Advancing Workplace Lactation in Education Settings and Beyond

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Pregnant & Parenting Students
Problems Pregnant and Parenting Teens Experience

- Stigmatizing behavior in the classroom.
- Prevented from taking the courses necessary to apply to many four year colleges.
- Denied a secure and private place to breastfeed or pump milk.
- Pushed out of their regular schools and into continuation schools.

Treatment of Pregnant Students

- Title IX regulations prohibit discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

- Schools cannot exclude pregnant students from participating in any educational program, including sports, honor societies, or extracurricular activities.

- Schools can have special instructional programs or classes for pregnant students but they must be voluntary and they must be comparable to those offered to other students.

Sources: 34 C.F.R. § 106.40; U.S. Department of Education, Office for Civil Rights, Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972 (2013)
Treatment of Pregnant Students

- Schools must provide reasonable accommodations to pregnant students.
- Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student.
- A school can require a pregnant student to submit medical certification only if it also requires the same of all students under a doctor’s care.
- Schools must be very careful about confidentiality of pregnancy information: protected under Constitution, HIPPA, & CA laws.

Sources: 34 C.F.R. § 106.40; U.S. Department of Education, Office for Civil Rights, Supporting the Academic Success of Pregnant and Parenting Students Under Title IX of the Education Amendments of 1972 (2013)

Treatment of Pregnant and Parenting Students

- CA law provides pregnant & parenting teens these same protections.
  - California Sex Equity in Education Act: Can’t apply any rule concerning a student’s actual or potential parental, family, or marital status that treats students differently on the basis of sex.
  - Unruh Civil Rights Act: Business establishments, which includes schools, can’t discriminate based on sex. “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.
Stories

I had to pump at all hours of the night and early in the morning before school so that I could have enough milk for my baby and so that I wouldn't have to pump at school.

But even when I was at school, I still had to pump every two hours or often try to deal with the pain. Sometimes, the pain was so unbearable that I had no other choice but to walk into the public restroom and go into the stall to pump.

I eventually stopped producing the same amount of milk. My inability to feed or pump milk while at school ended up affecting my child's access to my milk at home.
Lactation Accommodation Law

Title IX & CA Law:

- If a school provides reasonable accommodations to students with temporary medical conditions, must do the same for breastfeeding students.
- Accommodations must be made for breastfeeding employees, who are also protected from any retaliation for taking breaks to breastfeed and pump.
- Treating lactating student, employee, or parent/guardian differently or denying reasonable accommodations is sex discrimination.


Lactation Accommodation Law

AB 302: Effective January 1, 2016

- All public or charter schools with at least one student who is lactating must:
  - Provide a private, secure room other than a restroom to deal with any needs associated with breastfeeding or expressing milk
  - Allow lactating students to bring any equipment used to express breast milk to school, including a breast pump
  - Provide access to a power source for that equipment
  - Provide a place to safely store expressed milk

+ Lactation Accommodation Law

✓ Provide students with reasonable time or time away from the classroom to accommodate their lactation schedule

✓ Ensure students do not incur an academic penalty for any such breaks they may require

✓ Ensure students have the ability to make up any work missed during these breaks


+ Lactation Accommodation Process

■ Title IX and CA Uniform Complaint Procedures available

■ Accept and investigate complaints of noncompliance under the Uniform Complaint Procedure, which requires schools to investigate complaints and issue a decision within 60 school days

■ Decisions may be appealed to CDE, which must issue a final, written decision within 60 days of filing

Public Breastfeeding

- People have a right to breastfeed in public and in government buildings.

- ACLU and BFLA have received many complaints from parents told they cannot breastfeed on school grounds during school events and teacher conferences.

Sources: Cal. Civil Code § 43.3.

ABC's of Breastfeeding in Los Angeles County School Districts

ACLU of SoCal, BreastfeedLA and California Women’s Law Center

http://breastfeedla.org/schooldistricts/
ABC’s of Breastfeeding: Method

All 81 LA County School Districts were evaluated on the same five criteria:

1. Are the school board policies available online?
2. Does the school district have an employee lactation accommodations policy?
3. Does the school district have a pregnant and parenting student policy?
4. Does the school district student policy include lactation accommodations?
5. Can the Title IX Coordinator be easily identified?

ABC’s of Breastfeeding: Findings

Improvements

- 48% of school districts improved in at least one evaluated area over 2015
- LA County average grade “C”
- 8 schools districts received a “A” grade
- The majority of school districts have accessible board policies (91%)
- 53% have lactation accommodation policies for employees
- 75% have a married, pregnant and parenting student policy
- 51% have a Title IX Coordinator identified on the website or by phone

![Chart showing improvements in breastfeed policy areas]

- Accessible board policies (not necessarily related to lactation): 91%
- Employee lactation accommodation policy: 53%
- "Married, pregnant and parenting" student policy: 75%
ABC’s of Breastfeeding: Findings

Opportunities

- Only 22% have lactation accommodation policies for students
- 35% of school districts received a failing score of “D” or lower
- Much more progress to be made to reach the goal of 100% compliance

ABCs of Breastfeeding: Recommendations

Adopt policies: Adopt affirmative policies that support breastfeeding women and their specific lactation accommodation needs

- Make sure to have two lactation accommodations policies: one for employees and one for students
- If you don’t have a policy, adopt one right away; if you do have one, review it for compliance and best practices
- CSBA has a new model lactation accommodations policy for students (5146).
- New model lactation accommodations policy for employees http://breastfeedla.org/at-work-2
- Contact BreastfeedLA, ACLU SoCal or CWLC for FREE assistance
ABC's of Breastfeeding: Recommendations

Train staff and communicate policies: Give staff appropriate training to implement, evaluate, and monitor compliance. Inform employees, parents, and students of their rights under these policies

- Convey non-discrimination and lactation accommodations policies through multiple channels to both students (and their parents!) and staff
- Provide policies to all new hires, people who take leave
- Post information in employee/student handbook, website/Intranet, break rooms, office, the more the better
- Provide trainings to school administrators

ABCs of Breastfeeding: Recommendations

Identify staff who will be responsible for implementing these policies and handling complaints

- Designate at least one employee as the Title IX Coordinator right away
- Share the Title IX Coordinator's name and contact information in an easily searchable location on website and with the rest of the office staff
- Designate at least one HR employee for handling lactation accommodations for employees right away
- Consider creating a dedicated webpage with all relevant contact information, links to policies and a commitment to implement Title IX
+ ABCs of Breastfeeding: Recommendations

Provide space and time to pump: Identify appropriate space and allow time for staff and students to pump, without any penalty
■ Dedicate a permanent space for milk expression
■ The space must be private, clean and secure and MUST NOT be a bathroom
■ Provide time to express milk without penalty to employees and students
■ Provide students and employees information on how to access pumps through WIC or health insurance plans

+ ABC’s of Breastfeeding: Recommendations

Designated space to express milk - Requirements:
■ MUST NOT be a bathroom
■ In close proximity to the employee’s work area
■ Private room that is free from intrusion
■ For up to 1 year after a child’s birth & each time there is a need to express milk
Best practices:
■ Electrical outlet
■ Chair to sit and surface area to place pump
■ Nearby sink with running water (for cleanup)
■ Nearby refrigerator for storage
■ Clean, quiet and well-lit
ABC’s of Breastfeeding: Recommendations

Restrooms = Impermissible place to express milk

Private space with the essentials = permissible space to express milk

ABC’s of Breastfeeding: Recommendations

Time to express milk -

Requirements:
- Reasonable amount of break time for up to one year after the birth of the child as frequently as needed for all nursing mothers (frequency and duration of milk expression may vary)
- For students: break time without incurring academic penalty and with the ability to make up any missed work

Best practices:
- Provide a teacher’s aide if an employee is away from the classroom to express milk
Implementation: For Providers & Advocates

- Breastfeeding benefits the workplace and school performance with less absenteeism and improved performance and morale
- When school districts:
  1) adopt strong lactation accommodations policies
  2) identify a Title IX Coordinator
  3) train staff and communicate policy
  4) provide access to time, space and breast pumps...
  ...they support families to continue breastfeeding for the mutual benefit of parent and child, the community and moreover, our society

Next Steps

- BreastfeedLA, ACLU SoCal and CWLC continue to offer technical assistance to schools to improve lactation accommodations and policy.
- Working on a new report to review lactation accommodations and policies at Colleges and Universities in Los Angeles. (To Be Released August 2017)
Questions?

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Imperial County  
Clinicas de Salud del Pueblo, Inc.  
WIC Program  
Regional Breastfeeding Liaison Project  
High School Student Pump Loan System
Imperial County found the need to address this area of attention
Identified and built relationships with Title IX Coordinators and High School contacts

Student Kits

Contents:
- Personal Pump Kit
- WIC Magazine
  *Breastfeeding and Returning to Work or School*
- Breastfeeding Law Card
- School Contact Directory
- Nursing Pads
- Pump Cleaning Wipes
Tracking System

Pumping Station

Expecting mother, plans to Breastfeed
Questions?