



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 10.3

Meeting Date: January 14, 2021

Subject: Public Hearing: First Reading of Proposed Board Policy 4033, Lactation Accommodation

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Legal Services

Recommendation: Approve adoption of Board Policy 4033.

Background/Rationale: The District has not adopted an employee lactation accommodation policy. Under California Labor Code sections 1030-1033, all California employers, including schools, are required to provide specific lactation accommodations to employees. Such proposed policy includes language in the CSBA Gamut model policy.

Documents Attached:

1. BP 4033 (Proposed)

<p>Estimated Time of Presentation: 5 Minutes Submitted by: Raoul Bozio, In House Counsel Approved by: Jorge A. Aguilar, Superintendent</p>

Sacramento City USD

Board Policy

Lactation Accommodation

BP 4033

Board Policy

The Governing Board recognizes the immediate and long-term health advantages of breastfeeding for infants and mothers and desires to provide a supportive environment for any district employee to express milk for her infant child upon her return to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee who chooses to express breast milk for her infant child while at work.

(cf. 4030 – Nondiscrimination in Employment)

(cf. 4031 – Complaints Concerning Discrimination in Employment)

The district shall provide a reasonable amount of break time to accommodate an employee each time she has a need to express breast milk for her infant child. (Labor Code 1030)

To the extent possible, such break time shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 207)

The employee shall be provided a private location, other than a restroom, which is in close proximity to her work area and meets the requirements of Labor Code 1031 and 29 USC 207, as applicable.

Employees are encouraged to notify their supervisor or other appropriate personnel in advance of their intent to make use of the accommodations offered for employees who are nursing mothers. As needed, the supervisor shall work with the employee to address arrangements and scheduling in order to ensure that the employees' essential job duties are covered during the break time.

Lactation accommodations may be denied only in limited circumstances in accordance with law. (Labor Code 1032; 29 USC 207)

Before an employee's supervisor makes a determination to deny lactation accommodations, he/she shall consult the Superintendent or designee. In any case in which lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex CIVIL CODE

43.3 Right of mothers to breastfeed in any public or private location GOVERNMENT CODE

12940 Discriminatory employment practices

12945 Discrimination based on pregnancy, childbirth, or related medical conditions LABOR CODE

1030-1033 Lactation accommodation CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination; pregnancy and related medical conditions UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

FAIR EMPLOYMENT AND HOUSING COMMISSION DECISIONS

Department of Fair Employment and Housing v. Acosta Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions CALIFORNIA

DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Minimum Requirements of the California Lactation Accommodation Law CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-

80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011 HEALTH

RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Fact Sheet #3: Break Time for Nursing Mothers under the FLSA, rev. December 2010 WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement: <http://www.dir.ca.gov/dlse>

California Department of Public Health: <http://www.cdph.ca.gov> California Women, Infants and Children: <http://www.wicworks.ca.gov> Centers for Disease Control and Prevention:

<http://www.cdc.gov> Health Resources and Services Administration: <http://www.hrsa.gov> Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers: <http://www.dol.gov/whd/nursingmothers>

Policy SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

adopted:

Sacramento, California