

Q: May an employer require a teacher to limit breaks to certain times of the day, such as during lunch or recess periods?

No. An employee and employer may agree to a certain schedule based on the nursing employee's need to pump, but an employer cannot require an employee to adhere to a fixed schedule that does not meet the employee's need to pump. Additionally, any agreed-upon schedule may need to be adjusted over time if the nursing employee's pumping needs change.

Q: Must a school allow multiple workers to express milk during the workday?

Yes. Employers should take into consideration the number of nursing employees and their work schedules to determine whether more than one space should be designated or created and what, if any, additional staff coverage may be needed.

The FLSA does not require that employers create permanent, dedicated spaces for employee pump breaks. Some employers may choose to meet the needs of their nursing employees by providing dedicated pumping rooms throughout a building. Other employers may choose to provide a large room with privacy screens between employees which may be used by multiple employees simultaneously to pump.

Q: I work at a small preschool. How do I know whether the pump at work law applies to my employer?

All schools and preschools, whether public or private, regardless of size, are required to comply with the FLSA, including the FLSA pump at work requirements.

The FLSA provides an undue hardship exemption from the pump at work requirements that is only available to certain employers with fewer than 50 employees. All employees who work for the covered employer, regardless of work site, are counted when determining whether this exemption may apply. For example, if an employer operates more than one preschool, all employees who work at the different preschools would be counted.

To assert the exemption, an employer must be able to demonstrate that the employee's specific needs for pumping at work create an undue hardship for the employer due to the difficulty or expense of compliance in light of the size, financial resources, nature, and structure of the employer's business.

Q: For safety reasons, our school has video recording devices in all classrooms. If I am allowed to use an empty classroom to take a pump break, can I be required to stay on camera during my break?

No. An employee must be free from observation by an employer provided or required video system, including a computer camera, security camera, or web conferencing platform, when they are expressing breast milk, regardless of their location. To address this problem, the employer could provide barriers to shield the nursing employee from the view of the recording devices or could allow the nursing employee to block or turn off the recording devices during the employee's pump break.