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
Infant feeding is a women’s issue

Infant feeding is a gender-neutral parenting issue

Time Line of Federal Acts Related to Pregnancy, Childbirth and Breastfeeding

• 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
• 1988 Workforce Investment Act
  • ‘welfare-to-work’ programs
  • State level requirements
  • Social culture

• 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

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

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

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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