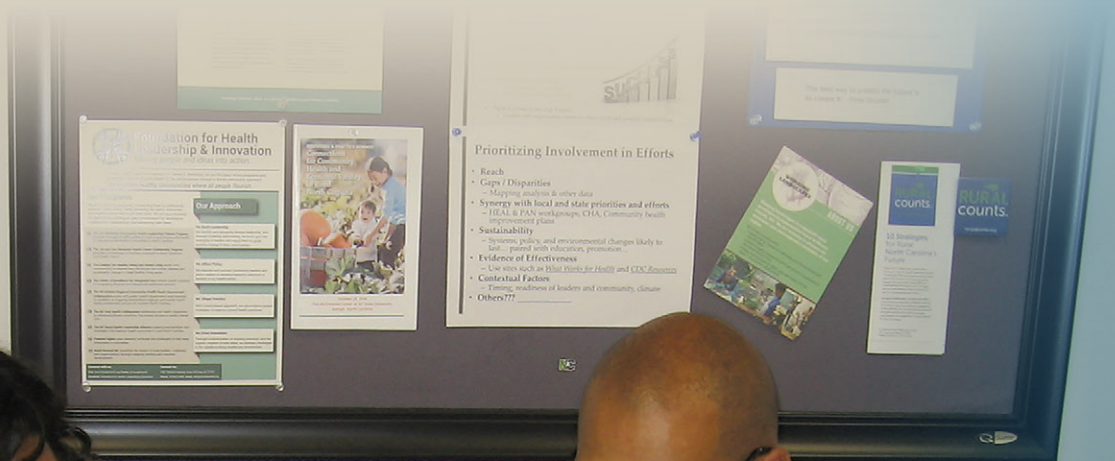


Making It Work

Supporting Worksite Lactation Accommodations





Making It Work: Supporting Worksite Lactation Accommodations

More than 80% of women choose to breastfeed and supporting these women at work is the LAW. Employers (no matter the type or size of your business) and employees can comply.

Suggested citation: NC Department of Health and Human Services, Division of Public Health. 2020. *Making It Work: Supporting Worksite Lactation Accommodations*. Raleigh, North Carolina.

North Carolina's Making It Work tools, adapted with permission from the New York State Department of Health, provide essential information for employers, mothers, their families, and community advocates to support breastfeeding.

More than three out of every four women choose to give their baby a healthy start in life through breastfeeding.¹ Once they return to work, they can continue giving their baby the perfect nutrition and protection from disease that breastfeeding provides by expressing their milk around the time their baby normally breastfeeds, generally every 2–3 hours, when they are away from their baby. The U.S. has laws to accommodate nursing mothers in the workplace. Compliance is possible in nearly all settings, and there are many resources to help.

The Federal Break Time for Nursing Mothers Law

The U.S. Patient Protection and Affordable Care Act, signed into law on March 23, 2010, amended Section 7 of the Fair Labor Standards Act (FLSA) requiring employers to provide nonexempt (hourly) nursing mothers with reasonable break time and a private, non-bathroom place to express milk during the workday.² Businesses employing fewer than 50 people may file for an undue hardship exemption.

WHAT? “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”³

Each woman’s needs are different depending on many factors, including the age of her baby, special needs of her infant, and her own personal milk production. Providing break time for women to express their milk when needed allows them to maintain milk production so they can continue giving life-saving nutrition and antibody protection to infants even after they return to work.

Employers are not required to compensate the employee for breaks to express milk under the reasonable break time provision, though many companies choose to do so. If an employer already provides compensated breaks, however, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time.

WHERE? “A place other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk”

This law does not require the private space to be a permanent, designated lactation room; but temporary rooms must be accessible for when mothers need to express milk. Companies have found many creative ways to provide private space, including the private office of the manager or an employee, a conference or board room, or other small space that is functional. A bathroom is not acceptable since it is prohibited by law.



SOURCE: UNITED STATES BREASTFEEDING COMMITTEE

Restaurants, retail stores, and businesses of all types have found creative ways to provide this space. See “Making It Work: Employers Supporting Breastfeeding Families” at workwellinc.com/NCMakingItWork.php for ideas.

The American Academy of Pediatrics recommends that children be breastfed for at least one year and thereafter for as long as the mother and child wish,⁴ and numerous studies have shown that breastfeeding duration is linked to better health outcomes in children and mothers.⁵

In North Carolina, the NC Office of State Human Resources Lactation Policy for state employees, effective July 1, 2010, states, “It is the policy of North Carolina State Government to assist working mothers with the transition back to work following the birth of a child by providing lactation support. A lactation support program allows a nursing mother to express breast milk periodically during the work day.” For more information, visit: oshr.nc.gov/policies-forms/workplace-wellness/lactation-support.

The NC Division of Child Development and Early Education (NC DCDEE) 10A NCAC 09 .0901(k) rule for all licensed child care and family child care homes states: “Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet in a place other than a bathroom that is shielded from view by staff and the public which may be used by mothers while they are breastfeeding or expressing milk.”

For more information, visit: ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/D/DCDEE_Rulebook.pdf?ver=2019-04-04-104641-553.



Guidelines for Interpreting the Law

The U.S. Department of Labor has issued guidelines and interpretations of the federal break time for nursing mothers law.

- “Fact Sheet #73: Break Time for Nursing Mothers under the FLSA”
dol.gov/whd/regs/compliance/whdfs73.htm
- “Frequently Asked Questions: Break Time for Nursing Mothers”
dol.gov/whd/nursingmothers/faqBTNM.htm
- Contact the United States Department of Labor – Wage and Hour Division – North Carolina Office at 919-900-2470 or 919-900-2475.

Resources for Employers

Carolina Global Breastfeeding Institute (CGBI)
sph.unc.edu/cgbi/carolina-global-breastfeeding-institute

Research, service and training in an academic setting. Community program implementation for breastfeeding-friendly health care and child care.

Guidelines from the North Carolina Office of State Human Resources

oshr.nc.gov/policies-forms/workplace-wellness/lactation-support

The North Carolina lactation policy for state employees.

International Lactation Consultant Association
portal.ilca.org/i4a/memberDirectory/index.cfm?directory_id=18&pageID=4349

“Find a Lactation Consultant Directory” lists lactation consultants available to assist with corporate lactation support programs.

Making It Work: Employers Supporting Breastfeeding Families

workwellnc.com/NCMakingItWork.php

Simple steps for North Carolina businesses establishing worksite lactation accommodations with creative options for non-office settings.

North Carolina Breastfeeding Coalition (NCBC)
ncbfc.org

Breastfeeding resources, national and state laws, as well as a listing of regional breastfeeding coalitions across the state. NCBC focuses on several projects, one of which is the Breastfeeding-Friendly Employers Award and Breastfeeding-Friendly Community Partners Award.

North Carolina Division of Public Health, Nutrition Services Branch

nutritionnc.com/breastfeeding

Resources and information from the Special Supplemental Program for Women, Infants and Children (WIC) for employers, families and health care providers.

The Business Case for Breastfeeding

womenshealth.gov/breastfeeding/breastfeeding-home-work-and-public/breastfeeding-and-going-back-work/business-case

Free resources with bottom-line benefits for employers establishing comprehensive lactation support programs; easy steps for implementing; options for space, time, education, and support; reproducible templates that can be tailored to the business; and employee educational materials. Published by the U.S. Department of Health and Human Services Maternal and Child Health Bureau.

United States Breastfeeding Committee

usbreastfeeding.org

Links to numerous national resources and a listing of state breastfeeding coalitions.

United States Surgeon General

hhs.gov/surgeongeneral/reports-and-publications/breastfeeding/factsheet/index.html

“Surgeon General’s Call to Action to Support Breastfeeding” and “National Prevention Strategy.”

WorkWell NC

WorkWellNC.com and workwellnc.com/scorecard-maternal_and_lactation_support.php

Resources to implement affordable and effective worksite wellness programs. This includes information for worksites that want to provide lactation support.



Resources for Breastfeeding Employees

A Better Balance

abetterbalance.org

A Better Balance provides pregnant and breastfeeding women with a free and confidential legal helpline to help you understand your workplace rights around caring for yourself and your family members including breastfeeding accommodations specific to each state.

Carolina Global Breastfeeding Institute (CGBI)

sph.unc.edu/cgbi/resources-maternity-postpartum

One-page handouts are available—Planning: Going Back to Work or School, and Supporting Breastfeeding Employees: Breastfeeding Benefits Everyone.

Employees' Guide to Breastfeeding and Working

womenshealth.gov/files/documents/bcfb_employees-guide-to-breastfeeding-and-working.pdf

Published by the U.S. Department of Health and Human Services Maternal and Child Health Bureau.

International Lactation Consultant Association

portal.ilca.org/i4a/memberDirectory/index.cfm?directory_id=18&pageID=4349

“Find a Lactation Consultant Directory” lists lactation consultants available to help new moms.

Making It Work: Breastfeeding Moms Returning to Work or School and Making It Work: Family Members Supporting Breastfeeding

ncbfc.org/making-it-work

Resources for moms who have chosen to breastfeed and family members to support her decision.

North Carolina Breastfeeding Coalition (NCBC)

ncbfc.org/perinatal-region-map

NCBC maintains a North Carolina map of all of the breastfeeding resources by county.

North Carolina Division of Public Health, Nutrition Services Branch

nutritionnc.com/breastfeeding

Resources and information from the Special Supplemental Program for Women, Infants and Children (WIC) for employers, families and health care providers.



For more information or to file a complaint:

Breastfeeding employees are encouraged to work with their employer to discuss their needs and explore solutions. Creative options exist for nearly every situation. The local breastfeeding coalition may also be a helpful resource. If a woman still finds that her lactation accommodation needs under the law are not being met or are not reasonable for her situation, she can file a formal complaint.

- United States Department of Labor – Wage and Hour Division – North Carolina office: 919- 900-2470 or 919-900-2475
- American Civil Liberties Union of North Carolina: acluofnorthcarolina.org/en
- For more information about breastfeeding, call the Office on Women’s Health Helpline at 1-800-994-9662.

1. National Immunization Survey. 2016. Division of Nutrition, Physical Activity, and Obesity, National Center for Chronic Disease Prevention and Health Promotion. cdc.gov/breastfeeding/data/nis_data/results.html

2. Patient Protection and Affordable Care Act, Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision. 2010. Washington, D.C. U.S. Department of Labor. dol.gov/whd/nursingmothers/Sec7rFLSA_btnm.htm

3. According to the federal law, only employees who are not exempt from section 7 of the FLSA, which includes the FLSA’s overtime pay requirements, are entitled to breaks to express milk. Therefore, only those employees who are eligible for overtime are entitled to break time and space to express milk. For more information: dol.gov/whd/regs/compliance/whdfs73.htm

4. Breastfeeding and the Use of Human Milk. 2012. American Academy of Pediatrics. Pediatrics. 129(3): e827-e841. pediatrics.aappublications.org/content/pediatrics/early/2012/02/22/peds.2011-3552.full.pdf

5. Ip S, Chung M, Raman G, Chew P, Magula N, DeVine D, Trikalinos T, Lau J. Breastfeeding and Infant and Maternal Health Outcomes in Developed Countries. 2007. Rockville, MD. Agency for Healthcare Research and Quality (US). Report No. 07-E007. 153, 1-186. archive.ahrq.gov/downloads/pub/evidence/pdf/brfout/brfout.pdf.



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ncbfc.org/making-it-work



NC DEPARTMENT OF
**HEALTH AND
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