



DEPARTMENT OF PERSONNEL
209 East Musser Street, Room 101
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(775) 684-0150
<http://dop.nv.gov>

MEMORANDUM
PERD # 35-10

TO: Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives

FROM: Teresa J. Thienhaus, Director
Department of Personnel

DATE: May 26, 2010

SUBJECT: Nursing Mother Break Time

A handwritten signature in cursive script, reading "Teresa J. Thienhaus".

On March 23, 2010 President Obama signed into law the Patient Protection and Affordable Care Act which amends section 7 of the Fair Labor Standards Act (FLSA) and requires employers to provide a "reasonable break time" for nursing mothers to express breast milk, for up to one year after the birth of a child, each time such employee has need. Additionally, employers are required to furnish a private place, other than a bathroom, in which to express breast milk. The Department of Labor is developing regulations to clarify language in the amendment; however, the requirement is currently in effect and must be complied with.

Pending additional information from the DOL, the Department of Personnel recommends the following steps be taken to ensure nursing mothers receive the benefits of the new law:

- Agency leave policies should be amended to include break time for nursing mothers (sample policy attached) and employees informed of the new policy. Included in the policy should be the method a nursing mother will use to notify the Agency of her need to have break time for expressing milk. The Department of Personnel has provided you with a request letter (attached) for this purpose.
- If a nursing mother takes a break to express milk in conjunction with her 15 minute break period authorized by NAC 284.524, up to 15 minutes of additional release time will be provided to her. Providing release time for this purpose will preserve the privacy of the employee who requires time to express milk and reduce timesheet recording and approval requirements. If it is not feasible for the employee to utilize existing break and meal periods, the employee may take unpaid break times to express milk.

- If a nursing mother takes an unpaid break to express milk, the Agency may allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break. Please be sure to utilize a variable work day agreement.
- Agencies should be prepared to provide a private place, other than a bathroom, that is shielded from view and free from intrusion within a reasonable amount of time upon receiving notice of an employee's intent to express breast milk. Agencies that share a common facility can coordinate their efforts to provide one space for use in the building as long as it is in close proximity to the employee's work area. Employees may be permitted to use their own work area as long as it offers the necessary privacy.

We are pleased to be able to include with this memo an application for \$300 in "seed money" from the Breast Feeding Task Force of Nevada in conjunction with the Nevada State Health Division to help implement breastfeeding friendly worksites. There are a limited number of grants available and the final deadline to make application for funds is July 30, 2010. We also have resource kits available from the U.S. Department of Health and Human Services provided to us by the Nevada State Health Division, Bureau of Child, Family and Community Wellness. If your agency would like one of these free resource kits please contact Amy Davey, Department of Personnel at (775) 684-0125 or via e-mail at adavey@dop.nv.gov or Kelly Langdon, State Health Division at (775) 684-4299 or via e-mail at klangdon@health.nv.gov. Helpful information about breastfeeding in the workplace can be found at: <http://www.womenshealth.gov/breastfeeding/programs/business-case/>

Breastfeeding protects both mothers and children from many health risks. Employers benefit, too, by reduced absenteeism. Providing a supportive environment for breastfeeding employees communicates your Agency's value of its employee's well-being. If you have additional questions about the law or its implementation please contact Amy Davey, Department of Personnel at (775) 684-0125 or adavey@dop.nv.gov. We will notify you when the Department of Labor provides further information.

Attachments

TJT:ad/vk

cc: DOP Employees

BREAK TIME FOR NURSING MOTHERS SAMPLE POLICY

In compliance with federal law which requires the provision of unpaid, reasonable break time for an employee to express breast milk, [insert Agency name] subscribes to the following policy:

- An employee who intends to express breast milk during the work day must submit her notice to [Designated Agency Representative] in writing. A notice letter form can be obtained by contacting [Agency] Human Resources.
- An employee will be provided a reasonable break time to express breast milk for her nursing child for the first year of the child's life. These break periods will be given each time the employee has need to express breast milk. If the employee elects to take these break periods in conjunction with her regular break time an additional 15 minutes of release time will be allowed. This will provide the employee with two 30 minute breaks. Any additional break time required by the employee will be unpaid.
- An employee lactation room is provided as a private and sanitary place for a breastfeeding employee to express milk during work hours. This room provides an electrical outlet, comfortable chair, and nearby access to running water. An employee may use her private office area for milk expression if she prefers.
- An employee may use her own cooler packs to store expressed breast milk, or may store milk in a designated refrigerator/freezer. Employees are expected to appropriately maintain the refrigerator.
- Management and staff are expected to provide an atmosphere of support for breastfeeding employees.

[insert date]

Dear [insert Designated Agency Representative]:

I am submitting this letter to let you know I plan to continue breastfeeding my baby when I return to work. Beginning [insert approximate date], I will need breaks at regular intervals during the workday to pump breast milk so as to maintain my milk supply and to provide breast milk for my child when we are apart. Section 7 of the Fair Labor Standards Act requires that employers provide a clean, private place for breastfeeding mothers to express breast milk. The law requires a reasonable break time to express milk each time an employee has the need. When feasible I will take the break times to express milk at the same time as the break times or meal periods that are otherwise provided to me.

This letter fulfills my responsibility to provide you with advance notice of my intention to breastfeed, so that suitable arrangements can be made regarding a pumping location, as well as any work schedule modifications. I would appreciate a written reply from you indicating you understand my intentions and are working on a plan to address this need.

Thank you for your willingness to make these allowances for me and other breastfeeding mothers.

Sincerely,

[insert employee's name]



Breastfeeding
Task Force
Of Nevada

Seed Money Request Form

Seed money for up to \$300 is available for about 20 companies to help implement a breastfeeding friendly worksite. The funds are available on a first come, first fund basis.

Congratulations on recognizing the well documented health advantages of breastfeeding for infants and mothers! We commend you for providing a lactation support program that will enable breastfeeding employees to continue to provide breast milk for their babies.

<p>Name of Applicant Agency/Organization Include agency name, address, phone number</p>	<p>Name of Contact Person Include contact name, address, phone number, email address</p>
<p>Description and detailed budget of what the seed money will purchase. Acceptable expenses include (but are not limited to): door lock, chair, table, mini-refrigerator, breast pump, microwave, signage, cubicle door, etc. A photograph of your agency's completed lactation space will be required within six months of receiving this seed money. The photographs will be used for marketing purposes.</p>	
<p>Total Amount Requested:</p>	<p>Would your company like to be recognized for these breastfeeding efforts? Yes or No</p>

Submit this form no later than July 30, 2010 to:

Kelly Langdon, Statewide Breastfeeding Coordinator, Nevada State Health Division
4150 Technology Way, Suite 101, Carson City, NV 89706
Direct Phone: 775-684-4299, Fax: 775-684-5998, Email: klangdon@health.nv.gov