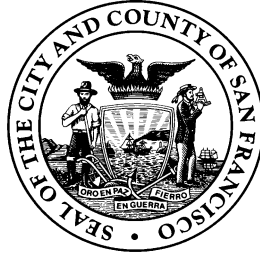


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Jane Kim, Chair
Public Safety and Neighborhood Services Committee

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services Committee
Board of Supervisors

DATE: July 18, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 19, 2016

The following file should be presented as a COMMITTEE REPORT at the Board meeting, Tuesday, July 19, 2016. This item was acted upon at the Public Safety and Neighborhood Service Committee meeting on Thursday, July 14, 2016, at 2:30 p.m., by the votes indicated.

Item No. 76 File No. 160592

Ordinance amending the Administrative Code to require the Department of Human Resources to develop a Lactation in the Workplace Policy for all City departments.

AMENDED, AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote: Supervisor John Avalos - Aye
Supervisor David Campos - Aye
Supervisor Jane Kim - Excused

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor John Avalos - Aye
Supervisor David Campos - Aye
Supervisor Jane Kim - Excused

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Jon Givner, Deputy City Attorney

File No. 160592 Committee Item No. 5
Board Item No. 70

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Public Safety and Neighborhood Services Date July 14, 2016

Board of Supervisors Meeting Date July 19, 2016

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>COMMITTEE REPORT REQUEST - 07/06/2016</u> |
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Completed by: Erica Major Date July 8, 2016
Completed by: [Signature] Date 07/18/2016

1 [Administrative Code - Lactation in the Workplace Policy]

2
3 **Ordinance amending the Administrative Code to require the Department of Human**
4 **Resources to develop a Lactation in the Workplace Policy for all City departments.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Administrative Code is hereby amended by adding Section 16.9-26, to
14 read as follows:

15 **SEC. 16.9-26. LACTATION IN THE WORKPLACE POLICY.**

16 **(a) Findings and Purpose.**

17 (1) Breastfeeding provides health benefits to babies, as breast milk contains antibodies
18 that protect babies from childhood illnesses including ear infections, respiratory infections, dermatitis,
19 gastrointestinal disorders, asthma, obesity, diabetes, and a reduced risk of Sudden Infant Death
20 Syndrome. The American Academy of Pediatrics recommends that babies be fed exclusively breast
21 milk for the first six months of life and that breastfeeding continue at least until the end of the baby's
22 first year. For some parents, breast milk is readily available and affordable.

23 (2) Breastfeeding also provides many health benefits for mothers, including earlier
24 return to pre-pregnancy weight, and reduced risk of maternal postpartum depression, several cancers,
25 type II diabetes, and osteoporosis. If a mother does not regularly express milk, the mother's breasts
can become full and uncomfortable, which may lead to a decrease in milk supply or infection. Most

1 nursing mothers who return to work are able to sustain their milk supply and avoid discomfort by
2 simply expressing their milk at intervals and for lengths of time that suit their bodies.

3 (3) According to the Centers for Disease Control and Prevention, approximately 79%
4 of new mothers breastfeed their babies at some point. Despite the benefits to mother and child of
5 breastfeeding, only about 42% of babies are exclusively fed breast milk at three months of age. At six
6 months of age, 19% of babies are exclusively fed with breast milk, and 49% of babies are fed any
7 breast milk at that age.

8 (4) In the United States, more than one-third of mothers with children under the age of
9 two work full time outside the home. Employment of mothers outside the home, especially full-time
10 employment, has a negative influence on the period of time mothers breastfeed. Only 25% of employed
11 women who are breastfeeding a child under age one continue to breastfeed the child for at least one
12 month after returning to work. In 2000, only 11% of mothers with a one-year-old child and who
13 worked full-time were still breastfeeding the child, in comparison to 19% of mothers who worked part-
14 time while having a one-year-old child, and 22% of such mothers who were not in the labor force.

15 (5) Under the Healthy People 2020 initiative, the U.S. Department of Health and
16 Human Services' Office of Disease Prevention and Health Promotion developed a set of national
17 objectives, which include a goal to increase the proportion of mothers who breastfeed their babies in
18 the early postpartum period to 81.9% by 2020, and to increase the proportion of employers that have
19 worksite lactation support programs to 14.2%. Through this Section 16.9-26, the City intends to be one
20 of those employers.

21 (6) An employer with a breastfeeding-friendly environment may have an advantage
22 when recruiting and retaining employees. Breastfeeding may decrease employee absenteeism due to
23 illness of a child, to the extent breastfeeding reduces childhood illnesses. The fewer the childhood
24 illnesses, the fewer sick days mothers and fathers have to take for children's illnesses.

1 (7) Federal law requires all employers to provide nursing mothers with reasonable
2 break time to express milk for one year after the child's birth and a private space other than a
3 bathroom, that is shielded from view and free from intrusion, to express breast milk. (29 U.S.C. 207(r).)
4 Similarly, California law requires all employers to provide a reasonable amount of break time and to
5 make a reasonable effort to provide a private space, other than a toilet stall, close to the employee's
6 work area, to accommodate an employee desiring to express breast milk at work. (Cal. Labor Code §
7 1030.) Twenty-seven states, the District of Columbia, and Puerto Rico have laws that are supportive of
8 breastfeeding in the workplace.

9 (8) A work environment that is supportive of a mother's efforts to breastfeed her child
10 will likely increase the period of the child's life during which breastfeeding will occur. By
11 implementing a policy that supports mothers returning to work, the City will enhance mothers' ability
12 to continue breastfeeding through their child's first year and beyond.

13 (9) In recognition of the well documented health advantages for mother and child of
14 breastfeeding, the purpose of this Section 16.9-26 is to provide a supportive work environment to
15 enable City employees who are nursing mothers to breastfeed or express milk during working hours.
16 The Board of Supervisors finds that providing a supportive work environment to these employees will
17 greatly benefit their health and welfare and strengthen their families, and will enhance the City's
18 ability to attract and retain employees.

19 (b) Definitions.

20 (1) "City" shall mean the City and County of San Francisco.

21 (2) "Department" shall mean any department of the City.

22 (3) "DHR" shall mean the Department of Human Resources.

23 (4) "Lactation" or "Lactate" shall mean breastfeeding, or expressing milk by removing
24 breast milk by hand, manual breast pump, or electric breast pump.

1 (5) “Nursing Mother” shall mean an employee of the City with a child who is feeding
2 the child by means of Lactation.

3 (6) “Policy” shall mean the City’s Lactation in the Workplace Policy, as described in
4 subsection (c) and as implemented by DHR.

5 (c) Lactation in the Workplace Policy.

6 (1) DHR shall develop the City’s Lactation in the Workplace Policy. The Policy shall
7 address the subjects covered in subsections (c)(1)(A), (B), ~~and (C)~~, and (D), and meet the minimum
8 standards set in those subsections. The Policy may also impose other requirements consistent with this
9 Section 16.9-26, that DHR deems necessary or appropriate to facilitate Lactation in the workplace, and
10 that give due consideration to the privacy of Nursing Mothers engaged in Lactation under the Policy.

11 (A) Work Breaks for Lactation. The Policy shall: (i) require Departments to
12 allow Nursing Mothers breaks for Lactation during work hours using normal paid breaks and meal
13 times; (ii) require Departments to accommodate additional unpaid breaks for Lactation to the extent
14 feasible given the operational demands of the Department; and (iii) require Departments to establish a
15 process for Nursing Mothers to request breaks for Lactation.

16 (B) Space for Lactation. The Policy shall require Departments to provide a
17 place for Lactation, other than a bathroom, that is shielded from view and free from intrusion from
18 coworkers and the public. The Policy shall encourage Departments to provide a private room with (i)
19 a door that can be locked, (ii) at least one electrical outlet, (iii) a chair or chairs, (iv) adequate
20 lighting, (v) the ability to add a partition to the room to accommodate multiple Nursing Mothers
21 simultaneously, and (vi) other amenities such as a refrigerator for storage of breast milk, a sink, and a
22 hospital-grade electric breast pump or pumps. Rooms designated for Lactation may be used for other
23 purposes when not needed for Lactation. Rooms designated for Lactation shall be identified with
24 appropriate signage. The Policy shall require Departments to create a system for Nursing Mothers to
25 schedule use of the facilities available for Lactation.

1 (C) Lactation space in new or renovated City workplaces. The Policy shall
2 provide that when the City constructs a new building that will be a workplace for City employees,
3 enters into a new lease for all or part of a building that will be a workplace for City employees, or
4 engages in a renovation of an existing owned or leased building that is or will be a workplace for City
5 employees, the Department managing the construction or renovation project or entering into the lease
6 will consult with DHR to ensure that sufficient space is identified to be used for Lactation to
7 accommodate the number of City employees anticipated to work in the workplace who are or will be
8 Nursing Mothers during any one time period.

9 (D) Public lactation rights. Under state law, a mother has the right to
10 breastfeed her child in any location, public or private, except the private home or residence of
11 another. The Policy shall state that Nursing Mothers are not required to limit Lactation to
12 spaces identified by the City for this purpose. The Policy shall also state that City employees
13 shall not infringe the right of any member of the public to engage in Lactation in any City
14 location that is open to the public.

15 (2) Each Department shall comply with the Policy. Departments may seek DHR's
16 assistance in implementing the Policy. The Policy may require or permit any Department to develop a
17 department-specific policy consistent with the minimum standards set in subsections (c)(1)(A), (B), and
18 (C), and (D). DHR must approve any department-specific policy.

19 (3) The Policy shall be distributed to all new employees and to all employees who
20 request parental leave, prior to going on parental leave.

21 (d) DHR Website and Materials.

22 (1) DHR shall develop a website (or webpage on its own website) that contains
23 informational materials or links to information regarding Lactation and breastfeeding. The website
24 shall contain information for all expectant parents regarding Lactation and related issues, the
25 availability of breast milk banks, the Policy, and any department-specific Lactation policies. The

1 website shall include a list of the locations of all Lactation facilities available to City employees. The
2 website shall advise City employees of mothers' right under state law to engage in Lactation
3 in public, and shall state that City employees shall not infringe this right of any member of the
4 public engaged in Lactation on City property that is open to the public. The website may also
5 include any other information DHR deems relevant to facilitate Nursing Mothers' return to work and
6 promote the goals of the Policy and this Section 16.9-26.

7 (2) DHR shall develop and/or compile printed informational materials regarding
8 Lactation resources for distribution to City employees before their parental leave or upon return to
9 work from parental leave.

10 (e) Undertaking for the General Welfare. In enacting and implementing this Section 16.9-26,
11 the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
12 imposing on its officers and employees, an obligation for breach of which it is liable in money damages
13 to any person who claims that such breach proximately caused injury.

14 (f) No Conflict with Federal or State Law. Nothing in this Section 16.9-26 shall be interpreted
15 or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

16 (g) Severability. If any section, subsection, sentence, clause, phrase, or word of this Section
17 16.9-26, or any application thereof to any person or circumstance, is held to be invalid or
18 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the
19 validity of the remaining portions or applications of this Section 16.9-26. The Board of Supervisors
20 hereby declares that it would have passed this Section 16.9-26 and each and every section, subsection,
21 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether
22 any other portion of this Section 16.9-26 or application thereof would be subsequently declared invalid
23 or unconstitutional.

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By:



9 BRADLEY A. RUSSI
10 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/14/2016)

[Administrative Code - Lactation in the Workplace Policy]

Ordinance amending the Administrative Code to require the Department of Human Resources to develop a Lactation in the Workplace Policy for all City departments.

Existing Law

There is no existing requirement that the City have a policy for its employees regarding lactation in the workplace. Federal and state law require all employers to provide nursing mothers reasonable break time to express milk and a private place to do so.

Amendments to Current Law

This ordinance will require the Department of Human Resources (“DHR”) to create a Lactation in the Workplace Policy for all City departments to accommodate and facilitate nursing mothers’ return to work following the birth of a child. The ordinance sets out minimum standards for the Policy and delegates to DHR the authority to impose other requirements consistent with the ordinance. The City Policy will address breaks for lactation, space for lactation in existing workplaces, and space for lactation in new or renovated City workplaces. DHR may require or permit any City department to create its own department-specific policy to address the particular situation of employees in a department. The ordinance also requires DHR to create a website and informational materials regarding lactation and breastfeeding.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Micki Callahan, Director, Department of Human Resources
Theresa Sparks, Executive Director, Human Rights Department
Trent Rhorer, Executive Director, Human Services Agency
Barbara A. Garcia, Director, Department of Public Health
Emily Murase, PhD, Executive Director, Department on the Status of Women
Laurel Kloomok, Executive Director, Children and Families Commission
Maria Su, Director, Department of Children, Youth, and Their Families
Barbara Carlson, Director, Office of Early Care and Education

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services Committee, Board of Supervisors

DATE: June 1, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Tang on May 24, 2016:

File No. 160592

Ordinance amending the Administrative Code to require the Department of Human Resources to develop a Lactation in the Workplace Policy for all City departments.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc:

Susan Gard, Department of Human Resources
Krista Ballard, Human Services Agency
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health
Minouche Kandel, Department on the Status of Women



COB, PONS
LegDir

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2016 JUL -6 PM 1:50

BY [Signature]

City and County of San Francisco

Member, Board of Supervisors
District 6

JANE KIM

DATE: July 6, 2016

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Jane Kim
Chairperson

RE: Public Safety and Neighborhood Services Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Public Safety and Neighborhood Services Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on July 19, 2016, as a Committee Report:

160592 Administrative Code - Lactation in the Workplace Policy

Ordinance amending the Administrative Code to require the Department of Human Resources to develop a Lactation in the Workplace Policy for all City departments.

This matter will be heard at the Regular Meeting of the Public Safety and Neighborhood Services Committee on July 14, 2016 at 2:30 p.m.

A handwritten signature in dark ink, appearing to be "J. Kim", written over a light gray background.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisors Tang, Cohen, Kim, Wiener, Yee, Mar & Farrell, *Peskin, Breed, Campas, Avalos*

Subject:

Administrative Code - Lactation in the Workplace Policy

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: *[Signature]*

For Clerk's Use Only: