

KNOW YOUR RIGHTS!

Pumping Breast Milk at Work

STATE & FEDERAL LEGAL PROTECTIONS

Both state and federal law give you the right to pump breast milk at work for your infant child:

- Federal law: [PUMP for Nursing Mothers Act](#) (Dec. 2022)
- California law: [Labor Code, Lactation Accommodation, Sections 1030-34](#)

In many areas, these laws overlap. In some cases one law provides greater rights to the employee than the other. You are entitled to the higher standard.

MUST PROVIDE BREAK TIME

SDUSD must provide a reasonable amount of break time for you to express breast milk for your infant child *each time you have the need to express milk*. If possible, the break time must run concurrently with a break time already provided.

Paid or unpaid?

Break time to pump that is not concurrent with already established break time is *unpaid*. But during such unpaid break time, you must be completely relieved from all work duties. If not, you must be paid for the break time. Here's an example from the [US Department of Labor](#):

Peyton is a third-grade teacher. Peyton is entitled to time to pump breast milk in a private space. Peyton



SDEA member Margaret Hernandez and her child at a school Trunk or Treat event

chooses to grade papers and complete student records while pumping breast milk. Peyton must be compensated for the time spent pumping and doing this work at the same time.

What's a reasonable amount of time to pump?

The law requires SDUSD provide you with a *reasonable amount of time* to pump, but doesn't define the amount of time. However, the amount of time must be sufficient for you to walk to the lactation space, set up the pumping equipment, pump the milk, clean the equipment, and store the milk afterwards.

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MUST PROVIDE PRIVATE LOCATION

SDUSD must provide you a location to pump that meets all of these criteria:

- Shielded from view
- Free from intrusion from co-workers, students, and others
- Cannot be a bathroom under any circumstances
- Close proximity to your work area
- Available when you need it
- Safe, clean, and free from hazardous materials
- Have a surface to place a breast pump and personal items
- Have a place to sit
- Access to electricity, including but not limited to extension cords or charging stations for a breast pump

The location can be permanent or temporary. It could be your existing workspace, like your classroom, but only if it meets these criteria. It cannot be the staff lounge because the lounge must be reserved for staff use ([SDEA contract](#), section 11.3.1).

SINK & REFRIGERATION

SDUSD must provide access to a sink with running water, and a refrigerator suitable for storing milk. These things must be in close proximity to your workspace.

IT IS ILLEGAL TO DENY THESE RIGHTS

It is illegal for SDUSD to deny these rights, or to retaliate against you for invoking these rights. According to [California Labor Code Sec. 1033](#), denial of a break or adequate space to pump may result in SDUSD having to pay one hour of pay at the your regular rate *for each violation*. In addition, SDUSD could be issued a citation by the California Labor Commissioner for \$100 for each day an employee is denied break time or adequate space to express milk.

What should you do if your rights are violated?

- You can talk to your site union rep about the problem and solution. Show them this flyer. Together you could talk to your administrator. [If you are an SDEA member](#), you may also be entitled to consult with a union attorney.
- For violations of federal law, you can file a complaint by phone or online with the [US Department of Labor's Wage & Hour Division](#).
- For violations of state law, you can file:
 - A wage claim with the [California Department of Industrial Relations](#), and/or
 - A report with the [California Labor Commissioner's Bureau of Field Enforcement](#).