



An Overview of the Legal Context of Breastfeeding in the Workplace

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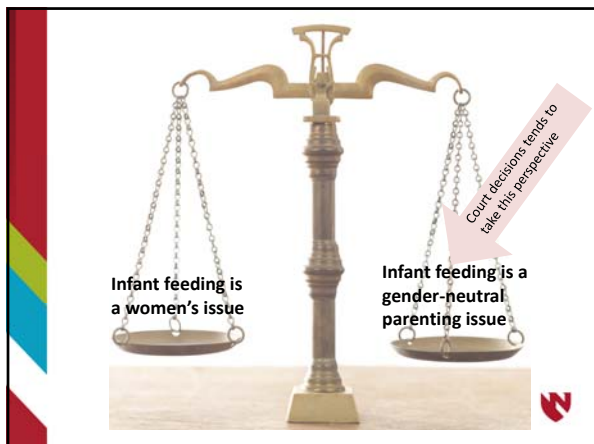
Session Objectives

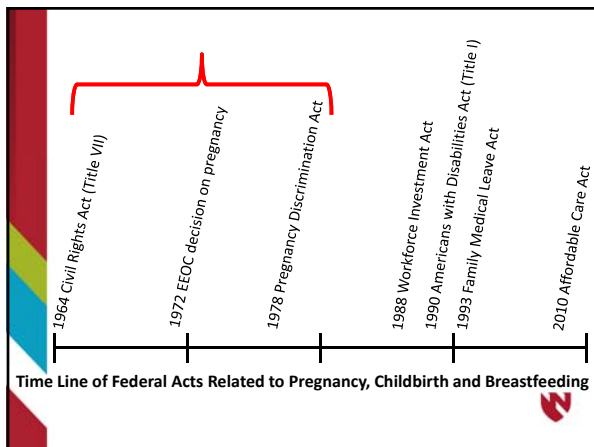
- Describe Federal laws and regulations that provide a historical context for breastfeeding in the workplace.
- Assess how the interpretation of these laws and regulations impacts breastfeeding mothers in the workplace



Equality in the Workplace







1964 Civil Rights Act (Title VII)

- 1964 Civil Rights Act (Title VII)
 - Discrimination based on race, color, religion, national origin, or gender illegal
- 1972 EEOC Decision
 - Pregnancy related disabilities treated same as other temporary disability
- 1978 Pregnancy Discrimination Act (PDA)
 - Discrimination related to pregnancy, childbirth, or related medical condition illegal

1964 Civil Rights Act

(Title I)

- 1988 Workforce Investment Act
 - 'welfare-to-work' programs
 - State level requirements
 - Social culture

Family and Medical Leave Act

1964 Civil Rights Act

(Title I)

- 1990 Americans with Disabilities Act (ADA)
 - Claims against employers argue breastfeeding is covered
 - 2002 US Supreme Court ruling: disability must be
 - Permanent or long-term
 - Must impair major life activities


Family and Medical Leave Act

1964 Civil Rights Act

(Title I)

- 1993 Family Medical Leave Act (FMLA)
 - Gender neutral
 - Unpaid leave time
 - Not all employers are covered


Family and Medical Leave Act




1964 Civil Rights Act

2010 Patient Protection and Affordable Care Act (ACA)

- Amends Fair Labor Standards Act; covers women in states without legislation
- 1st Federal law requiring accommodation of breastfeeding workers
- Not all workers are covered




2010 Patient Protection and Affordable Care Act



1964 Civil Rights Act

Steps in the right direction but . . .

- Not all mothers are covered
- Mother must initiate action
- Mother must know which agency to file with
- Mother incurs costs
- Lengthy process
- Risks may outweigh benefits



2010 Patient Protection and Affordable Care Act



Breastfeeding as a Public Health Issue

- Science says:
 - Nutrients in human milk are the best nutritional option
 - Multiple benefits to infants, mothers, AND society
- Employers and courts say:
 - Treating women *as if they are men* = equality
 - No allowance for mothers' unique role in infant feeding



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