



**To: Executive Staff**  
**From: Gary Manning, Human Resources Director**  
**Date: February 22, 2011**  
**Re: Nursing Mothers**

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## **INTRODUCTION**

Due to the passage of the federal Patient Protection and Affordable Care Act (Act) [Healthcare reform bill], the Department of Labor has amended the Fair Labor Standards Act (FLSA) - 29 U.S.C. 207(r) - and has issued new regulations pertaining to nursing mothers in the workplace. This amendment seeks to obtain greater support for working mothers who choose to breastfeed their infants by enabling them to express and collect breast milk during working hours.

## **GENERAL**

The FLSA now requires that employers provide “reasonable break time” for an employee to express breast milk for **one year** after the child’s birth, each time the employee has a need to do so (29 U.S.C. 207(r)(1)(A)). The FLSA also requires that the employer 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” (29 U.S.C. 207(r)(1)(B)). The frequency of the breaks needed as well as the duration of each break will likely vary.

## **REASONABLE BREAK TIME**

Although paid break times are not required by the FLSA, Departments should adopt a flexible scheduling approach to accommodate the nursing mother’s need. Departments should consider the following guidance:

1. Communicate to nursing mothers that the two 15 minute paid rest periods provided under the Personnel Rules may be used for this purpose.
2. Cooperate with nursing mothers to provide a flexible approach as to the scheduling of these or other breaks times.
3. Allow nursing mothers to use options such as flex time or using some form of accrued leave (i.e., vacation, personal, or compensatory time) if additional break time is needed.
4. If a nursing mother chooses not to flex her schedule (or this option is not feasible due to operational constraints), and she has no vacation, personal or compensatory time leave, Departments must allow the nursing mother to take dock time.

## **LOCATION**

1. When determining an acceptable location in the workplace, Departments should consider the following:
  - a. A bathroom, even if private, is not a permissible location under the Act;
  - b. The space must be “shielded from view and free from intrusions from coworkers and the public”;
  - c. The space provided must be functional for the purpose;
  - d. The space may be an empty or unused office; or
  - e. A lounge area (but not in the restroom).
2. To comply with the new regulations, Departments must ensure the following requirements are met when designating a space as an “acceptable location”:
  - a. The area is equipped with an electrical outlet;
  - b. The area is in reasonable proximity to the nursing mother’s work area;
  - c. The area is in close proximity to a clean sink;
  - d. The area has comfortable seating and a table or flat surface; and
  - e. A sign that says “DO NOT DISTURB” available when the room is in use.
3. Departments are not required to designate a chosen location exclusive for this purpose. However, a location must be available whenever needed by the nursing mother.

## **ELIGIBILITY AND USE**

1. After notifying the supervisor of her need, a nursing mother must provide her supervisor or Human Resources Analyst with the date of the child’s birth, the approximate times (and amount) during the workday when she anticipates the need to be away, and the method by which she prefers to account for the time.
2. The nursing mother must keep her supervisor apprised of any changes in scheduling during the approved one-year period.