on the unique characteristics of each parent and baby, and usually decreases as the baby grows older and begins solid foods.

III. Policy

It is the policy of the County that employees will be supported in breastfeeding by accommodating their need for adequate facilities and time for breast milk expression and by providing an inclusive work environment.

IV. Procedure

Guidelines

1. Training & Resources

a. A Monterey County Breastfeeding and Lactation webpage is hosted and updated by the County Wellness Program in consultation with the Monterey County Breastfeeding Coordinator. Employee breastfeeding education materials are posted on the webpage.

b. A breastfeeding education pamphlet, including information on this policy, will be included in the new employee orientation packet.

c. Departmental Human Resources staff is to provide a breastfeeding education packet, including a copy of this policy and breastfeeding resources, to employees prior to their parental

leave. This packet is also available to expectant partners or kin prior to taking Family Medical Leave.

d. Information promoting the benefits of breastfeeding shall be displayed in County Department break areas and be featured in the Employee Wellness Program's newsletter at least once a year.

e. Employees and their partner/support person may use their Wellness release time for breastfeeding education classes offered through Wellness.

f. Wellness Program staff, in consultation with the Monterey County Breastfeeding Coordinator, will be available to consult with any employee or supervisor regarding lactation accommodation issues and may conduct site visits if requested.

g. All managers, supervisors, and other employees are required to complete within six months of hire or promotion, the Learning and Development Network "WIC: Lactation Accommodation" training to help promote and implement the policy.

2. Scheduling

a. Employees shall be allowed a flexible schedule for pumping breast milk.

b. The time allowed for pumping breast milk may exceed a normal lunch or break period. Any time in excess of a normal lunch or break period will not be paid as regular work time, but with supervisory approval, the employee may make up their time with either sick leave, annual/vacation leave, or a flexed work schedule.

c. The time used to travel to and from the employee's work area to an adequate lactation space is not included in the calculation of break time.

d. Resources to help manage break time scheduling can be found on the Breastfeeding and Lactation webpage.

3. Facilities

a. Employees shall be provided the use of a clean, comfortable space or "Lactation Area." If a designated Lactation Area is not available, vacant offices or conference rooms are possible options. A restroom is not acceptable.

b. The Lactation Area should be secure, equipped with an electrical outlet, be in close proximity to the employee's work area, and contain comfortable seating with a table or another flat surface to hold a breast pump. Windows should be covered.

c. Ideally, the Lactation Area should be near a sink with hot water and soap for

hand washing and cleaning of equipment and access to a refrigerator for storage of expressed breast milk.

d. Breastfeeding resources, including facilities available to County employees, are included on the Lactation and Breastfeeding page.

e. County of Monterey employees/agents/contractors are entitled to reasonable access to County designated lactation spaces within the limits of their work schedule and location.

4. Compliance

a. Department Human Resources will be responsible for designating Lactation Areas.

b. In remote and/or small facilities, Human Resources will work with the employee and with management to ensure reasonable accommodations are made.

c. Managers and supervisors shall respond to any request for lactation accommodation in a manner consistent with the procedures outlined in this policy.

d. Parents who feel they have been denied appropriate lactation accommodation are encouraged to inform their department's Human Resources designated lactation liaison. Contact information for each department can be found on the Wellness Program's webpage.

5. Inclusive Work Environment

a. Each Monterey County Department shall create an inclusive work environment regarding lactation in the workplace. Breastfeeding shall not be a source of discrimination in employment or in access to employment.

b. It is prohibited under this policy to harass a lactating employee or exercise any conduct that creates an intimidating, hostile or offensive working environment.

c. Any incident of harassment of a lactating employee will be addressed in accordance with County of Monterey policies and procedures for discrimination and harassment.

6. Unusual Circumstance

The County recognizes that some remote locations may not have adequate facilities to accommodate a lactating employee. In such instances, the immediate supervisor, Department Head and Human Resources staff will work with the employee to achieve a mutually acceptable solution. This may include a flexible schedule to allow the employee to return home for such activity, a temporary transfer to a larger facility, or other resolution.

V. Legal Authority

- California Civil Code section 43.3 (1997) provides as follows:

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present.

- California added Labor Code Sections 1030-1033 (2002) to provide the following:

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. 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 shall be unpaid.

1031. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1.

(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

- United States Fair Labor Standards Act of 1938, section 7, was amended (2010) with passage of the Patient Protection and Affordable Care Act (P.L. 111-148) by adding at the end the following:

(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."

- County of Monterey adopted a resolution to amend Personnel Policies and Practices Resolution No. 98-394 to add Section B.18 Lactation in the Workplace (2010).
- California Fair Employment and Housing Act was amended to include breastfeeding or medical conditions related to breastfeeding (Government Code Section 12926):

12921.

(a) The opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status is hereby recognized as and declared to be a civil right."

"12926.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

VI. Document References

Bartick, M., Schwarz, E., Green, B. Jegier, B., Reinhold, A., Colaizy, ...& Stuebe, A. (2017). Suboptimal breastfeeding in the United States: Maternal and pediatric health outcomes and costs. *Maternal Child Nutrition*, 13, e12366.

Oliveira, V. & Frazão V. (2015). The WIC Program: Background, trends, and economic issues, EIB-134, U.S. Department of Agriculture, Economic Research Service.

U.S. Department of Health and Human Services (2011). The Surgeon General's Call to Action to Support Breastfeeding. Washington, DC: U.S. Retrieved from <http://www.surgeongeneral.gov/library/calls/breastfeeding/calltoactiontosupportbreastfeeding.pdf>

VII. Review Date

1. This Policy will be reviewed for continuance by

VIII. Board Action

1. Legistar File Number, date