



the work and family legal center

80 Maiden Lane, Suite 606, New York, NY 10038 | t: 212.430.5982 | f: 212.430.5983 | info@abetterbalance.org | abetterbalance.org

FACT SHEET:

NEW RIGHTS FOR NURSING MOMS AT WORK

Are you going back to work and want to keep breastfeeding? Great for you and great for your baby!

While at work you will need to pump breast milk during the day. That way you can keep your milk from drying up before you and your baby are ready to stop nursing. And, you will be able to save milk for your baby to drink when you are not there.

A new federal law can help you keep breastfeeding after you return to work. The law¹ says you must get break time to pump breast milk for your baby and a protected space to do it.

Who does the law cover?

- Employers and employees covered under the Fair Labor Standards Act (FLSA), the law that sets minimum wage and overtime requirements. To see if you qualify as a non-exempt worker, visit <http://www.dol.gov/compliance/guide/minwage.htm>.
- FLSA exempt employees (e.g. administrative and professional workers) are not covered by this law but may be protected by state breastfeeding laws.
- Exempt employees who work for Federal government agencies are covered by the law.²

What about small employers?

- Employers with fewer than 50 employees AND who would have significant difficulty complying with the law because of their size, financial resources, nature or structure of their business may be exempt.

Assuming my employer is covered, what do they have to provide?

Reasonable unpaid break time for you to express breast milk, each time you need to pump, for up to one year after giving birth.

- You should get a break about as often as you would feed your baby if you were with him/her.
- The length of your breaks will depend on how long it takes to get to your pumping space, the speed of your pump and other factors.
- If your employer provides paid breaks, you must be allowed to use that paid time to express milk.

¹ See Patient Protection and Affordable Care Act, Public Law 111-148, Section 4207.

² See Memorandum for Heads of Executive Departments and Agencies re: Nursing Mothers in Federal Employment, Dec. 22, 2010, available at http://colorado.feb.gov/useruploads/files/nursing_mothers_in_federal_employment.pdf



the work and family legal center

80 Maiden Lane, Suite 606, New York, NY 10038 | t: 212.430.5982 | f: 212.430.5983 | info@abetterbalance.org | abetterbalance.org

A place, other than a bathroom, that is shielded from view where you can express milk without fear of intrusion.

- Your employer may create a temporary or converted space for you to use for expressing milk, as long as it is protected from co-workers and the public and is available to you whenever you need to use it.
- The space must be functional as a space to pump breast milk.

Do breastfeeding breaks count as Family and Medical Leave time?

- No—breaks for expressing breast milk do not qualify as family or medical leave and should not be counted against your entitlement to such leave.

What if my employer punishes me for expressing milk at work?

- Your employer can't fire you for taking breaks you are entitled to under the law.
- Your employer may not discriminate against you for filing a complaint regarding break time for expressing breast milk.

What should I do if I think my rights have been violated?

- Call the U.S. Department of Labor's Wage and Hour Division, toll free, at 1-866-487-9243. They can help you file a complaint and investigate your claim.
- If you think you've been discriminated against as a nursing mother, contact the Equal Employment Opportunity Commission at 1-800-669-4000 or visit their website, <http://www.eeoc.gov/employees>.
- For more general information about your rights under the new breastfeeding law, please visit <http://www.dol.gov/whd/nursingmothers>.
- If you have questions about your rights at work as a new mother, or want to share your story, please contact A Better Balance at info@abetterbalance.org or call us at (212) 430-5982.

The Department of Labor will issue final guidance about breaks for nursing mothers later in 2011, so please check back for updates to this fact sheet.