

Your COVID-19 Workplace Rights: Breastfeeding and Lactation

1. I need to pump milk at work. Have my rights changed during the COVID-19 pandemic?

Most nursing parents have a right to safely express breast milk at work under the Break Time for Nursing Mothers law or New Mexico state law. *These laws still apply during COVID-19.* To learn which laws apply to you, visit www.pregnantatwork.org/workplace-lactation-laws/ or call the free helpline at the end of this handout.

Most employees have a right to take breaks as often as they need for pumping. Typically nursing parents need 2-3 breaks during an 8-hour workday. Pumping normally takes 15-20 minutes, and you may need more time to get to and from the pumping space, set up your pump, clean the space before and after, and store your milk. These steps may take longer during the COVID-19 pandemic, and that is okay.

Normally, employers must also provide clean, private, non-bathroom space near your workspace for pumping breast milk. During the COVID-19 pandemic, your employer may have to do more to ensure safety in the pumping space. You may want to ask your employer for these extra precautions:

- Purify air: open windows, use HEPA air filters, or set up outdoor space that is shielded from view
- For multi-user spaces: enforce social distancing and masks, and install plexiglass or walls
- Clean surfaces with soap and provide disinfecting wipes and hand sanitizer

Returning to work after having a baby during COVID-19 can be challenging. Talk to your boss or human resources department to make a plan *before* you return so that you're ready on your first day back.

2. I need a place to safely store my pumped milk. What must my employer provide?

Employees who have a right to pump milk at work also have a right to store their milk safely. You may have a right to access the refrigerator, even if other employees are not allowed. If a refrigerator is not available or you prefer to keep your milk with you during the COVID-19 pandemic, your employer must allow you to bring a cooler to work, even if employees are normally prohibited from carrying outside bags.

3. I am working remotely. What are my rights?

If you have a legal right to break time and private space for expressing milk, your employer must still provide it even when you are off-site, including working from home. Additionally, your employer may be required to allow you to turn off your computer's camera for breastfeeding, especially if the employer allows other employees to turn off their cameras for other reasons.

4. Do I have a right to enter my employer’s on-site childcare facility for breastfeeding?

Your employer’s childcare facility may limit who enters to minimize the risk of spreading COVID-19, and may even be required to do so by health and safety regulations. However, in some cases your employer may be required to allow you into the facility for breastfeeding, especially if other parents are allowed inside for other reasons.

5. What if my healthcare provider recommends safety precautions because I am nursing my baby?

You can request a “reasonable accommodation” if your medical care provider recommends a change to how, when, or where your job is done. The accommodation cannot be too difficult or expensive for your employer to provide. Examples include:

- Working from home or in another safe space, like outdoors
- Access to safety gear (mask, face shield, or goggles)
- Safer air (opening a window or using a HEPA air filter)
- Working in a different position until after you are no longer breastfeeding
- Other creative ideas you and your health care provider come up with

New Mexican employers that have 4 or more employees must provide accommodations to employees who need them for pregnancy, childbirth, or related conditions, which include lactation and breastfeeding. To learn about the laws that apply to you, visit <https://www.pregnantatwork.org/workplace-lactation-laws/?location=nm>.

Learn more about safe pumping practices during the COVID-19 pandemic at <https://sph.unc.edu/cgbi/cgbi-covid-19-resources/>.

6. What if I need to take time off work?

Depending on the reason you need leave and the laws that apply to you, you may be able to take time off work and get your job back afterward. In some cases, your employer may have to pay you during your time off or continue providing health insurance. The laws that require your employer to give you leave are complicated. Different laws apply to different workplaces. However, some of the reasons employees *may* be eligible to take leave:

- Your healthcare provider recommends it because of pregnancy, childbirth, breastfeeding or related conditions, such as postpartum depression and anxiety
- You have a serious health condition or disability that puts you at higher risk for COVID-19
- You have COVID-19 or have symptoms of COVID-19 and are waiting for test results
- Your child’s daycare is closed or school is remote, and you need to take care of them
- You have to care for a sick or disabled family member or someone you live with

If your health care provider recommends that you stay home from work because of COVID-19 or if you are making less money because of COVID-19, you *may* be eligible for “Pandemic Unemployment Assistance” or another state benefit. Apply with the New Mexico Department of Workforce Solutions at <https://www.dws.state.nm.us/en-us/Unemployment> or call 1-877-664-6984.

Learn more about your right to take leave during COVID-19 at www.pregnantatwork.org/covid-leave/.

7. I am worried about asking for lactation support at work during the pandemic. I don’t want to lose my job. What should I do?

Having information about your legal rights and a plan for how your requested change will work may be helpful. Visit <https://www.pregnantatwork.org/wp-content/uploads/Talking-About-Your-Pump-New-Mexico-Factsheet.pdf> for a practical guide on talking to your boss about pumping and lactation.

Your employer should not treat you badly because you are breastfeeding or have stood up for your rights. You are the best judge of how your boss will respond. Talk to other parents at your job or your Human Resources department and contact the free legal helpline below if you are treated badly for breastfeeding.

8. Where can I get more help?

Contact the Center for WorkLife Law’s free COVID-19 legal helpline at 415-851-3308 or COVID19Helpline@worklifelaw.org for help understanding your rights.

This document was developed with input from the Workplace Support Constellation (www.usbreastfeeding.org/ws-const).