

4421.13 POSTNATAL ACCOMMODATIONS

[See POLICY ALERT No. 219]

The Board of Education recognizes ~~school support~~ staff members may be returning to work shortly after their child's birth and may need to express breast milk during the workday. The Patient Protection and Affordable Care Act (PPACA) amended Section 7 of the Federal Fair Labor Standards Act (FLSA) to nursing ~~mothers~~ employees in positions not exempt from the FLSA to be permitted reasonable break times and a private location to express breast milk for ~~her~~ their nursing child for one year after the child's birth. ~~Exempt and non-exempt FLSA employees are defined in 29 C.F.R. 541 et seq.~~

Every employee position in the school district is designated as either "non-exempt" or "exempt" by the provisions of the FLSA. Generally, a support staff member entitled to overtime pay is designated as "non-exempt." A support staff member that performs duties that are executive, administrative, or professional in nature and not entitled to overtime pay is designated "exempt." The school district administration shall refer to the comprehensive definitions of "exempt" and "non-exempt" as outlined in 29 C.F.R. 541 et seq. in determining an employee's designation.

A Board of Education is required to provide reasonable break times to non-exempt support staff members to express breast milk for their nursing child. The non-exempt support staff member shall coordinate such breaks with their immediate supervisor. The non-exempt support staff member will not receive compensation during this break time unless the break time is during a non-exempt support staff member's compensated break time.

~~School staff members not exempt from the FLSA will coordinate the times of their workday for such breaks with their immediate supervisor. The staff member will be required to sign out of work when they leave their work location and begin the break and shall sign in when they return to their work location after the break. The break shall be for a reasonable time. The non-exempt staff member will not be compensated during this break time unless the break is taken during the staff member's lunch break.~~

The Board of Education is not required under the FLSA to provide such breaks to ~~school exempt support~~ staff members. ~~exempt from the FLSA.~~ However, ~~school exempt support~~ staff members ~~exempt from the FLSA~~ may take such breaks provided the ~~staff member can coordinate such breaks~~ are coordinated with their immediate supervisor. If this break is taken during the exempt so the breaks can be taken during the school support staff member's duty free lunch period, or duty free break period, ~~or preparation time~~ during their workday, the exempt support staff member will not be reduced in compensation.



~~The exempt staff member will be compensated during this break time provided it is taken during the school staff member's duty free lunch period, duty free break period, or preparation time during their workday.~~

~~A-The Principal or the nursing employee's immediate supervisor, in consultation with the school nurse, will provide designate a lactation room a place, other than a restroom, that is shielded from view and free from intrusion from coworkers and the public, for a nursing mother to express breast milk. The location must be functional as a space for expressing breast milk and shall include an electrical outlet, a chair, and nearby access to running water. If the space is not dedicated to the nursing employee's use, it must be available when needed. A space temporarily converted into a lactation room or made available when needed by a nursing employee is sufficient; however, a bathroom, even if private, is not a permissible location under the FLSA.~~

~~-All exempt and non-exempt support staff members are required to sign-out of work to begin the break to express breast milk and shall sign-in when they return to work after the break. The break shall be for a reasonable amount of time. For compensation purposes, the immediate supervisor shall forward all sign-in and sign-out information relative to break times for nursing mothers under the FLSA to the School Business Administrator/Board Secretary.~~

Fair Labor Standards Act – 29 U.S.C. 201 et seq.
Patient Protection and Affordable Care Act – P.L. 111-148
[N.J.S.A 26:4C-1 through 26:4C-3](#)

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