

Lactation Accommodation Policy**1.3.6****PURPOSE**

To provide a reasonable amount of break time to employees desiring to express milk for the employee's infant child and to provide the use of a room or other location to express milk in private.

SCOPE OF APPLICATION

The Lactation Accommodation policy applies to all City officials and employees and is applicable at all City facilities/work sites.

AUTHORITY

[California Labor Code, Division 2, Part 3, Chapter 3.8 Lactation Accommodation, Sections 1030-1033.](#)

POLICY

It is the policy of the City of San José to comply with the requirements of California Labor Code, Division 2, Part 3, Chapter 3.8 Lactation Accommodation. These regulations require employers to provide a reasonable amount of break time to accommodate employees desiring to express breast milk for the employee's infant child each time the employee has need to express milk and provide employees with the use of a room or other location for the employees to express milk in private, including access to a sink and refrigerator in close proximity to the employee's workspace.

RIGHTS AND RESPONSIBILITIES

Employees have the right to request lactation accommodation, and requests should be made in accordance with the procedures set forth in this policy.

The City is responsible for:

- Providing a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. 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 shall be unpaid. See Time Off section below for further information.
- Providing the use of a room or other location for the employee to express milk in private which meets the requirements below. The City may designate a lactation location that is temporary due to operational, functional, or space limitations.
 - The lactation room or location shall not be a bathroom and shall be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk;
 - Be safe, clean, and free of hazardous materials;
 - Contain a surface to place a breast pump and personal items;

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- Contain a place to sit; and
- Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump.
- Providing access to a sink with running water and a refrigerator suitable for storing milk in close proximity to the employee's workspace.
 - If a refrigerator cannot be provided, the City may provide another cooling device suitable for storing milk, such as a City-provided cooler.

Information regarding privacy room access can be found [here](#). A lockable break-room or private office may be used as a privacy room for lactation accommodations, if needed.

If the City cannot provide break time or a location that complies with this policy, the City shall provide a written response to the employee.

The Department is responsible for:

- Providing the following information to any employee that discloses that the employee is pregnant, or any employees that makes an inquiry about or requests parental leave:
 - [Civil Rights Department Rights and Obligations as a Pregnant Employee](#);
 - [FMLA paperwork](#); and
 - A copy of the Lactation Accommodation policy.
- Coordinating and providing access to privacy rooms at City Hall and other City facilities/work sites.

PROCEDURES

Requests for lactation accommodation:

Employee:

Requests for lactation accommodation should be directed, verbally or in writing, to the department's Administrative Officer/Human Resources Liaison.

Administrative Officers/HR Liaison:

1. Respond to all lactation accommodation requests.
 - a. For City Hall: Provide employee with information regarding privacy rooms available on the employee's floor. If no privacy room is available, coordinate access to privacy rooms on alternate floors closest in proximity to employee's workspace and/or identify another compliant spaces that the employee can use.
 - b. For Other City Work Sites: Provide employee with information regarding privacy room or other space that can be utilized in accordance with this policy.

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2. If unable to identify compliant space for lactation accommodation, contact the Office of Employee Relations.

Office of Employee Relations:

1. Upon request for assistance from department, review request for lactation accommodation and evaluate reasonableness of accommodation. If no reasonable accommodation exists, notify the employee in writing.

TIME OFF

Employees should utilize their break time for the purposes of expressing breast milk. Employees who need additional time outside their allotted breaks can flex their time, by mutual agreement with their supervisor, or supplement their time with accrued leave balances or unpaid leave.

COMPLAINTS

Employees who have concerns regarding violations of this policy may report them, verbally or in writing, to his or her Department Director and/or the Office of Employee Relations.

Employees also have the right to file a complaint with the Labor Commissioner for any violations of a right under California Labor Code Sections 1030-1034. The address and telephone number (as of the date of this policy) is:

California Labor Commissioner's Office
100 Paseo de San Antonio, Room 120
San José, CA 95113
(408) 277-1266

ADDITIONAL RESOURCES

Additional support and local resources for Pregnancy, Breastfeeding and Parenting can be found on [Santa Clara County's Public Health website](#).

Approved:

/s/ Jennifer Schembri
Director of Employee Relations
Director of Human Resources

December 17, 2019
Date

Approved for posting:

/s/ Jennifer A. Maguire
Assistant City Manager

December 17, 2019
Date