

## Rule # 2-75

### Support for Milk Expression and Nursing in the Workplace

§§:

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#### § 2-75-010 Purpose

The county recognizes the importance of assisting parents with their return to work after the birth, adoption, foster care placement, or placement pursuant to legal guardianship of a child with an employee. In accordance with ORS 653.077 and the Fair Labor Standards Act (FLSA), the county will provide the following to any employee who needs to express milk and/or nurse for their child(ren) twenty-four (24) months of age or younger, reasonable rest periods and a private, functional location to express milk and/or nurse. In accordance with ORS 109.001, employees may nurse their child(ren) in any public place.

#### § 2-75-020 Definitions

**Close Proximity:** Close proximity means within reasonable distance from the employee's work area that does not appreciably shorten the rest or meal period (less than five (5) minutes).

**Milk Expression:** Milk expression means the initiation of lactation by manual or mechanical means and does not include nursing.

**Lactation Space:** A lactation space is a private, functional location that has been designated, permanently or temporarily, for milk expression, and includes, but is not limited to:

- A. The employee's work area;
- B. A room connected to a public restroom, such as a lounge;
- C. A child care facility;
- D. An empty or unused office, conference room, or a storage space; or
- E. A permanent lactation or wellness room.

**Nursing:** Nursing means feeding a child directly from the mother's breast or parent's chest.

**Private, Functional Location:** A private, functional location is a secure location, concealed

from view and without intrusion by other employees or the public that is available whenever needed by employees to express milk. They must meet the following conditions:

- A. Be sanitary and not be a public restroom or toilet stall;
- B. Have a locking door or “in use” signage, and any windows must have blinds or window coverings;
- C. Be in close proximity to the employee’s work area;
- D. Include an electrical outlet; adjustable, cleanable chair; desk, table, or worktop; and cleaning supplies;
- E. Contain, or be in close proximity to, a sink with hot, running water; and
- F. Be compliant with the Americans with Disabilities Act and Amendments (ADAA) design standards and be accessible for those with mobility limitations.

**Public Restroom:** A public restroom is a restroom freely available for use by employees or the general public that does not include an attached lounge or room that allows an employee to express milk and/or nurse concealed from view and without intrusion by other employees or the public.

**Reasonable Rest Period:** An employee will be provided reasonable rest periods to express milk and/or nurse a child(ren) for the first twenty-four (24) months of the child’s life. These rest periods will be given each time the employee has the need to express milk and/or nurse.

**Reasonable Time:** A reasonable time must not interfere with the rights provided by this rule, taking into consideration the immediacy of the employee’s need to express milk and/or nurse, and that this rule applies only until the employee’s child(ren) is twenty-four (24) months of age.

**Toilet Stall:** A toilet stall includes a restroom that contains one toilet, whether or not in plain view, and whether or not the restroom locks from the inside.

## **2-75-030 Policy**

- A. Multnomah County will provide reasonable rest periods to accommodate an employee who needs to express milk for and/or nurse their child twenty-four (24) months of age or younger.
  - 1. If feasible, the employee will take the rest periods to express milk and/or nurse at the same time as the rest periods or meal periods that are otherwise provided to the employee. If not feasible, the employee is entitled to take reasonable time as needed to express milk and/or nurse.
  - 2. The county will treat the rest periods used by the employee for milk expression and/or nursing as paid rest periods up to the amount of time the county is

required to provide as paid rest and/or meal periods under applicable county personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest and/or meal periods may be taken as flex time with manager approval, unpaid time, or substitute paid leave for unpaid leave at the employee's discretion.

- B. Multnomah County will make a reasonable effort to provide the employee with a designated lactation space that is private and functional within close proximity to the employee's work area to express milk.
- C. If a private, functional lactation space is not within close proximity to the employee's work area, the county will identify a private, functional lactation space the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.
- D. An employee who intends to express milk and/or nurse during work hours must give their manager reasonable oral or written notice of their intention to do so in order to allow the county time to make any preparations necessary for compliance with this rule.
- E. An employee, with manager approval, may arrange to have their child(ren) twenty-four (24) months of age or younger brought to work to nurse, and the employee may nurse in any location.
- F. Once a manager has been notified by an employee of their intent to express milk and/or nurse during work hours, the manager is responsible for contacting their department human resources unit for further guidance and informing the employee of their rights.
- G. Requests for accommodation under this rule may only be limited or denied after consultation with Central Human Resources and/or the County Attorney's Office. Central Human Resources and/or the County Attorney will review compliance with state and federal regulations.
- H. Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration in or near the lactation space or for personal use, an employee who expresses milk during work hours may use the available refrigeration.
- I. In accordance with the Fair Labor Standards Act (FLSA) and Personnel Rule 3-40, all managers and employees must create and maintain a respectful, harassment-free environment for employees who express milk and/or nurse in the workplace.
- J. Managers are required to comply with all aspects of this rule. Actions that violate these rules are subject to disciplinary action, up to and including termination.
- K. Requests for additional time to express milk and/or nurse greater than that specified in ORS 653.077 can be made to Department Human Resources for consideration.

## **2-75-040 Records and Confidentiality**

All records related to the request for or use of this rule will be kept confidential. Documents provided to the county regarding the request will be maintained in a locked confidential file, which is kept separately from employee personnel files.