



May 25, 2018

Mr. Patrick Mulligan, Director
San Francisco Office of Labor Standards Enforcement
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Additional Rules for Lactation in the Workplace Ordinance (LWO)

Dear Director Mulligan,

The San Francisco Chamber of Commerce, Golden Gate Restaurant Association, Building Owners and Managers Association and the San Francisco Council of District Merchants have reviewed OLSE's Proposed Rules Implementing the Lactation in the Workplace Ordinance (LWO) dated April 30, 2018. We are submitting additional Rules regarding implementation of the LWO. These items were discussed at a meeting at San Francisco City Hall on March 8, 2018 between OLSE, Supervisor Katy Tang and her staff, representatives of our organizations and other members of the public who were also invited to attend.

The following are proposed additional Rules (designated as, **Add: Rule #**) regarding the Lactation in the Workplace Ordinance (LWO) that we request you include in the final Rules.

I. Rule 2. Lactation Location

Interprets Article 331, Sections 3301.4(b)(1) and 33001.4(b)(2)

Background: Police Code Section 33001.4(b)(1) states, "An Employer shall provide a Lactation Location, other than a bathroom, in close proximity to the Employee's work area that is shielded from view and free from intrusion from co-workers and the public. The room or other location may include the place where the Employee normally works if it otherwise meets the requirements of this Section 33001.4. The Lactation Location shall also:

- (A) Be safe, clean and free of toxic or hazardous materials;
- (B) Contain a surface (e.g., a table or shelf) to place a breast pump and other personal items;
- (C) Contain a place to sit; and
- (D) Have access to electricity."

Police Code Section 33001.4(b)(2) states, "The Employer shall provide, in close proximity to the Employer's work area, access to a refrigerator where the Employee can store breast milk, and access to a sink with running water."

Add: Rule 2.4. Employers are not required to create a Lactation Location unless and until an Employee requests Lactation Accommodation per Article 331, Section 33001.5(a)(2) of the Ordinance.

Add: Rule 2.5. Employers may substitute a cooler for a refrigerator to store breast milk if an Employer can show that providing a refrigerator would not be feasible and cause undue hardship, per Article 331, Sec. 33001.4(c) of the Ordinance.

Interprets Article 331, Section 33001.4(b)(4)

Background: Police Code Section 33001.4(b)(4) states, "Multi-Tenant Buildings. Where more than one Employer is located in the same building and the Employer cannot satisfy the requirements of this Section 33001.4 by providing a Lactation Location within the Employer's workspace, the Employer may fulfill the obligations under this Section 33001.4 by providing a Lactation Location meeting the requirements of subsection (b) that is shared among multiple Employers, provided that the Lactation Location is sufficient to accommodate the number of Employees who desire to use it at any given time."

Add: Rule 2.6. Employers located in the same building may provide a Lactation Location that is shared among multiple Employers even if a participating Employer could have provided a Lactation Location within its own workspace, as long as the shared Lactation Location space is not so far away that it deters Employees of that participating Employer from exercising their rights under the Ordinance.

II. Rule 6. Alternative and Limited San Francisco Work Schedules

Interprets Article 331, Section 33001.3

Background: Definitions:

"Employee" shall mean any person who is employed within the geographic boundaries of the City by an Employer, including part-time Employees.

"Employer" shall mean any person as defined in Section 18 of the California Labor Code who employs an Employee working in the City. Notwithstanding the previous sentence, Employer shall not include the City or any governmental entity.

And: Rule 6.1. Employees who perform work in San Francisco on an occasional basis are covered by the Ordinance only if they perform 56 or more hours of work in San Francisco within a calendar year. This rule modifies Rules 6.2, 6.3, 6.4, and 6.5.

Add: Rule 6.6. Notwithstanding the provisions of Rules 6.1, 6.3, 6.4, and 6.5, Employers who do not have a physical location in San Francisco are not responsible for providing a Lactation Location.

If you have questions about these additional Rules, please contact Dee Dee Workman for the San Francisco Chamber of Commerce at deedeeworkman@yahoo.com; 415.533.8130.

Sincerely,



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Gwyneth Borden
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cc: Supervisor Katy Tang