

State Experiences with Implementing Worksite Lactation Accommodations: Challenges and Opportunities

For most infants and mothers, breastfeeding provides an array of benefits and protective factors.^{i,ii,iii} Maternal and child health experts recommend breastfeeding immediately following birth for at least one year, and exclusive breastfeeding through six months of age.^{iv} While 81 percent of mothers initiate breastfeeding following birth, only one-third of babies are still breastfed at 12 months.^v

Women across the economic spectrum cite similar barriers to discontinuing breastfeeding before the period of time recommended by experts, including worksite policies that impede their ability to express breast milk when returning to work after having a baby.^{vi,vii} Many women return to worksites that are not supportive of breastfeeding, making it difficult for them to express breast milk and store it for their babies' later use.^{viii} However, a combination of worksite policies, practices, and social norms can create an environment conducive to and supportive of women's breastfeeding choices. Additional background information on breastfeeding, U.S. breastfeeding rates by population, barriers to breastfeeding, and strategies to address these barriers can be found in [Promoting Breastfeeding: ASTHO Learning Community, Year One Project Summary](#).

This issue brief will:

- Define the need for supportive breastfeeding worksite policies, best practices in worksite lactation support, and the positive benefits of implementing these policies for both women and their employers.
- Identify state and federal laws requiring worksite lactation accommodation and the challenges of the laws' implementation.
- Provide examples of how states have assisted employers in becoming breastfeeding-friendly.
- Describe state health departments' potential roles in helping employers design and implement worksite lactation policies and programs in accordance with existing laws and best practice.

Supporting Breastfeeding in Worksites

Roughly two-thirds of women worked outside the home prior to their first birth between the years 2006-2008.^{ix} Of these women, almost 60 percent returned to work within three months, and almost 80 percent within 12 months postpartum.^x Approximately 80 percent of women who returned to work returned to the same employer as before their baby's birth.^{xi} Given the high rate of maternal employment combined with the timing of when women return to work postpartum, worksites offer an exceptional opportunity to create policies and practices supportive of breastfeeding.

Employers also benefit from providing lactation support. Studies indicate workplace lactation support programs have a return of \$3 for every \$1 invested.^{xii} Additionally, corporations that provide lactation support can see a nearly 28 percent reduction in absenteeism and an almost 36 percent reduction in insurance claims for sick child visits to a healthcare provider.^{xiii} Companies with lactation support programs enjoy high rates of employee retention and productivity, with employees reporting job satisfaction, strong morale, and employer loyalty.^{xiv}

Employers can adopt and implement a range of policies to support breastfeeding women, including providing flexible scheduling, physical space for expressing breast milk, and breaks during the workday. A breastfeeding-friendly worksite culture includes management supportive of lactation practices, and a commitment to ensuring that policies are implemented fairly and consistently for all employees.^{xv}

Federal and State Laws Supporting Worksite Lactation Accommodation

Enacted in 2010, [The Patient Protection and Affordable Care Act](#) (ACA) (P.L. 111-148) requires employers with more than 50 employees provide women with adequate break time to express breast milk (also referred to as pumping) during the work day for one year after the child's birth.^{xvi} The law requires that employers provide a private, clean space to pump, as well as break times during the day. However, only employees who are not exempt from Section 7 of the Fair Labor Standards Act are entitled to these provisions. The U.S. Department of Labor provides guidance on the implementation of the law, including additional information on about which employees are covered under the law.^{xvii}

Women who are not covered under the ACA, including doctors, nurses, or teachers, may still be entitled to lactation accommodations under state law, which can offer women more comprehensive rights and protections than those afforded by the ACA. Twenty-seven states and Puerto Rico have similar protections and provisions as the ACA.^{xviii} Although most of these states had laws in place that pre-date the ACA, six states have enacted laws since 2010 strengthening workplace provisions, such as expanding accommodations or employees covered under the law.^{xix} For example, [California's Lactation Accommodation Law](#) (Labor Code Section 1030-1033) applies to all employers and employees and states that an employer must provide a lactation room close to the employee's work area, carrying a civil penalty for a violation.^{xx}

Women may also have rights to lactation accommodations under collective bargaining agreements, corporate policies, or other provisions.

Realities of Implementing ACA, State Laws, and Other Lactation Accommodations

Although laws and policies ensuring the rights of breastfeeding women may be reasonable and desirable, implementing breastfeeding policies and practices can be challenging. Results of a recent survey conducted with women who worked part time or full time and gave birth in 2011 and 2012, indicated that only 40 percent of women had access to both break time and private space.^{xxi} Women who had both of these accommodations were 2.3 times more likely to breastfeed at six months and 1.5 times more likely to continue breastfeeding exclusively after that point than their peers without these worksite benefits.^{xxii} In another survey, almost 60 percent of respondents felt that their employer was somewhat or extremely supportive of breastfeeding or pumping at work, less than 30 percent said it was easy to pump at work, and 66 percent cited a lack of time as a major impediment to pumping.^{xxiii}

Both employees and employers face challenges in implementation due to worksite policies, facilities, and the nature of some jobs. Employees, particularly if they are the first in the worksite to require accommodations, may not know their legal rights or find it difficult to advocate for their rights because of their position within the organization. Employers may find it challenging to identify space for a lactation room or think efforts will be too expensive to undertake. Other employers may express resistance to granting break time to employees because of practical or logistical challenges, a perception of decreased productivity, or pushback from other employees who see the breaks as unfair. Stories of

[women's experiences](#) suggest that women across the United States continue to face challenges in the worksite.

Examples of States' Efforts to Support Breastfeeding Friendly Worksites and Businesses

ASTHO, with support from CDC, has supported a Breastfeeding State Learning Community since 2014. Within this learning community model, three states have been working to improve worksite and business policies and practices for breastfeeding. Their work is summarized below. A detailed description of New Mexico's and Vermont's projects can be found in [Ensuring Workplace Compliance with the Federal Lactation Accommodation Law Issue Brief](#).

New Mexico: The [New Mexico Breastfeeding Task Force](#) and the New Mexico Department of Health are collaborating to create a statewide infrastructure to ensure both employers and employees are supported in the implementation of helpful breastfeeding policies. Four breastfeeding worksite liaisons provide technical assistance on breastfeeding policies and accommodations to businesses in two counties. The team also collaborated with their local chambers of commerce to develop a one-hour employer-training workshop. Additionally, 41 human resources professionals and business managers, in partnership with the state personnel office, received educational credit from the Human Resources Certification Institute for participating in the training during year two of the project. The New Mexico Department of Workforce Solutions is helping to raise awareness of the workplace accommodation law by disseminating a [Business Case for Breastfeeding Fact Sheet](#) to new and current businesses across the state. Additionally, the New Mexico Breastfeeding Task Force provides a [toolkit](#) for employers, as well as "Breastfeeding Welcome Here" window clings to display at businesses.

As a result of their efforts, new multi-sectoral partnerships are being created to build a system of support for breastfeeding in the state. The New Mexico team established relationships and buy-in with organizational gatekeepers and continued to cultivate existing relationships with external organizations. By engaging various partners like the local chambers of commerce, professional employer organizations, community agencies, and state government, the team strengthened their connections to businesses, created consistent messaging, and fostered compliance with state and federal lactation accommodation laws.

New Mexico is also helping nursing parents returning to work or school advocate for lactation accommodations. To this end, the New Mexico team has trained 147 community agency, day care, and healthcare organization staff members to better counsel breastfeeding clients returning to work and school.

South Dakota: The South Dakota Department of Health is piloting their breastfeeding-friendly business efforts in the Brookings, South Dakota community. The department of health works closely with Brookings Supports Breastfeeding, an advocacy group comprised of the Brookings Area Chamber of Commerce, Brookings Health System, the South Dakota Breastfeeding Coalition, South Dakota State University, and the South Dakota State University Extension Service. Businesses can take a breastfeeding-friendly [pledge](#), stating that business will:

- Provide a welcoming environment where breastfeeding mothers are able to breastfeed in public spaces within the business.

- Encourage a welcoming attitude from staff, management, and to the fullest extent possible, other customers.
- Place the “Breastfeeding Welcome Here” window cling in each public entrance to the business establishment.
- Accommodate breastfeeding employees to allow appropriate time and space necessary to pump, to the best of their ability.

One hundred businesses in the Brookings area have already taken the online [pledge](#), including Brookings Supports Breastfeeding member organizations, 3M, Brookings County, City of Brookings, Children’s Museum of South Dakota, Hy-Vee, and many small independent businesses and individual branches of hotels, banks, stores, restaurants, and service stations. The [full list](#) of breastfeeding-friendly businesses is publicized on the South Dakota Department of Health’s website.

Vermont: To increase the number of breastfeeding-friendly worksites in Vermont, the Vermont Department of Health works with their Special Supplemental Nutrition Program for Women, Infants and Children (WIC) office to provide technical assistance and mini-grants to businesses. The funds, awarded through a competitive process, help employers make changes in their worksites to support breastfeeding mothers, such as adding a refrigerator or reconfiguring space to accommodate private lactation spaces. To receive funds, worksites are required to draft and implement a worksite breastfeeding policy. They conduct outreach to generate interest, specifically targeting schools, childcare centers, libraries, and for-profit businesses. Once they award the grants, the Vermont Department of Health, in collaboration with WIC and regional chronic disease designees, provide ongoing technical assistance and conduct site visits. In the two years of the learning community, the Vermont Department of Health has awarded 42 mini-grants to businesses—15 in the first year and 27 in the second year. As a result of the team’s focused outreach, 20 schools applied for mini-grants in the last application cycle.

The Vermont Department of Health also honors all breastfeeding-friendly worksites at an annual statewide worksite wellness conference, using a three-tiered [recognition scale](#). During the two project years, the Vermont Department of Health recognized 125 worksite leaders for their breastfeeding-friendly policies—51 in year one and 74 in year two.

Opportunities for State Health Departments to Increase Breastfeeding-Friendly Employers and Businesses

As these examples illustrate, state health departments and their partners play an important role in helping employers create, implement, and evaluate breastfeeding-friendly policies and practices, as well as in supporting women in advocating for their rights to worksite accommodations, particularly those guaranteed by law. Specifically, state health departments can:

- **Coordinate state government efforts across different agencies and entities**, to ensure consistent messages about breastfeeding and maximize government resources in support of breastfeeding efforts. Worksite breastfeeding policies and practices cut across several state government agencies, including agencies overseeing labor issues, legal matters, business development and commerce, health, employee rights, and family support. As such, state government agencies can amplify their impact by working towards common goals.

- **Ensure that the health department and other public agencies model positive breastfeeding policies and practices.** The state health department can serve as the model for other worksites in the state, particularly for public agencies. State health departments can provide resources, technical assistance, and encouragement to other state and local government agencies.
- **Facilitate connections between statewide breastfeeding partners and advocates,** in collaboration with state breastfeeding coalitions. Chambers of commerce, state human resource organizations, and similar entities help the state health department understand business needs and provide businesses with helpful information and tools.
- **Create or tailor employer-focused resources** to assist employers in understanding their legal obligations to breastfeeding employees and the business case for breastfeeding. Employers appreciate having policy templates and other resources so that they can act immediately, while remaining consistent with other employers in the marketplace.
- **Provide funding, if possible, to businesses to make updates to facilities and purchase equipment,** such as refrigerators, for lactation rooms. The Vermont Department of Health, for example, found that most employers did not need a significant amount of money to make changes. In fact, most mini-grants were \$1,000 or less.
- **Establish and promote employer recognition programs.** Employers appreciate being recognized and appreciated for making positive changes to their worksites and businesses. In addition, many consumers like knowing that they are supporting a breastfeeding-friendly business.

Conclusion

The vast majority of American women—nearly two-thirds—are in the workforce prior to the birth of their first child and most of these women return to their workplace within a year of their child’s birth. More than half of women return to work within the first three months of their baby’s life, during which time most experts recommend that babies should be breastfed exclusively. Employers can create and implement policies that allow women to pump during the workday, thereby allowing women to extend the time they breastfeed their infants. Although federal and state laws assure some women these accommodations, all employers can ensure that they are optimally supportive of their employees. By providing lactation accommodations, employers proactively address impediments to women’s breastfeeding goals and in so doing, more women and their babies can enjoy the benefits of breastfeeding and contribute positively to the workplace.

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