

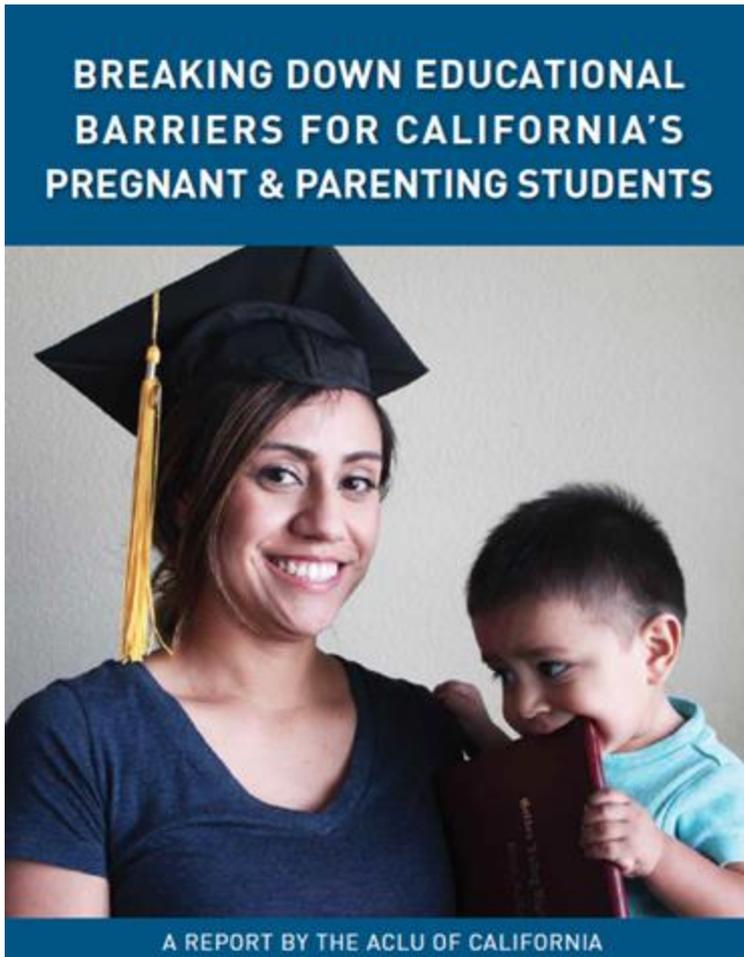
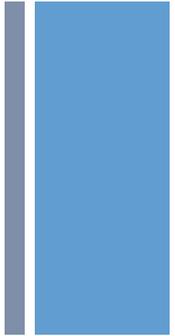
Breastfeeding in Education

+

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.
- Restricted from school activities.
- Denied a secure and private place to breastfeed or pump milk.
- Pushed out of their regular schools and into continuation schools.

+

Consequences of Unlawful Pregnancy/Parental Status Discrimination

- High drop-out rate
- Low probability of earning a college degree
- Decreased opportunity to be hired for higher paying jobs
- High probability of welfare dependence
- Perpetual cycle of poverty

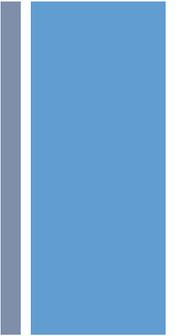




+ Laws Protecting
Pregnant & Parenting Students

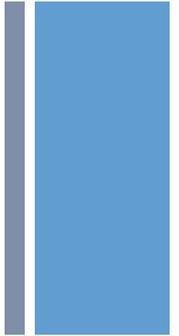
+ Federal Law – Title IX!

- Title IX of the Education Amendments of 1972
- No federally funded educational program or activity can discriminate against a person based on their sex
- Applies to all colleges, universities, elementary and secondary schools as well as any other educational institution that receives federal funding
- Guidance issued by OCR confirms that Title IX applies to pregnancy, childbirth and related conditions (such as breastfeeding) because they are related to a person's sex





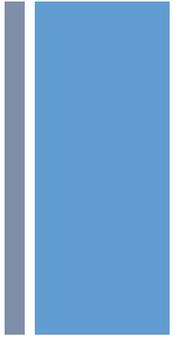
Title IX – Prohibits Discrimination



- 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)

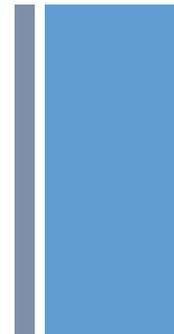
+ Title IX - Accommodations



- Schools must provide reasonable accommodations to pregnant students.
- Any special services provided to students who have temporary medical conditions must also be provided to pregnant students.
- 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.

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)

+ TITLE IX Coordinator

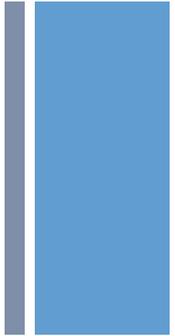


Schools must also:

- Designate at least one person to be their Title IX Coordinator
- Notify students how to contact their Title IX Coordinator
- Adopt and publish grievance procedures to be followed if a Title IX issue arises.



California Law



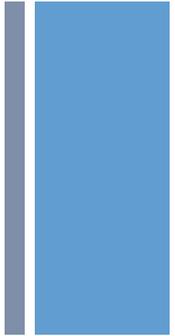
- CA law provides pregnant & parenting teens similar protections:
 - **California Sex Equity in Education Act:** Can't apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex.
 - **Unruh Civil Rights Act:** Business 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.

+

Lactation Accommodations



Lactation Accommodation Law

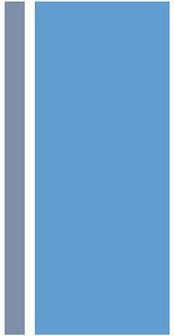


Title IX & CA Law:

- 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

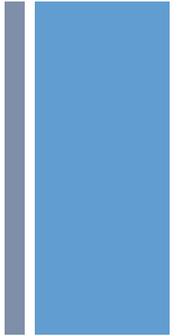


- AB 302: Effective **January 1, 2016**
- All public or charter schools with *at least one student* who is lactating must:
 - Provide a **private, secure room**—other than a restroom—to deal with any needs associated with breastfeeding or expressing milk
 - Allow lactating students to bring **any equipment** 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

Sources: 29 U.S.C. § 207(r); Cal. Educ. Code § 222; Cal. Labor Code §§ 1030-31; ACLU of Cal., BreastfeedLA & Cal. Women's Law Center, *ABC's of Breastfeeding in Los Angeles County School Districts* (2015)



Lactation Accommodations

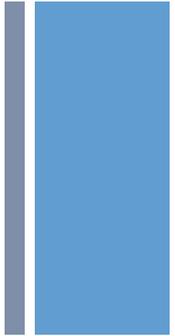


- ✓ Provide students with **reasonable time or time away** from the classroom to accommodate their lactation schedule
- ✓ Ensure students **do not incur an academic penalty** for any such breaks they may require
- ✓ Ensure students have the **ability to make up** any work missed during these breaks

Sources: 29 U.S.C. § 207(r); Cal. Educ. Code § 222; Cal. Labor Code §§ 1030-31; ACLU of Cal., BreastfeedLA & Cal. Women's Law Center, *ABC's of Breastfeeding in Los Angeles County School Districts* (2015)



Lactation Accommodation Complaint 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

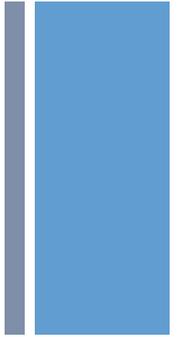
Sources: Cal. Educ. Code § 222; BreastfeedLA & Cal. Women's Law Center, *ABC's of Breastfeeding in Los Angeles County School Districts* (2015)

+

Lactating Employees

+

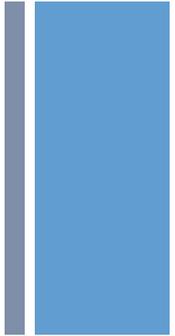
Federal Laws Protecting Breastfeeding Employees



- Title VII
- Title IX
- Family Medical Leave Act (FMLA)
and
- Affordable Care Act (ACA)



State Law Related to Lactating Employees

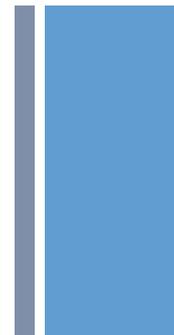


- **Labor Code Sections 1030-1033**
- All employers are required to provide “reasonable” break time to employees who need to express milk
- Break times should be as close to regularly scheduled breaks as possible
 - Any additional break time needed is unpaid
- Must provide a private space close to the employee’s regular work space that is not a bathroom
 - Employee can use his/her regular workspace if it fits the other requirements of the law
- Exception: Employer is not required to provide break time if it would “seriously disrupt” the operations of the employer



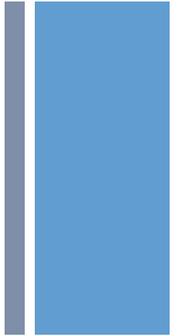
California State Law

- **California Fair Employment and Housing Act (Gov. Code § 12925 et seq)**
- Applies to employers with 5 or more employees
- Unlawful to engage in specified discriminatory practices in employment accommodations on the basis of sex
- Was amended in 2012 to clarify that “sex” includes breastfeeding or medical conditions related to breastfeeding.
- This means the penalties for discrimination on the basis of sex under the Act now apply to discrimination on the basis of breastfeeding
- Discrimination includes failure to reasonably accommodate based on pregnancy or lactation
- Discrimination also includes harassment based on pregnancy or lactation (and harassment rules apply to ALL employers)





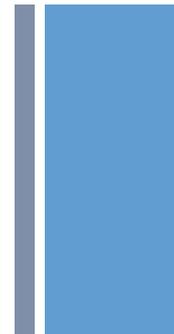
State Law Penalties for Violations



- Labor Code § 1033
 - Failing to provide a lactation break
 - Each violation has a penalty of \$100
- Discrimination
 - Compensatory damages, money for lost wages, unpaid wages, medical costs
 - Punitive damages
 - Legal expenses

+ How to Handle Violations

- Resolve the dispute with your employer
- File a complaint with an administrative agency
- File a civil lawsuit





A B C's of Breastfeeding
in Los Angeles County School Districts



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

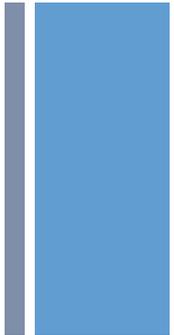


All 81 LA County School Districts were evaluated on these five criteria:

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?

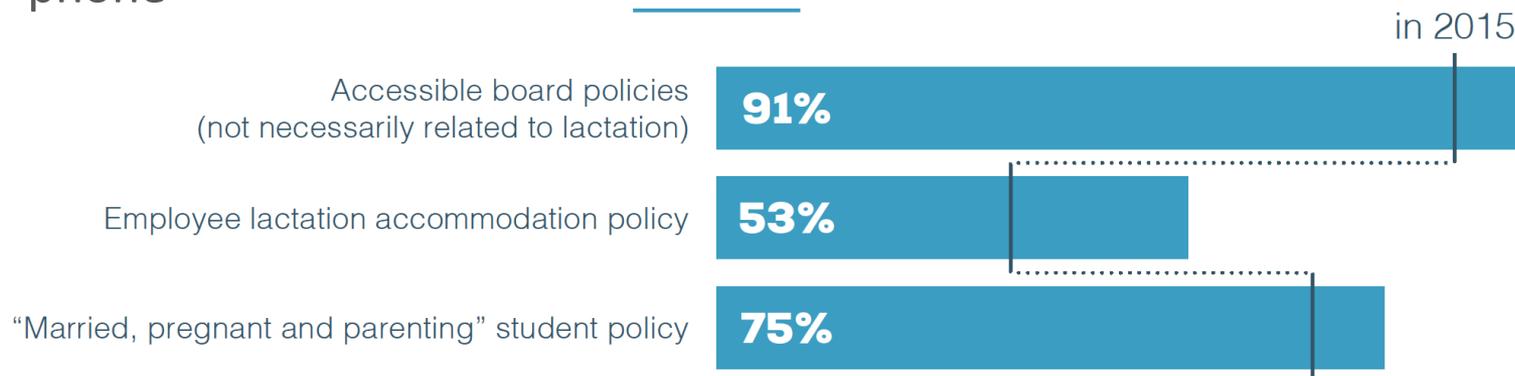


ABC's of Breastfeeding: Findings



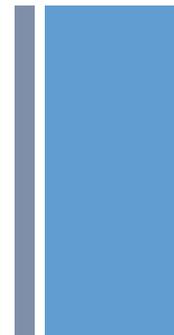
Report Card Results for LA County School Districts: 2016 Improvements

- 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





ABC's of Breastfeeding: Findings



Opportunities for Improvement: LA County School Districts

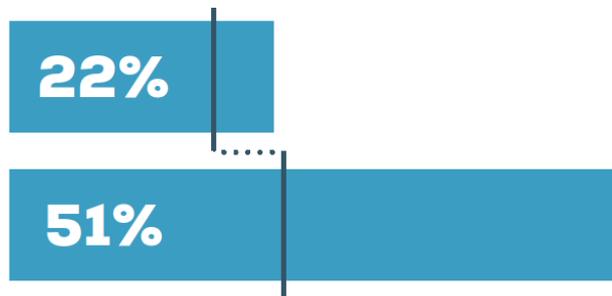
- Only **22%** have lactation accommodation policies for **students**
- **35%** of school districts received a failing score of “D” or lower
- Much more progress to be made to reach the **goal of 100% compliance**

Student policy includes lactation accommodations

22%

Title IX Coordinator
identified on the website or by phone

51%





Lactation 101

Lactation Accommodations
in Los Angeles County
Higher Education

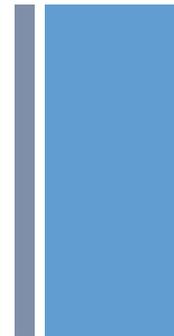
Lactation 101: Lactation Accommodations in Los Angeles Higher Education

*BreastfeedLA and
California Women's Law Center*

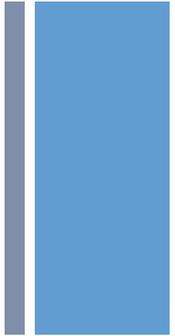
+ *Lactation 101*: Findings

Report Card Results from 2016-2017 for LA Universities and Colleges:

- Most schools have **accessible policies online (94%)**
- **61%** of LA's universities and colleges have a **Title IX Coordinator** identified on the website or by phone



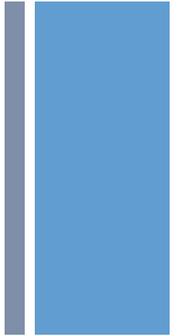
+ *Lactation 101*: Results



Opportunities for Improvement: LA Universities and Colleges

- Only one school earned an A grade.
- A staggering 87% of the universities and colleges had a **failing grade of D or lower**.
- Most schools did not have an employee lactation accommodation policy (**84%**).
- **93%** of the schools did not have a **pregnant/parenting policy**.
- **98%** of the school's student policies did not have **lactation accommodation policies**.

+ Four Recommendations



There are four simple steps that will aid the effective implementation of lactation accommodations:

1. Adopt Policy
2. Train Staff and Communicate Policy
3. Identify Staff
4. Provide Space and Time to Pump

+ Step 1: Adopt Policies

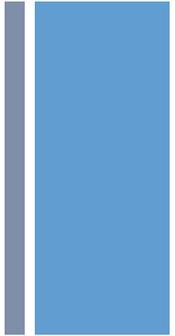
Adopt affirmative policies that support breastfeeding women and their specific lactation accommodation needs



- 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>
- Contact BreastfeedLA, ACLU SoCal or CWLC for FREE assistance



Step 2: 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

+ Step 3: Identify Staff

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



Step 4: Provide Space and Time to Pump

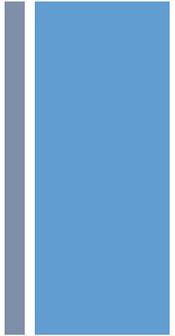
Identify appropriate space and allow time for staff and students to pump, without any penalty

- 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





Private Time/Space Requirements



Designated space to express milk - Requirements:

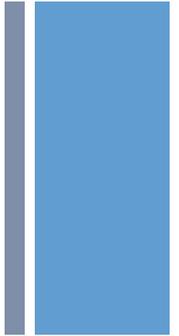
- MUST NOT be a bathroom
- In close proximity to the employee's work area
- Private room that is free from intrusion
- Each time there is a need to express milk

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



Private Time/Space Requirements



Time to express milk - Requirements:

- Reasonable amount of break time 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

+

Private Time/Space Requirements

Restrooms = Impermissible
place to express milk

Private space with the essentials
= Permissible space to express
milk

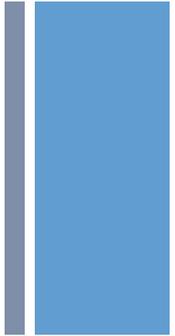


≠





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



+

QUESTIONS?

