

1. Are there Federal privacy requirements for employees who are expressing breast milk for their child?

The Patient Protection and Affordable Care Act (ACA) signed into law on March 23, 2010, amended section 7(r) of the Fair Labor Standards Act (FLSA). This amendment requires employers to provide a private space, other than a bathroom, for an employee to express breast milk for up to 1 year after the birth of an employee's child that is shielded from view and free from intrusion from coworkers and the public. As an employer, Federal agencies are required to provide employees a private space, permanent or temporary, consistent with these requirements.

2. What are the requirements (e.g., size, furnishings, condition, etc.) for an agency's lactation room?

Consistent with the requirements of section 7(r) of the FLSA, Federal agencies should make arrangements to provide a private space, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public for up to 1 year after the birth of an employee's child. This does not have to be permanent; however, space must be made available whenever the need arises. A temporary space must also meet the requirements of the legislation.

Lactation rooms must adhere to the standard ventilation, air quality, and lighting requirements of all workplaces. At a minimum, these nursing rooms need to be clean, private spaces created specifically for the use of nursing mothers. These rooms should include a place to sit and a flat surface, other than the floor, for the mothers to place a breast pump and other supplies. If possible, the space should have an electrical outlet, be lockable from the inside, and ideally have access to a source of hot and cold running water, for the purposes of sterilization. Although not required, some agencies provide a breast pump, refrigerator, microwave oven to sterilize breast pump parts, comfortable chair, table, clock, mirror, and sink with running water. Organizations are encouraged to review [OPM's Guide for Establishing a Federal Nursing Mother's Program](#) for more information, and specifically, the checklist for creating a nursing mother's room.

3. Are privacy requirements met when an agency's lactation room allows for several employees to pump at the same time?

Consistent with the requirements of section 7(r) of the FLSA, Federal agencies are required to provide employees with a private space, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public. The space must be available to the employee to express breast milk for up to 1 year after the birth of the employee's child. **A partition may be an appropriate solution to providing privacy. However, if a nursing employee does not feel that these partitions are sufficiently private, she is encouraged to suggest alternatives. Federal agencies are also encouraged to develop alternative space options. There are several space solutions to consider on the U.S. Department of Health and Human Services' Office of Women's Health Breastfeeding Support: Time and Space Solutions website.** Lastly, Federal agencies are instructed to consult with the [General Services Administration \(GSA\)](#) and internal collective bargaining agreements for establishing procedures for this portion of the law.

4. What if the flexible or temporary space offered to nursing mothers is not always available?

Consistent with the requirements of section 7(r) of the FLSA, Federal agencies should make arrangements to provide a private space, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, for employees to express breast milk whenever the need arises for up to the first year of their child's life. This does not have to be a permanent place, but needs to be created whenever the need arises. This temporary space needs to meet the requirements of the legislation and be an appropriate space for breast milk expression. If an agency finds the established nursing space insufficient for all breastfeeding employees, additional accommodations must be provided.

5. Is a Federal agency required to provide a space for an employee to express milk if there are no employees who need to express milk?

If a Federal agency has no nursing employees, the agency is not required to have a permanent space dedicated for expressing milk. However, if an employee's need arises, agencies are required to provide accommodations that are consistent with the requirements of section 7(r) of the FLSA. To learn more about the programs and policies at your agency, contact your agency's work-life or worksite lactation coordinator. You can find your agency's coordinators by searching [OPM's Work-Life Contact Database](#).

6. Is an agency responsible for supporting nursing employees when they travel to several locations during the course of a workday?

Traditional permanent or flexible spaces to express milk are often not possible for employees who perform work at several locations during the course of a workday. Pop-up tents, mobile options, vehicles, or spaces in nearby buildings are solutions one may wish to consider as viable options. Other suggestions may include working with the employee to find local workplaces or Government facilities that have lactation rooms that can be shared with them in these situations. It is important to note that traveling employees have all the same rights to privacy, space, and reasonable break time that the legislation provides. Therefore, traveling employees need to have accommodations that are consistent with the law.

Organizations can find more details about the alternative options listed above on the U.S. Department of Health and Human Services' Office on Women's Health Employer Solutions: Mobile & Outdoor Space website.

7. How much time and how often is an employee allowed for her nursing needs?

The Patient Protection and Affordable Care Act (ACA) was signed into law on March 23, 2010, which amended section 7(r) of the Fair Labor Standards Act (FLSA). This amendment requires that employers provide reasonable break time to express milk for one year after her child's birth. Federal agencies are required to comply with these requirements.

Defining reasonable break time for each employee may depend on many factors, as both time needed to express milk and the frequency required will vary for each individual employee. Nursing mothers typically need to express their milk for 15-20 minutes every 2 to 4 hours. This

is around 2–3 times per 8-hour shift or 3-4 times per 12-hour shift. The 15-20 minutes needed to pump breast milk does not include the time it takes to get to and from the room, to set up the breast pump, to clean the supplies, and to store the milk. Therefore, more time will be needed to complete all of those necessary tasks. Depending on the situation, an employee may need more or less time to express her milk. Managers are encouraged to use their best judgment on what is considered reasonable.

8. What should be done if a manager or supervisor is concerned that an employee is using excessive time?

According to the [OPM's Memorandum for Heads of Executive Departments & Agencies on Nursing Mothers in Federal Employment](#), managers are encouraged to use their best judgment on what is considered reasonable time.

The time needed to express breast milk varies between employees, as some women may require more time. **Federal agencies are required to provide** reasonable break time for employees to express milk for one year after her child's birth. Nursing mothers typically need to express their milk for 15-20 minutes every 2 to 4 hours. This is around 2–3 times per 8-hour shift or 3-4 times per 12-hour shift. The 15-20 minutes needed to pump breast milk does not include the time it takes to get to and from the room, to set up the breast pump, to clean the supplies, and to store the milk. Therefore, more time will be needed to complete all of those necessary tasks.

If an employee deems that extra time is needed based on her circumstances, the time used can be tracked and provided as unpaid leave or made up at other times in the day. A manager is encouraged to consider other work-life flexibilities to support the nursing mother, such as **alternative work schedules, telework, annual leave, compensatory time off, and credit hours.**

9. Can a nursing employee be expected to use regular break time for her needs?

Section 7(r) of the FLSA does not require agencies to compensate the employee who is granted reasonable break time for expressing milk. Nursing employees are also not required to use regular break time, but are encouraged to do so whenever possible. If an employee chooses to use an established compensated break time as a time to express breast milk, she must be compensated in the same way that other employees are compensated for break time. Agencies are encouraged to develop **policies that would allow for the use of current workplace flexibilities to accommodate this need.** If an employee deems that extra time is needed based on her circumstances outside of the regular break time, the time used can be tracked and provided as unpaid leave or made up at other times in the day.

10. Does the ACA require that employees get paid breaks?

Section 7(r) of the FLSA does not require agencies to compensate the employee who is granted reasonable break time for expressing milk. However, if an employee chooses to use an established compensated break time as a time to express breast milk, she must be compensated in the same way that other employees are compensated for break time. If an

employee needs extra time based on her circumstances outside of the regular break time, the time used can be tracked and provided as unpaid leave or made up at other points in the day. Other work-life flexibilities may be used to accommodate employees that require more time are **alternative work schedules, annual leave, compensatory time off, and credit hours. These flexibilities require that both the employer and employee work together to establish the best way to accommodate the needs of both the Federal agency and the employee.**

11. Are nursing employees expected to complete a full workday?

Yes. Employees are expected to complete a full workday excluding break time, unless the employee is using already established compensated break periods. Federal agencies are not required to compensate nursing employees for the reasonable break time granted for the specific reason of expressing milk. However, work-life flexibilities may be used to accommodate employees that require more time, such as **alternative work schedules, annual leave, compensatory time off, and credit hours. These flexibilities require that both the employer and employee work together to establish the best way to accommodate the needs of both the Federal agency and the employee. Ultimately, these policies are at the discretion of each Federal agency.**

12. Can agencies combine work schedule flexibilities in order to support nursing mothers? If so, are Federal agencies required or expected to do this?

Yes, it is legal and encouraged to combine flexibilities in order to support nursing mothers. Federal agencies are encouraged to develop policies for the use of current workplace flexibilities to provide reasonable breaks to nursing mothers. **These flexibilities require the Federal agency and employee work together to establish the best approach necessary. Work schedule flexibilities include alternative work schedules, annual leave, compensatory time off, and credit hours.** Federal agencies are advised to review applicable regulations, policies, and collective bargaining agreements before making determinations on these matters.

13. Where can I, as an employee, manager or supervisor find the information needed to appropriately handle my role in supporting nursing employees?

Your agency Work-Life Coordinator or Human Resources offices should be able to help you make the decisions appropriate for your situation. You can find your agency's coordinators by searching [OPM's Work-Life Contact Database](#).

Program Coordinators have an important role in supporting employees who need to express milk at work. Federal agencies are encouraged to review [OPM's Guide for Establishing a Federal Nursing Mother's Program](#) to understand the roles of managers, employees, and program coordinators in regards to nursing employees. This guide includes important definitions, legislative backgrounds, an overview of benefits, agency guidance on establishing a worksite program, examples of Federal agencies with successful worksite programs, and several resources and reference materials.

14. How should Federal agencies inform managers and supervisors of the legal requirements to support nursing employees and best practices?

Manager and supervisor support is critical for employees who are breastfeeding. Managers and supervisors are responsible for understanding and appropriately implementing both the legal requirements associated with supporting nursing mothers under the ACA and specific Federal agency policies.

There are several approaches Federal agencies can take to educate managers and foster breastfeeding support. Federal agencies are encouraged to train all new managers during their manager orientations on the legal requirements of supporting nursing employees and to reinforce this understanding through refresher trainings. This material can be provided during onboarding, in manager training requirements, or by distributing information by using agency listservs, intranet websites, posters, or printed materials.

15. Can a nursing infant be brought to the nursing employee's Federal workplace?

There is not a Governmentwide policy regarding Federal employees bringing their children to the workplace. Federal agencies are not required to permit nursing employees to have direct access to their infants at the workplace for nursing. Agencies are encouraged to work with employees to provide the maximum amount of flexibility that is practicable, subject to agency needs, collective bargaining, and the law. In making such decisions, Federal agencies should consider safety, productivity, etiquette, laws, and insurance. Ultimately, this matter is at the discretion of each Federal agency.

16. I am a nursing mother. How do I deal with the wide range of opinions of coworkers?

Worksite lactation programs can produce substantial benefits for employees, employers, and families. Numerous resources are available to help educate people about your rights and the benefits of lactation programs. Employees who are concerned about difficulties with coworkers are encouraged to discuss these issues with their managers or to reach out to their agency Work-Life or Worksite Lactation Coordinator for support.

In addition, the U.S. Department of Health and Human Services' Business Case for Breastfeeding website offers several great tips for helping create a cohesive work environment:

- Seek to understand coworker concerns and work together to find solutions.
- Let coworkers know that breastfeeding is not only the healthiest choice for you and your baby it also helps lower the agency's health care costs.
- If other workers do not understand the breaks you are taking to express milk, remind them you are using allowed breaks and making up any additional time that you miss.
- Remind them that this is a temporary need for you and your baby, and that you will use your approved breaks.
- Seek the assistance/support of your manager.

17. Do the ACA requirements to support nursing mothers apply to Executive branch civilian employees who are exempt from section 7 of FLSA?

Yes, the nursing mother requirements apply to all executive branch employees. While subsection (r) applies only to employees who are subject to section 7, which sets forth the FLSA overtime pay provisions, the rationale for the policy contained in that section applies to all executive branch employees. In accordance with the authority delegated to OPM by the President on December 20, 2010, and in order to ensure consistent treatment of nursing mothers within the Federal workforce, agencies should also apply the requirements of subsection 7(r) of the FLSA to executive branch civilian employees who are exempt from section 7 of the FLSA.

To learn more about the programs and policies at your agency, contact your agency's Work-Life or Worksite Lactation Coordinator. You can find your agency's coordinators by searching [OPM's Work-Life Contact Database](#).

In addition, the following resources provide a wide range of information:

- [OPM's Guide for Establishing a Federal Nursing Mother's Program](#)
- U.S. General Services Administration Memorandum regarding Nursing Mother Space in Federal and Leased Space
- U.S. Department of Health and Human Services' Business Case for Breastfeeding website
- [U.S. Department of Health and Human Services Office on Women's Health Breastfeeding website](#)
- [U.S. Department of Labor: Nursing Mothers website](#)
- U.S. Breastfeeding Committee: Workplace Support in Federal Law
- U.S. Department of Health and Human Services' Office on Women's Health Breastfeeding Support: Time and Space Solutions website

To learn more about the programs and policies at your agency, contact your agency's Work-Life or Worksite Lactation Coordinator. You can find your agency's Coordinators by searching [OPM's Work-Life Contact Database](#).