

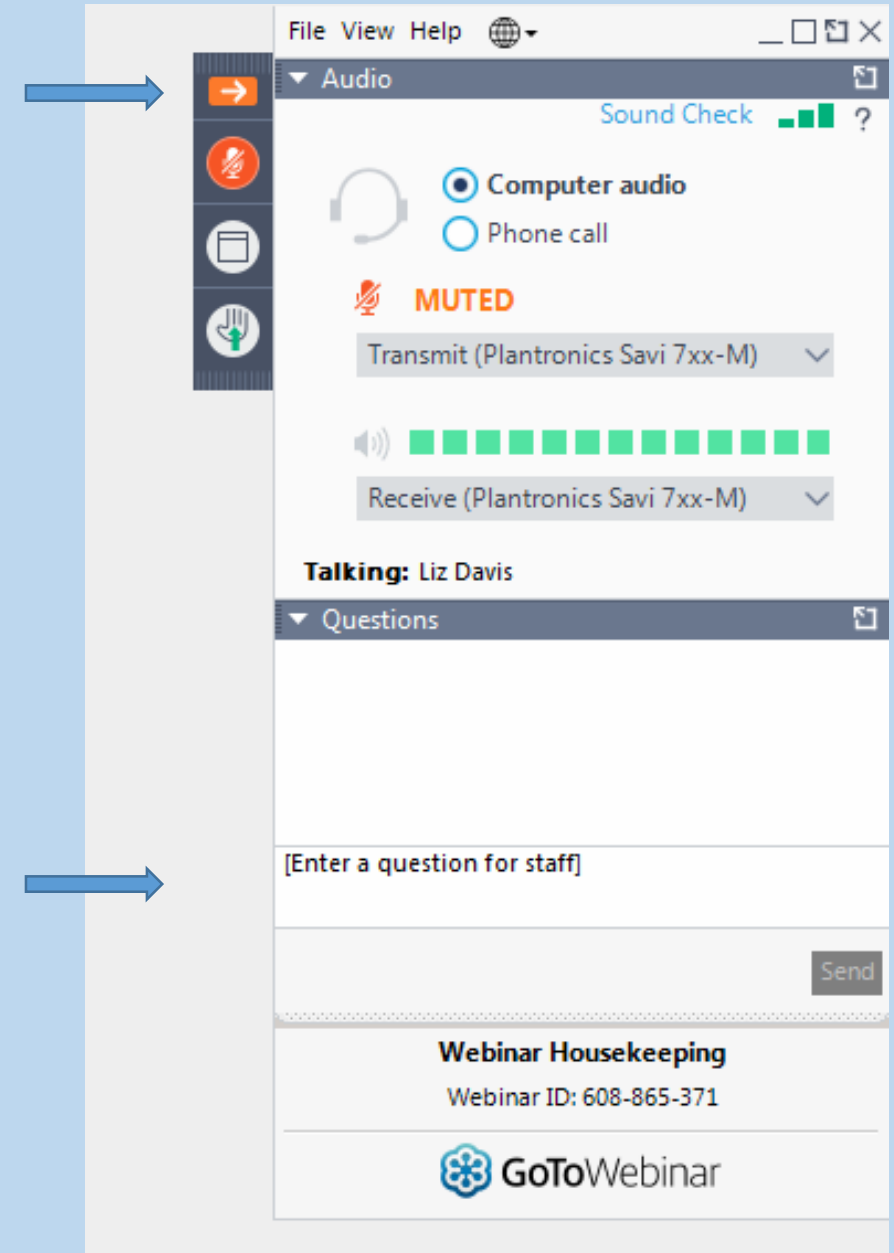


# Lactation in the Workplace Ordinance

## February 6, 2018

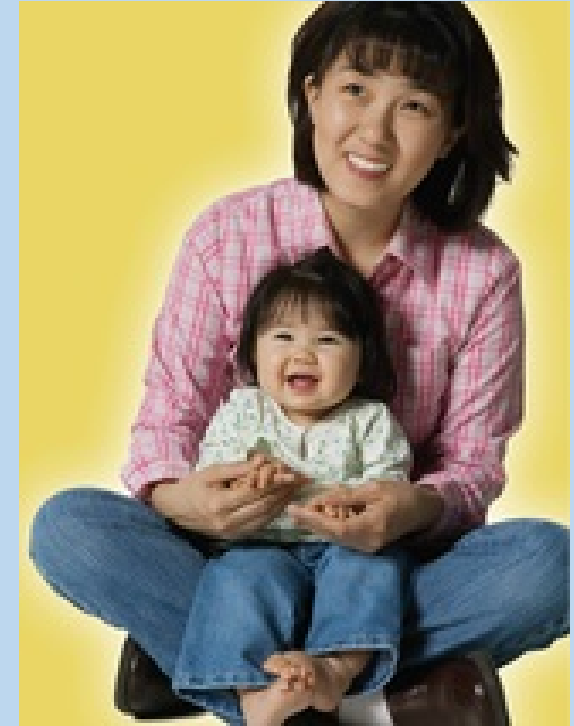
# Webinar Housekeeping

- You should see a control panel like this on the right side of your screen
- The panel should minimize automatically when you aren't using it. To minimize or re-open, click the orange arrow.
- Use the “Questions” box to ask your questions during the presentation, and to submit potential topics of rule making.



# Today's Topics

- Lactation in the Workplace Ordinance Overview
- City Resources
- Rules Process
- Your Turn: Suggestions for Topics for Rulemaking



# Findings and Purpose

- Breastfeeding provides tremendous health benefits to both mothers and babies. To obtain the most benefit, maternal and child health experts recommend women exclusively breastfeed their babies for at least six months, and continue breastfeeding through one year or longer.
- In the United States, mothers are the fastest growing segment of the workforce; 75% are employed full time
- Breastfeeding rates are shown to drop once mothers return to work



# Findings and Purpose

- Women with adequate break times and private space are more than two times as likely to be breastfeeding exclusively at 6 months than those without lactation accommodations
- The purpose of the LWO “is to provide a supportive work environment to enable employees who are nursing mothers to breastfeed or express breast milk during work hours”



# Legislative History

- The San Francisco Board of Supervisors unanimously passed the Lactation in the Workplace Ordinance in June 2017
- Amends the San Francisco Police Code and San Francisco Building Code, establishing local standards to complement State and Federal law
- January 1, 2018 operative date; beginning January 1, 2019, OLSE may issue determinations and impose administrative penalties



# Covered Employers and Employees

- All employers – except for government entities – that have employees working in San Francisco are covered
- All employees working within the geographic boundaries of San Francisco, including part-time employees, are covered



# Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

- Break time shall, if possible, run concurrently with any break time already provided to the employee
- Break time that does not run concurrently with the rest time authorized under State law may be unpaid





# Employer Requirements – Lactation Location

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee’s work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a surface
  - Contains a place to sit
  - Has access to electricity
- Employers must provide, in close proximity to the employee’s work area, access to a refrigerator and a sink with running water
- Employers may designate a multi-purpose room as long as lactation takes priority
- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own



# Exemptions

Employers may establish an exemption from providing lactation breaks and establishing a lactation location “if the Employer can show that such requirement would impose an undue hardship by causing the Employer significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the Employer’s business

Example of an undue hardship could, in some circumstances, include: requiring the Employer to build a room, undertake a construction project, remove seating from a restaurant, or remove retail floor space”



# Employer Requirements – Lactation Accommodation Policy

Employers must develop and implement a Lactation Accommodation policy that affirms an employee's right to lactation accommodation and explains how employees may request it, including:

- A. Identify the process by which an employee may submit a request
- B. Require the employer to respond within 5 business days
- C. Require the employer and employee to engage in an interactive process to determine the appropriate lactation break period(s) and location



# Employer Requirements – Lactation Accommodation Policy

An employer's Lactation Accommodation policy must:

- State that if an employer does not provide lactation breaks or a compliant lactation location, the employer will provide a written response identifying the basis for denying the request
- State that retaliation is prohibited
- Be distributed to employees upon hire and when an employee inquires about or requests pregnancy or parental leave, and must be included in the employee handbook, if one exists



# Additional Employer Requirements

- Employers must retain documentation for a period of three years from the date of the request for Lactation Accommodation, and must allow OLSE access to such records
- Retaliation Prohibited: it is illegal for an employer to take adverse action against any person in retaliation for exercising their rights under these ordinances



# Investigation and Enforcement

- For the calendar year 2018, OLSE will only issue warnings and notices to correct when it has concluded that a violation has occurred
- Starting January 1, 2019, OLSE may issue determinations and impose an administrative penalty up to \$500 for each violation
- OLSE may also impose penalties of \$50 per day per affected employee to cover its investigative costs



# Relationship to State & Federal Law

- Establishes a lactation accommodation policy requirement
- Prescribes features of a lactation location
- Establishes record keeping requirements & local enforcement
- ***When local, state, and federal law differ, the law with the greatest protection applies***



# City Resources

## San Francisco Office of Labor Standards Enforcement

[www.sfgov.org/olse/lactation-workplace](http://www.sfgov.org/olse/lactation-workplace)

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

[lactation@sfgov.org](mailto:lactation@sfgov.org)





# City Resources

## San Francisco Department of Public Health

<https://www.sfdph.org/breastfeedingatwork>

- Checklist for Legal Requirements and Best Practices
- Sample Forms
- Industry Solutions



# Rules Process

- Authorized by Police Code Section 33001.8(a)(6)
- Public Process
  - ✓ Today's Webinar
  - ✓ Public Input via Email or In Writing
  - ✓ Publication of Draft Rules
  - ✓ Public Hearing on Draft Rules
  - ✓ Publication of Final Rules (June 30 Target Date)





# Your Turn: Suggestions for Rulemaking

[lactation@sfgov.org](mailto:lactation@sfgov.org)

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