



Directive No. **HR-D-16**
Effective Date: **07-01-2010**

To: All Appointing Authorities and Personnel Officers
From: Hugh Quill, *Director of Administrative Services*
Re: Nursing Mothers

PURPOSE

To require all agencies to adopt a policy to permit nursing mothers to take reasonable unpaid breaks in order to express breast milk in compliance with the Fair Labor Standards Act ("FLSA"), 29 U.S.C. 207(r). Nursing mothers need ongoing support in the workplace, and the State of Ohio is committed to support mothers who choose to breastfeed their infants by enabling nursing mothers to express and collect breast milk during working hours.

GENERAL

The FLSA requires that employers provide a "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 express breast milk (29 U.S.C. 207(r)(1)(A)) (hereinafter "nursing mother"). The FLSA also requires that the employer provides "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)) (hereinafter "lactation area").

The following provisions apply:

REASONABLE BREAK TIME

Although paid break times are not required by the FLSA, agencies shall adopt a flexible approach to scheduling to accommodate changes in the nursing mother's need to express breast milk. Agencies shall consider the following guidance:

1. Communicate to nursing mothers that paid break times are encouraged as such time when nursing mothers can take advantage of the "reasonable break time" requirement;
2. Where paid break times have been set by the agency for their employees, cooperate with nursing mothers to provide a more flexible approach as to the scheduling of paid break times.
3. Allow nursing mothers to use available options such as flexible work schedules or using some form of accrued leave (i.e., vacation, personal, or compensatory time) for their reasonable break time; and
4. If a nursing mother chooses not to flex her schedule and has no form of accrued, paid leave available, agencies should allow the nursing mother to take unpaid leave time each time the nursing mother has the need to express breast milk. However,



nursing mothers should be informed that unpaid leave shall not be counted as hours worked and may impact other employment benefits, such as retirement contributions.

LACTATION AREA

1. When determining an acceptable location, agencies shall consider designating the following, among other possibilities, as a lactation area, provided that the area has a door that is able to be securely locked from the inside:
 - a. The nursing mother's work area, provided the work area is shielded from view and is free from intrusion from coworkers and the public;
 - b. An empty or unused office; or
 - c. A lounge area (but not in the restroom).
2. Agencies shall ensure the following requirements are met when designating a space as a "lactation area":
 - 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 to hold the breast pump; and
 - e. A sign that says "DO NOT DISTURB" is available when the room is in use as a lactation area.
3. Agencies are not required to designate a chosen location exclusive to being a lactation area. However, the location must be available as a lactation area whenever the nursing mother has a need to express breast milk.
4. So long as sufficient appropriations exist, and after agency fiscal priorities are met, agencies are not required to but may consider supplying a lactation area with the following:
 - a. A small refrigerator provided solely for the purposes of storing breast milk; and
 - b. A hospital grade pump for use by nursing mothers within the agency.

ELIGIBILITY AND USE

1. After identifying herself as a nursing mother who has a need to express breast milk throughout the work day, a nursing mother shall provide her supervisor or human resource contact with the date of the child's birth, the approximate times during the workday when the nursing mother anticipates needing to express breast milk, and the method by which the nursing mother prefers to account for the time.

DAS Directive



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2. The nursing mother should keep the agency apprised of any needs for schedule changes for the purposes of expressing breast milk throughout the time period she remains a nursing mother.

ENFORCEMENT

Agencies shall adopt the provisions of this directive and shall adopt nursing mother policies consistent with the guidance in this directive.

All agencies are responsible for implementation and enforcement of this directive, and are responsible for compliance with the Fair Labor Standards Act, Ohio Revised Code, Ohio Administrative Code and any applicable collective bargaining agreements. This directive has been issued by the Department of Administrative Services and shall be adopted by all agencies. This directive supersedes any previously issued directive or policy on this issue and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE

Fair Labor Standards Act
Ohio Revised Code 124.09