



Interpretive Notice & Formal Opinion (“INFO”) # 10: Workplace Accommodations for Nursing Mothers

Overview

Colorado state law, the [Workplace Accommodations for Nursing Mothers Act \(C.R.S. § 8-13.5-101 et seq.\)](#), requires public and private employers who have one or more employees **to provide reasonable unpaid break time or permit an employee to use paid break time, meal time, or both, each day to allow the employee to express breast milk for her nursing child** for up to two years after the child’s birth. Federal law, the [Patient Protection and Affordable Care Act \(“PPACA”\)](#), requires employers to provide “reasonable break time for an employee to express breast milk for her nursing child for one year after the child’s birth each time such employee has need to express the milk.” Because **the Colorado law and federal law both apply**, and each has somewhat different requirements and coverage, this INFO covers both.

Accommodations

Colorado Law. An employer shall make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where an employee can express breast milk in privacy. Reasonable efforts means any effort that would not impose undue hardship on the operation of the employer’s business. Undue hardship means any action that requires significant difficulty or expense, when considered in relation to factors such as the business’s size, financial resources, or nature and structure of its operation, including any special circumstances of public safety.

Federal Law. The location provided must be “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.”

Coverage and Enforcement

Colorado Law. The Colorado law **applies to all public and private employers employing one or more employees in the state**. Before an employee can file in court claiming a violation of this law, nonbinding employer-employee mediation is required. This Division does not administer claims of violations or the required mediation. Parties may wish to contact an attorney for advice on these procedures.

Federal Law. The federal law makes breaks to express breast milk required for only employees who are not exempt from the overtime pay requirements of the Fair Labor Standards Act (“FLSA”). Also, an employer that employs less than 50 employees may not be subject to the federal law break requirements, if the requirements would impose an undue hardship by causing the employer significant difficulty or expense, considered in relation to the size, financial resources, nature, or structure of the business. Persons inquiring about federal break time requirements should contact the Wage and Hour Division of the U.S. Department of Labor at 1-866-487-9243.

As noted above, the Colorado law requires breaks for a broader range of employees even if they are not covered by the federal law, and also requires certain additional details on the breaks that go beyond those in the federal law -- just as many other state labor laws, in Colorado and elsewhere, always have covered more employees, and applied more requirements, than the often sparser provisions of federal labor law do.

Resources for Employees

The following links contain information on breastfeeding, breast pumps, storing milk, and returning to work:

- [Returning to Work While Breastfeeding](#) - American Academy of Family Physicians
- [Support for Breastfeeding in the Workplace The CDC Guide to Breastfeeding Interventions](#) - U.S. Centers for Disease Control
- [The Business Case for Breastfeeding. Employees' Guide to Breastfeeding and Working](#) - U.S. Department of Health and Human Services
- [Breastfeeding and Going Back To Work](#) - United States Department of Health and Human Services

Resources for Employers

The following links contain information on how to make workplace accommodations for nursing mothers, creating lactation support programs, how employers can benefit, and support for breastfeeding policies:

- [Lactation Support Program](#) - Centers for Disease Control and Prevention
- [Family Matters: New Innovations Helping Employees Face Life-Changing Events](#) - National Business Group on Health
- [Supporting Nursing Moms at Work](#) - United States Department of Health and Human Services
- [Business Case for Breastfeeding](#) - United States Department of Health and Human Services

House Bill 16-1438: Workplace Conditions for Pregnant Workers

The [Pregnant Workers Fairness Act](#) makes it a **discriminatory or unfair employment practice** if an employer **fails to provide reasonable accommodations** to an applicant or employee who is pregnant, physically recovering from childbirth, or a related condition. Under the Act, if an applicant or employee who is pregnant or has a condition related to pregnancy or childbirth requests an accommodation, an employer must engage in the interactive process with the applicant or employee and provide a reasonable accommodation to perform the essential functions of the applicant or employee's job unless the accommodation would impose an undue hardship on the employer's business. For more information, contact the [Colorado Civil Rights Division](#).

Relevant Online Resources

- [Colorado Breastfeeding Coalition](#)
- [La Leche League of Colorado](#)
- [Colorado Department of Public Health and Environment Information for Women, Infants and Children \(WIC\)](#)
- [American Academy of Pediatrics](#)
- [9to5. National Association of Working Women](#)
- [Colorado Civil Rights Division](#)

Additional Information

Visit the Division's [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.