Talking to Your Boss About Your Pump: California

This fact sheet focuses on California law. Laws differ in other states. This document is for purposes of information only. The impact of laws changes based on the facts involved. For legal advice, talk to an attorney.

Returning to work after having a baby can be challenging, especially if you are breastfeeding, chestfeeding, or pumping milk. This guide will help you make a plan to take care of your lactation needs at work. It explains your legal protections and gives you practical tips for how to talk to your boss about changes you may need at work.

YOU SHOULD KNOW:

- Almost all employees in California have a legal right to break time and private space for pumping milk.
- Most California employees also have a legal right to other changes at work for nursing and pumping.
- Your boss can't fire you or treat you worse because you are nursing or pumping.
- Free legal help is available.

Read on to learn more.

PLANNING FOR YOUR LACTATION NEEDS AT WORK:

Break Time and Private Space for Pumping Milk

- If you are breastfeeding, chestfeeding, or pumping milk, you will need regular breaks to pump milk or feed your baby. The frequency and length of time needed to pump can depend on many things, like your milk supply, your baby's feeding schedule, the type of pump you use, and how fast your body lets down milk. Most people need 2-3 breaks during an 8-hour workday, depending on how often they normally pump/feed and their bodies' needs. Pumping milk typically takes 15-20 minutes per session, but sometimes longer. Most employees also need *additional* time to travel to and from the lactation space, set up the pump, clean up, and store the milk.
- You will also need clean, private space where you can pump. Expressed milk is food for babies, so this space should not be a bathroom.

Understanding Your Legal Protections:

Under **California law**[1], as well as the nationwide **PUMP Act**,[2] **you have a right to:**

(1) Reasonable break time to pump milk each time you need it during work. Your employer cannot require you to stick to a fixed pumping break schedule to meet the employer's business needs; Instead, they must give you as much as time as you need on a schedule that meets your physical needs.

(2) A private non-bathroom space to pump where coworkers or other people will not intrude. Keep in mind that employees who work remotely or work from home have the same right to break time and a private space to pump as other employees. This means they must be able to step away from their camera and computer to pump.

California law has very specific rules about what kind of space your employer must provide. This space must:

- Be in close proximity to your workspace
- Be shielded from view and free from intrusion while you are pumping
- Be safe, clean, and free of hazardous materials
- Have a place for you to sit
- Have a surface (like a table or desk) where you can place your pump and personal items (like milk bottles)
- Have access to electricity or alternative devices, such as an extension cord or charging station, to use an electric or battery-powered pump
- Provide access to clean running water to clean your pump parts and refrigerator to store milk (or another cooling device, like a cooler, if a refrigerator cannot be provided) within close proximity to your workspace

If the pumping space your employer provides is used for other purposes (like meetings) during the workday, your pumping breaks there must take priority over these other uses. The pumping space may include the place where you normally work (like a private office) if it otherwise meets the above requirements.

Employers of *all* sizes are required to comply with these laws. If your employer has fewer than 50 employees, it may be excused from complying in a particular situation where providing the break or space would create an "undue hardship," which is a significant difficulty or expense for the business. Because it is possible to provide break time and space in all industries, undue hardship is rare.

If you are an hourly worker, your employer may be allowed to take you off the clock (unpaid) during your pumping breaks when you are not performing any work duties. You can use your regular paid breaks to pump, but any time used for pumping *in excess of* your regular break time does not need to be paid.[3] Typically a salaried worker cannot have their pay reduced for pumping.

Your employer also cannot require you to make up the time you spent pumping. This means they cannot require you to come in early or stay late, or to work additional days. And your employer must adjust your sales quotas or other productivity metrics to take into account your pumping breaks. Additionally, your employer cannot force you to use sick or vacation time for the time you spend pumping.

California employers are required to have a written lactation accommodation policy that they give to all new employees and when you ask about taking parental leave.[4]

Other Workplace Changes ("Accommodations") You May Need for Lactation

- Some people may need other changes at work, which are called "accommodations." Depending on your individual needs and workplace, these may include:
    - *If you travel for work*: arrangements for time and space to pump while away from your normal workspace, including longer flight layovers, stopping over at airports with private lactation spaces, assistance securing private space while on the road or in facilities not owned by the employer. (You can download apps like Moms Pump Here to find pumping locations.)
    - *If you have a medical complication related to lactation*, like mastitis: time off from work for treatment and recovery or another change that meets your needs.

[1] Cal. Lab. Code §§ 1031-1033.
[2] Note that the PUMP Act does not apply to airline crewmembers (flight attendants and pilots). Certain motorcoach and railway employees will not be covered by the PUMP Act until December 29, 2025 and have special rules that apply. Visit here for more information. If you are not covered by the PUMP Act, you may still have a right to receive break time and space under other federal or California laws.
[3] Cal. Lab. Code § 1030.
[4] Under California law, employers must have a policy regarding lactation accommodations that includes a statement about an employee's right to request lactation accommodations, the process for making an accommodation request, the employer's obligation to respond, and a statement about the employee's right to file a complaint with the California Labor Commissioner for violations. If the employer cannot provide break time or space in accordance with this policy, the employer must provide a written response to the employee. The policy must be included in the employee handbook, and be provided to new employees and when employees make an inquiry about or request parental leave. Cal. Lab. Code § 1034.

- *If you are not able to express enough milk using a pump*: permission to have a caregiver bring the baby to your workplace for feedings.
- *If your work involves exposure to pesticides, smoke, heavy metals, radiation or other toxins that could affect your milk*:[5] accommodations your doctor may recommend to reduce your exposure, like using protective gear (gloves, protective clothing or respirators), job restructuring, or temporary reassignment to a different position that is available.
- *If you cannot perform your normal duties safely while lactating*, like for example a security guard whose heavy and tight bulletproof vest would decrease their milk supply and put them at risk of infection: a temporary transfer to a desk assignment or job restructuring.

Understanding Your Legal Protections:

Under a **California law**[6] that applies to employers that have 5 or more employees, employers are required to make "reasonable accommodations" for employees who have needs that their employer knows about related to pregnancy, including breastfeeding, chestfeeding, and lactation—like the need to pump milk regularly. An "accommodation" is a change to your work space, job duties, or schedule that lets you do your job and meet your lactation health needs (see examples of accommodations above).

Under California law, your employer must give you a reasonable accommodation if your health care provider says it is medically advisable.[7] When you request an accommodation, your employer could provide the change right away, or if that isn't possible, your employer must have a back-and-forth conversation with you about your needs and what changes could be made to meet them. Your employer does not have to give you your first-choice accommodation, so long as they give you some accommodation that meets your needs. However, your boss cannot make you take leave instead of providing an accommodation that lets you work.

A nationwide law called the **Pregnant Workers Fairness Act** may also give you a right to receive lactation accommodations, so long as the accommodation can be provided without significant difficulty or expense to your employer. This national law goes into effect on June 27, 2023 and applies to employers with 15 or more employees.

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[5] More information about accommodations for lactating workers exposed to potentially hazardous materials is available at: https://www.cdc.gov/niosh/topics/repro/breastfeeding.html

[6] Cal. Gov't Code §§ 12926(d), 12945(a)(3); Cal. Code Regs. Tit. 2 § 11035(d). This law applies to employers with 5 or more employees.

[7] Cal. Code Regs. tit. 2 § 11040(a).

WHEN TO TALK TO YOUR BOSS:

- To make sure you have what you need on your first day back from leave, it's important to talk to your employer about your plan to pump milk at work **before you return to work**. Having this conversation before you go out on leave will give you time to make a plan.
    - It can be helpful to tell your employer in advance that you will need accommodations, but there is usually no legal deadline for telling them. However, if your employer has fewer than 15 employees and you need workplace changes other than break time and space, you are required to tell your employer at least 30 days before you will need the changes (or as soon as you are able to tell them, if 30 days is not possible).[8]
- Before starting the conversation, it's a good idea to do your homework by reviewing the information in this document and any official policies your employer has in place for lactating employees. You can talk to any coworkers who have pumped milk at work before and think through solutions that may work well for your needs.

WHAT TO SAY TO YOUR BOSS:

- Have a conversation with your manager about your lactation health needs. Your manager is familiar with your work responsibilities, schedule, and working space so can work with you to come up with a plan. If you don't feel comfortable talking with your manager or think they will give you trouble, you may want to contact your human resources department instead, if your company has one. A good opportunity to discuss your lactation needs is when you speak with HR about childbirth/parental leave.
- Tell your employer that you will need to pump at work and will need to take regular breaks to do so. Explain that you will also need to be able to use a clean, private space that is not a bathroom. If you need another type of accommodation, explain that too. Remember that you have legal rights.
- **Be prepared to educate your employer** about the realities of breastfeeding/chestfeeding and pumping milk. Not all managers or human resources staff will understand your health needs at first. You may need to explain that:
    - Regular pumping breaks are necessary to avoid severe pain, risk of infection, risk to your milk supply, and other complications. Lactating workers often need to take 2-3 pumping breaks during an 8-hour workday. The number of breaks you need may be higher based on your individual circumstances, and your employer must provide breaks as often as you need them. The number of breaks you need may decrease over time.

[8] Cal. Code Regs. tit. 2 § 11050.

  - Pumping milk typically takes 15 to 20 minutes per session. However, every person is different, and it may take you longer (for example, if you have twins or can pump only one side at a time). Your breaks should also include any additional time you need to travel to and from the lactation space, set up the pump, disassemble it, clean up, and store the milk.
  - In talking to your employer, it may help to explain the reasons why your lactation goals are important to you. This might include the health benefits of human milk for infants, as well as the health benefits to yourself. If you have a baby at home, feeding them your milk means they are less likely to get sick, which means fewer days off of work for you.
  - Expressed milk is **food** for infants and so must be prepared and handled in a sanitary space - not a bathroom!
  - It is helpful to remind your boss that you are dedicated to doing a good job and that you believe taking pumping breaks will not affect your work performance.
- Come prepared with suggestions for space that you could use. If you can't think of an existing space that will work, you may be able to come up with a creative solution. For ideas, see here.
- Think through concerns that your boss may have and come prepared with a plan. For example, if your duties will need to be covered by another employee during your pumping breaks, consider talking with coworkers to get their help. Tell your boss that you will take no more time than is needed to pump and are committed to doing a good job.
- If you are requesting break time and a private, non-bathroom space to pump milk, the law does not require you to provide a doctor's note, and your employer cannot require one. You can always choose to give your employer a note if it makes it easier for you. If you are requesting other changes at work ("reasonable accommodations") you may need to submit a note from your healthcare provider. Make sure that the note says that you are breastfeeding, chestfeeding, or pumping milk and that the note is as specific as possible about what you need to protect your health. Here are guidelines on writing effective work accommodation notes that you should share with your healthcare care provider.
- Listen carefully and take notes during or after your conversation, especially about anything that sounded wrong or strange to you. It is helpful to write down anything you and your boss agree to. You can do this by sending an email or a note to your boss describing your understanding of what was discussed. Keep a copy for yourself.

WHAT IF MY EMPLOYER REFUSES TO ACCOMMODATE ME OR TREATS ME UNFAIRLY?

Often employers that do not provide lactation accommodations either don't understand the health needs of their lactating employees or are unaware of the legal requirements. In many cases, communicating clearly with your employer about these things can help you get what you need.

In some cases, even when an employee clearly communicates their needs, their boss may still give them a hard time or even punish them for needing break time and space. If you are being treated badly at work, it may be discrimination or retaliation. For example, your boss should not transfer you to a less desirable or lower-paid position, make harassing comments, or give you attendance points or demerits because you are pumping.

If your boss doesn't accommodate your needs or treats you unfairly, you have legal protections. We can help.

Understanding Your Legal Protections:

Unfair treatment based on lactation (for example, **firing, punishing, or harassing you** because you are breastfeeding, chestfeeding, or pumping milk) may be **illegal** under the Pregnancy Discrimination Act, the PUMP Act, the Pregnant Workers Fairness Act, or California state law.[9]

If you think your employer is not following the law, there are steps you can take:

- If you have questions about your legal rights or need assistance, you can always call the Center for WorkLife Law at (415) 703-8276 or A Better Balance at (833) 633-3222.
- If the pumping space provided to you does not meet your needs, let your employer know in writing why not. Keep a copy of this communication. This may cause your employer to change their mind. It could also be important later if you decide to file a complaint or lawsuit.
- You can file a complaint with an agency, like the California Labor Commissioner and/or the California Civil Rights Department (for violations of California state law), and/or the federal Department of Labor (for violations of the PUMP Act), the Equal Employment Opportunity Commission (for violations of the Pregnant Workers Fairness Act). For more information about filing a complaint, call the free helpline numbers below.
- You can file a lawsuit in court. There are usually deadlines to file, so contact a lawyer as soon as possible.
    - Note that you may not be allowed to file a claim in court under the PUMP Act against your employer for not providing adequate pumping ***space*** unless you first tell your employer that the space it provided does not meet your needs. You must do this at least 10 days before filing a lawsuit.

[9] Cal. Gov't Code §§ 12926(d), (r)(1)(C); Cal. Lab. Code § 1033.

Employees who have questions about their legal rights or who have been treated unfairly may contact our free and confidential helplines for assistance. Services are provided in English and Spanish (other languages on request):

Center for WorkLife Law online here or at (415) 703-8276
A Better Balance online here or at 1-833-NEED-ABB (1-833-633-3222).

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