

South Carolina Human Affairs Commission

Technical Services and Training Division



Prevention Corner



An ounce of Prevention is Worth a Pound of Cure.
~ Benjamin Franklin

November 2023

South Carolina
Human Affairs
Commission
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<https://schac.sc.gov/>

The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act and the SC Lactation Support Act.), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law

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Pumping in the Workplace: Employee Rights

State Law

The South Carolina Lactation Support Act was signed by Governor McMaster on June 25, 2020. This Act requires that any employer, regardless of size, permit employees reasonable opportunities to express milk in a private place other than a toilet stall.

Federal Law

On December 29, 2022, the ***Providing Urgent Maternal Protections for Nursing Mothers Act*** (PUMP ACT) became law. The PUMP Act expands the rights of nursing mothers to have reasonable break time to pump and a private place other than a bathroom, shielded from view and free from intrusion from coworkers and the public, to express their breast milk.

Eligible Employees

- Nearly all employees covered by FLSA are eligible to pump at work.
- Employees are eligible to pump at work for one year after their child's birth, each time an employee needs to express milk.

Federal Law interaction with State Law

Federal law provides workplace protections that apply to employees in all states. The FLSA's pump at work protections do not preempt (*take the place of or take precedence over*) a State law that provides greater protections to employees than those provided by the FLSA.



frequently
asked
QUESTIONS

Do these laws prohibit retaliation for pumping at work?

Yes. State and federal laws provide protection from retaliation, discrimination, harassment or the taking of adverse action against employees for pumping breast milk in the workplace.

Source: [FAQs PAA LSA links.pdf \(sc.gov\)](#); [FLSA Protections to Pump at Work | U.S. Department of Labor \(dol.gov\)](#);

How can I schedule training?

(803) 737-7800 or (800) 521-0725, Relay 711
email: training@schac.sc.gov

2 THINGS

WE'RE
TALKING
ABOUT

HOT TOPICS

1. Myths & Facts

Myth: If I am an exempt employee, my employer does not have to provide me with breaks to express breast milk at work.

Fact: **Not true.** The South Carolina Lactation Support Act provides protection for all employees, exempt and non-exempt, who ask for an accommodation to express breast milk in the workplace. The Lactation Support Act makes it unlawful for an employer to discriminate against an employee for choosing to express breast milk in the workplace.

Source: [FAQs PAA LSA links.pdf \(sc.gov\)](#)

Press Release

2-11-2022

EEOC Sues Walmart for Gender and Race Discrimination

Ottumwa Store Employee Denied Promotion Based on Having a Newborn at Home, Federal Agency Charges

OTTUMWA, Iowa – Walmart violated federal law when it gave a Black female employee an unsanitary lactation space based upon her race and failed to promote her based on sex stereotypes about mothers with small children, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it announced today.

- The EEOC's pre-suit investigation revealed that Walmart failed to promote the employee to a management position at its Ottumwa store because it assumed she would not remain with the company long due to her having a newborn at home.
- Walmart also gave her an unsanitary storage closet to express her breast milk, a facility that was inferior to the clean office space it provided to a White employee for the same purpose.
- Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on sex and race.

Read the entire article at: [EEOC Sues Walmart for Gender and Race Discrimination | U.S. Equal Employment Opportunity Commission](#)

2. Reasonable Accommodation



[Download Infographic:
Tips for Asking for Reasonable
Accommodation](#)

What are some examples of reasonable accommodations for pregnant workers?

According to the U.S. EEOC, "Reasonable accommodations" are changes to the work environment or the way things are usually done at work.

The [House Committee on Education and Labor Report on the PWFA](#) provides several examples of possible reasonable accommodations including *the ability to sit or drink water; receive closer parking; have flexible hours; receive appropriately sized uniforms and safety apparel; receive additional break time to use the bathroom, eat, and rest; take leave or time off to recover from childbirth; and be excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.*

Employers are required to provide reasonable accommodations unless they would cause an "undue hardship" on the employer's operations.

An "undue hardship" is significant difficulty or expense for the employer.

Source: [What You Should Know About the Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)



SCHAC CAUSE DETERMINATION

An employer was found to have engaged in an unlawful discriminatory practice, in violation of the South Carolina Pregnancy Accommodations Act by denying a pregnant employee an accommodation that would not have created an undue hardship for the employer.



Answers to your questions about Pregnancy Discrimination and Lactation Support Laws.

How can an employer set up a lactation space for more than one lactating employee at the same time?



Examples of ways to set up a multi-user space include:

- **Curtains.** Some companies use curtain dividers to create individual milk expression “stations” within a multi-user room.
- **Cubicle partitions.** Cubicle partitions create privacy within a multi-user lactation space. Walls should be tall enough to protect the privacy of users.
- **Screens.** Temporary dividers create privacy within a multi-user room. Screens should be tall enough that a tall person cannot see over them while standing.

Outdoor Job sites: How can employers provide an outdoor or mobile location for expressing breast milk?

A private space is necessary for lactating employees because pumping/expressing breastmilk is a very different experience from breastfeeding the baby in person.

Portable Spaces: Outdoor or Mobile Lactation Spaces:

- **Privacy:** Pop-up Tents can be zipped closed for privacy.
- **Privacy:** The cab of a vehicle can be made private with a windshield visor.
- **Storing milk:** Keep milk fresh in a cooler with icepacks if standard refrigeration is not available nearby.
- **Weather issues:** Extreme heat or cold makes expressing milk outdoors more difficult. Employers should make every effort to provide an indoor solution for breastmilk expression during extreme weather conditions.

Source: U. S. Department of Health & Human Services- Office on Women's Health; [Location for breaks | Office on Women's Health \(womenshealth.gov\)](https://www.womenshealth.gov/location-for-breaks)



Pop-up Tent



Storage: Cooler with ice pack



Windshield Visor

****Please Note: This newsletter is not intended to be used as legal advice**

PREVENTION CORNER

Best Practices

- **Workplace Policies:** Review and update lactation workplace policies to ensure they cover both exempt and non-exempt employees.
- **Communication:** Ensure the workplace policy is provided to all employees including new employees and given to employees prior to and upon returning to work from leave, or when requested.
- **Training:** Train Human Resources, managers, and supervisors on the process for considering reasonable accommodations for pregnancy, childbirth, or related medical conditions (which includes lactation).
- **Reminder:** State and federal law prohibit harassment and discrimination on the basis of sex which includes pregnancy, childbirth, or related medical condition, including lactation. It is also unlawful for employers to retaliate against lactating employees for requesting lactation accommodations or filing a complaint for failure to provide lactation accommodations.

Source: [South Carolina Human Affairs Commission](#); U.S. EEOC

EEO laws are designed to protect the rights of ALL individuals.

**If you feel like you have experienced discrimination,
contact us for help.**

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(800) 521-0725, Relay 711 or 803-737-7800**

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**The mission of the South Carolina Human Affairs Commission is to
Prevent and Eliminate Unlawful Discrimination in Employment, Housing,
and Public Accommodations.**