

Chapter: Attendance, Shifts, and Timekeeping
Title: Work Breaks

Effective Date: 12/1/11
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New

ACA Standard(s): N/A

(a) **Policy.**

The procedures regarding work breaks for employees of the Texas Juvenile Justice Department (TJJD) will be in accordance with federal and state laws.

(b) **Definitions.**

For definitions of certain terms used in this policy, see the PRS Glossary.

(c) **Procedures.**

(1) **Meal Breaks.**

(A) To qualify as an unpaid meal break:

- (i) the break must be at least 30 minutes long; and
- (ii) the employee must not be required to supervise TJJD youth or carry out even relatively minor duties (e.g., answering phones or performing other receptionist duties) during the break.

(B) Certain employees may be required to supervise TJJD youth during meal time, in which case the meal time is counted as time worked.

(2) **Rest Breaks.**

A 15-minute rest break may be taken approximately in the middle of each segment of a shift and counted as time worked.

(A) A rest break is a privilege and not an entitlement. The rest-break period must be approved in advance by the employee's supervisor.

(B) Two 15-minute rest breaks may be combined into one break for nursing mothers in accordance with the procedures below. Otherwise, rest breaks cannot be accumulated or accrued.

(3) **Break Times for Nursing Mothers.**

(A) **Entitlement.**

For one year after a child's birth, an FLSA non-exempt employee who is a nursing mother is entitled by federal law to take work breaks each time she has a need to express breast milk for her nursing child. To ensure consistent treatment of all TJJD employees who are nursing mothers, the agency also extends this entitlement to FLSA exempt employees.

(B) **Optional Benefit.**

Though not an entitlement, a nursing mother is permitted to continue taking nursing breaks as provided by this policy for the duration of the time she continues breastfeeding past the child's first birthday unless being allowed to do so poses an undue burden on the agency.

(C) Required Advance Notice.

Reasonable advance notice of the intent to take such breaks is required to:

- (i) allow the local Human Resources office in coordination with the chief local administrator (CLA) or his/her designee sufficient time to designate an appropriate location for such breaks; and
- (ii) ensure sufficient staff coverage arrangements are made during the scheduled break times as needed.
 - (I) A female selected applicant is provided a Nursing Mother Break form, HR-106, along with the Confirmation of Conditional Job Offer form, HR-170.
 - (II) Upon receipt of an employee's written request for leave due to birth or adoption of a child, the local HRA will provide the employee with the HR-106 form.
 - (III) It is the female applicant's or employee's responsibility to return the HR-106 form with a minimum one business day notice of the intent to take such breaks.
 - (IV) If an employee who has returned to work initially indicates on the HR-106 form that she will not be taking such breaks but chooses at a later date to begin taking such breaks, the employee must provide the local HRA with another HR-106 form at least one business day before the employee begins to take such breaks.

(D) Location.

The local Human Resources office will advise each nursing mother of the location of a private area in which the employee may express milk and the location of an available refrigerator to store the milk or a location for the employee to store a cooler-type container.

- (i) A bathroom, even if private, is not a permissible location for such breaks.
- (ii) To be functional as a space for expressing breast milk, the location must:
 - (I) be sanitary;
 - (II) include a chair, table, and power outlet;
 - (III) be shielded from view, with coverings for any windows; and
 - (IV) be able to be locked from the inside to prevent intrusion from co-workers and the public.
- (iii) It is not necessary to dedicate a space to be used only for this purpose. A space used for other purposes that can be made temporarily available when needed by the nursing mother to express milk is sufficient as long as it meets the privacy requirements (e.g., an office that can be vacated as needed and in which the door can be locked and any window opening covered).
- (iv) If surveillance cameras are present, the location must include a seating arrangement that allows the employee to be shielded from or to turn her back to all cameras.
- (v) A nursing mother must not be required to share a nursing location with another nursing mother who is expressing milk at the same time.

(E) Break Times and Use of Leave Requirements.

The following procedures establish which breaks will require use of leave.

(i) **Breaks Not Requiring Use of Leave.**

- (I) An employee may use her normally scheduled unpaid meal break for this purpose.
- (II) If the employee is in a position that is routinely allowed to have 15-minute rest breaks reported as time worked, the employee may use the two 15-minute breaks at the normal break times or combine the two 15-minute breaks into one 30-minute break for this purpose.
- (III) A supervisor that allows other employees to flex their unpaid meal break and paid work breaks must allow the same flexibility to apply to nursing mothers.
- (IV) A supervisor may provide a nursing mother with additional flexibility regarding the use of their unpaid meal break and paid work breaks as well as with regard to their working hours to allow the mother the time needed to express milk while avoiding the need to use leave.

(ii) **Breaks Requiring Use of Leave.**

- (I) If the employee is in a position that is not routinely allowed to have 15-minute rest breaks reported as time worked, the practice of not having paid rest breaks will remain the same. The procedures below will apply.
 - (II) The nursing mother may take other reasonable breaks each time she needs to express milk. Any break time other than or exceeding the breaks described in (i) above will require the use of paid leave, other than sick leave, or unpaid leave if the employee does not have any available leave balances to use.
 - (III) The use of leave must be recorded:
 - (-a-) in 15-minute increments per PRS.27.25; and
 - (-b-) in the same manner that it would be recorded if the employee were using leave for reasons other than nursing mother breaks.
 - (IV) As soon as possible upon becoming aware that an employee will be using unpaid leave for such breaks, the local HRA must provide email notification to:
 - (-a-) the payroll manager;
 - (-b-) the senior payroll accountant; and
 - (-c-) the appropriate Central Office human resources staff responsible for processing the personnel action request for unpaid leave.
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