



## Employee Accommodations

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Employee Accommodations

**Reference Number:** MTAS-853

### **Space**

A bathroom, even if private, is not an acceptable location under the law. The employer must provide a space that is functional for expressing breast milk. A clean small office with electricity, a light, chair and a locked door is an appropriate space. The space can also be converted into a nursing room on an as-needed basis as long as it is available on demand. The space must be shielded from view and free from any intrusion of co-workers or the public. Nursing equipment can be somewhat noisy, so a closed office space is recommended.

### **Duration of Breaks**

The legislation specifically states that the duration and frequency of breaks will vary. Each mother will need a different duration and frequency. In addition, women are biologically programmed to express as much milk as their growing child needs at that time which constantly varies from birth. This means that your employees may need differing durations depending on stage of child's development and the mother's needs. In addition to expressing milk, there is the sanitation of the equipment, storage of the milk and washing hands that should be factored into these break times.

### **Compensation for Non-Exempt Employees**

State and federal laws do not require nursing breaks to be paid. Your city cannot limit the number of breaks an employee takes to express milk, but your city can elect to designate the nursing breaks as unpaid. However, if an employer provides regular break times, FLSA requires that all employees be paid for those breaks. Hence, nursing mothers are free to use these break times for expressing milk. Aside from the amendment to the PPACA, there is no state or federal law that requires Tennessee municipalities to offer break times.

### **Exempt Employees**

Tennessee state law provides that exempt employees be provided break times to express milk. It is generally not recommended to dock salaried exempt employees' pay because salary is not based on number of hours worked per day but on a per job basis.

### **Non-Traditional Positions**

How will an employee who drives a patrol car express breast milk? While it seems difficult, many employees in non-traditional office positions nurse their children. If the employee works in a non-traditional office setting, your city should have dialogue with the employee to make sure she feels comfortable with her options for expressing breast milk. This may require the employer to be flexible and to educate co-workers on the accommodation to ensure proper personnel coverage at all times. In summary, the benefits to having breast-fed children are not just good for the employer and employee, but a healthier society for everyone and for workplaces that respect the needs of growing families.

### **Some Tips for Best Practices**

- Provide educational materials for all employees;
- Provide training for supervisors and management;
- Have a nursing mothers workplace policy that is visible to all employees;
- Have an accessible, private, clean space with appropriate signage, electricity, a locked door and comfortable chair designated for nursing mothers. Be flexible with work schedules to provide time for nursing;
- Ensure a sink for proper sanitizing is nearby for washing hands and sanitizing equipment;
- Allow the nursing parent access to hygienic storage options (refrigerator) for secure milk storage;
- Have continuous dialogue with expectant mothers and new parents; and
- Survey employees about family friendly work policies.

*DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.*

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