

First Food Is Medicine:

A Toolkit to Support Tribal Policies to Protect the First Food



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Gratitude

This toolkit is a resource that builds upon a path that many others have walked, including Tribes, Tribal organizations, Indigenous advocates, advocates for Tribal public health, and community members. The Inter-Tribal Council of Michigan previously created a comprehensive policy resource geared towards Tribal worksites called *Breastfeeding: Following Tradition Works for Working Women*; this *First Food Is Medicine* toolkit builds from that valuable resource and is designed to complement it and the work of many others who are promoting human milk as the first food in their communities.

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Photo credit: Christen Turning Heart (top); Rae O'Leary (bottom)

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A Word About Words Used in This Toolkit

Great Lakes Area: This term refers to the area also known as the Bemidji Area of the Indian Health Service, which includes 34 federally recognized Tribes and four urban American Indian communities located in Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

Indigenous: In general, this toolkit uses the term “Indigenous” to refer to the Native people affiliated with North America (United States and Canada; otherwise known as First Nations, Native American, American Indian, Alaska Native, and Native Hawaiian). The word Indigenous will be capitalized to indicate that it refers to a population group. The toolkit authors understand the complexity and political implications of using labels and do not wish to perpetuate the insensitivity of many of these labels. The authors recommend that local and regional terms be used as much as possible. Occasionally, this toolkit will use another term, such as “American Indian/Alaska Native,” when citing or describing data where the underlying research report used that label.

Policy: This term refers to both laws (Tribal codes, ordinances, resolutions, executive orders, agency regulations) and nonlegal policies, such as administrative or organizational policies (for example, human resources policies).

Sovereignty: This term refers to the authority to self-govern, including to determine governance structures, pass laws, and enforce laws through police departments and Tribal courts.

Breastfeeding/chestfeeding: This toolkit generally uses the term “breastfeeding/chestfeeding” (and related terms) in place of the word “breastfeeding” alone, unless citing data that specifically refer to “breastfeeding.” This is done as a way to support and include parents of all gender identities and to represent the full range of human experiences of providing human milk to babies and children. “Bodyfeeding” is another term that can be used. To learn more about this topic, please see Azura Goodman, *It’s Time to Add “Chestfeeding” to Your Vocabulary*, TODAY’S PARENT, June 9, 2021, <https://www.todaysparent.com/baby/breastfeeding/chestfeeding-faq/> and Mara Santilli, *Here’s How Lactation Experts Are Working to Redefine and Decolonize Breastfeeding*, WELL + GOOD, Dec. 7, 2020, <https://www.wellandgood.com/decolonizing-breastfeeding/>.

First food: This term refers to human milk as Indigenous medicine. First food feeding is another way to refer to breastfeeding/chestfeeding and feeding children human milk.

Human milk: This term is used as much as possible in place of “breast milk” to be as inclusive as possible.

Lactation: This term is used to refer to human milk expression, breastfeeding/chestfeeding a baby, or both.

Milk expression: This term refers to the act of pumping milk from a human breast or chest, whether with a manual or mechanical pump.

Introduction

Human milk has been the traditional first food and first medicine of Indigenous communities throughout North America since time immemorial. Indigenous human milk supports strength and life and is connected with long-term positive health outcomes. Breastfeeding/chestfeeding is a practice of resilience and decolonization.¹ Many Indigenous communities have cultural norms that support the teaching that Indigenous milk is medicine, a teaching that is shared across generations in many ways.² For example, Ojibwe Elders believe that breast milk can pass certain characteristics, strengths, and even a sense of respect to babies.³

Today as Tribal Nations assert their sovereignty in the realm of food systems, they are reclaiming the use of traditional foods to nourish the physical, mental, emotional, and spiritual aspects of both the human body and greater community. As part of this work, many Tribal Nations are developing and implementing first food policies for their employees and community members. This toolkit was developed to be a source of ideas and support for Tribal leaders, public health staff, child care providers, employers, and community members who seek to protect and sustain first food practices within their communities.

How to Use This Toolkit

This toolkit is organized by topic, including community engagement as a foundation for good, community-driven and supported law and policy; types of Tribal laws and policies that can support breastfeeding/chestfeeding; tips for writing good policies; implementation considerations; enforcement considerations; and ideas for how to approach evaluation. It includes policy examples and success stories from Tribal advocates and coalitions who have worked on breastfeeding laws and policies in the Great Lakes Area. Each section also has an “Additional Resources” section to point readers to other tools, materials, and resources to support their efforts and help them learn more. Readers may be at different stages of policy development so this toolkit is designed so readers can jump in wherever they are at and can start with any section. Thank you, as one of our readers, for your work and leadership to support breastfeeding/chestfeeding and for looking at this toolkit. The authors hope it will be useful to support your efforts.

Of course, not everyone is able to or chooses to breastfeed/chestfeed. And people who breastfeed/chestfeed may choose to use other feeding methods as they need or want. Whether to breastfeed/chestfeed is a uniquely personal decision for each individual and their families based on what is best for them. The goal of this toolkit and other resources is to support Tribal Nations and Indigenous advocates in restoring a traditional cultural practice disrupted by centuries of colonization and genocide and also to help counteract prolonged efforts to interfere with Indigenous people’s efforts to care and provide for their children in this way. But how to best feed one’s children is still a very personal decision. People who cannot or do not choose to breastfeed/chestfeed should not be stigmatized.



Photo credit: Great Lakes Inter-Tribal Council (top); Rae O'Leary (bottom)

Section One: Why First Food Policy Is Important

Policy is a powerful tool to sustain and protect first food practices because it is a concrete and visible expression of support, and it can help build awareness about first foods as an important and valued cultural tradition. Applying Tribal sovereignty to advance policy to support first food also helps to support the cultural, physical, and economic health of communities.

First Food Practices Bring Health Benefits for Babies and Parents

Breastfeeding/chestfeeding provides nourishment and protection for children both during infancy and well into adulthood. As the greatest source of nutrition for infants, especially during the first six months of life, human milk is both the first food and the first medicine. It provides a healthy combination of nutrients including proteins, fats, vitamins, and carbohydrates.⁴ Consistent breastfeeding/chestfeeding (which may include occasional use of formula) has been shown to support cognitive development and development of infants' nervous systems.⁵ Human milk lowers the risk of several diseases including asthma, obesity, Type 1 diabetes, severe lower respiratory disease, ear infections, childhood overweight and obesity, sudden infant death syndrome (SIDS), gastrointestinal infections, and necrotizing enterocolitis (a serious gastrointestinal problem that typically affects premature babies).⁶ Human milk also protects infants from diarrhea, colds, and flu.⁷ Breastfeeding/chestfeeding can also have a positive effect on the long-term health of parents who create the milk by lowering their risk of high blood pressure, Type 2 diabetes, ovarian cancer, and breast cancer.⁸ The research on links between breastfeeding/chestfeeding and mothers'

mental health is emerging; recent studies indicate that breastfeeding reduces stress and is positively linked to lower rates of postpartum depression in women.⁹

The positive impact of first food feeding practices on health outcomes for infants and parents makes this practice an important element of public health. The World Health Organization (WHO) and American Academy of Pediatrics both recommend that infants be exclusively breastfed/ chestfed for the first six months and that breastfeeding/chestfeeding continue for two years and beyond in combination with other age-appropriate foods (and WHO recommends up to two years or beyond).¹⁰

The limited data available indicate that current Indigenous breastfeeding/chestfeeding rates fall far short of these goals. There is limited and incomplete information about breastfeeding/ chestfeeding practices and rates for Indigenous people; data are usually combined and not specific to Tribal affiliation or region. The data that exist indicate that American Indian/Alaska Native (AI/AN) women have the second-lowest national average breastfeeding rate in the U.S., with Black women having the lowest; AI/AN women have the lowest rate in 13 states.¹¹ Table 1 shows breastfeeding rate comparisons for Indigenous (AI/AN) populations compared with all races, nationally, and in the states of Michigan, Minnesota, and Wisconsin during three points in infants’ lives: at initiation (birth), six months, and 12 months. The rates for Indigenous populations are bolded. As this data reflect, AI/AN rates are lower than the average rate for all races at every time period.

Table 1: Comparisons of Breastfeeding Rates for American Indians/Alaska Natives (AI/AN) and All Races, Nationally, and in Michigan, Minnesota, and Wisconsin¹²

		National Average	Michigan Average	Minnesota Average	Wisconsin Average
Initiation/Ever Breastfed Rate	AI/AN	76.4%	75.8%	70.1% (WIC program)	76.3% (WIC program)
	All Races	83.2%	83.1%	91.9%	87.5%
Breastfeeding Rate at 6 Months	AI/AN	55.0%	28.6% (WIC program)	21.6% (WIC program)	37.8% (WIC program)
	All Races	55.8%	53.7%	69.9%	61.7%
Breastfeeding Rate at 12 Months	AI/AN	31.3%	17.0% (WIC program)	9.3% (WIC program)	18.4% (WIC program)
	All Races	35.9%	32.2%	46.3%	45.1%

Employers Benefit When Breastfeeding/Chestfeeding Is Supported

Creating a workplace environment that supports breastfeeding/chestfeeding can also bring many benefits to employers. Notably, employers that support breastfeeding/chestfeeding employees often experience a return on investment and ultimately save money. Because both babies and employees experience better health outcomes, breastfeeding/chestfeeding employees have fewer instances of absenteeism from their jobs compared to employees who formula-feed their infants. One study found that babies who are fed human milk experienced fewer and less severe illnesses than formula-fed babies and that breastfeeding persons had lower rates of one-day absences from work than parents of formula-fed babies.¹³ Healthier employees also means fewer medical insurance claims.¹⁴ In fact, one study found that even when infants who are fed human milk do get sick, they require fewer visits to the doctor, need less medication, and are less likely to be hospitalized compared to formula-fed infants.¹⁵ This results in overall lower health costs to employers.

Improved employee satisfaction is another benefit for employers who invest in a breastfeeding/chestfeeding supportive work environment. Businesses with lactation support programs experience better rates of employee retention compared to those without any programs. Employees are more likely to return to their jobs following childbirth if their workplace has an environment that is supportive of breastfeeding/chestfeeding. Lower turnover rates translate into greater savings for employers. Businesses with lactation support programs also report improved job satisfaction and increased productivity among employees.

Both employees and employers benefit when their organizations invest in employee satisfaction and create a supportive work environment by implementing workplace breastfeeding/chestfeeding policies. Implementing culturally specific policies and Tribal laws that are clearly understood is an effective and sustainable way to support employees, their families, and the entire community.

Talking Points: Benefits of Breastfeeding/Chestfeeding Policies for Employers

- Supporting breastfeeding/chestfeeding lowers health costs to employers.
- Breastfeeding provides long-term health benefits for parents and healthier outcomes for kids.
- Healthier employees and families mean fewer medical insurance claims—babies who are fed human milk require fewer visits to the doctor, need less medication, and are less likely to need hospitalization when sick.
- Supporting breastfeeding/chestfeeding helps reduce employee absenteeism; babies who are fed human milk are less likely to get sick and they get sick less severely, so parents miss less work.
- Supporting breastfeeding/chestfeeding is good for employee morale, productivity, and retention.

Additional Resources

Webinars and videos

- American Indian Cancer Foundation, *Importance of Indigenous Birth & Breastfeeding* (Aug. 11, 2020), https://www.facebook.com/watch/live/?v=711812099600584&ref=watch_permalink (webinar that talks about importance of Indigenous, traditional birth and breastfeeding practices)
- Camie Goldhammer, *Breastfeeding Friendly Communities* (Sept. 21, 2017), <https://www.youtube.com/watch?v=wGTESEkbrMQ> (video talking about why breastfeeding matters for Indigenous communities)
- Shibogama First Nations Council, *The Creator's Gift to Mothers*, <https://www.youtube.com/watch?v=rkaxLGI5WBw> (video made by seven women from the Kasabonika Lake First Nation describing the long-term benefits of breastfeeding for mothers and babies)

Written resources

- Best Start Resource Centre, *Breastfeeding for the Health and Future of Our Nation: A Booklet for Indigenous Families* (2017), <https://resources.beststart.org/wp-content/uploads/2018/12/B05-A-1.pdf> (educational booklet geared toward expecting and new mothers)
- Pertice Moffitt et al., *Infant Feeding Teachings from Indigenous Grandmothers: Generating Knowledge Through Sharing Circles* (Chapter 21 from *Northern and Indigenous Health and Healthcare*, Heather Exner-Pirot et al. eds., 2018), <https://openpress.usask.ca/northernhealthcare/chapter/chapter-19-infant-feeding-teachings-from-indigenous-grandmothers-generating-knowledge-through-sharing-circles/> (short chapter summarizing traditional knowledge about infant feeding practices gathered through sharing circles and interviews with Elders from Indigenous communities in Canada's Northwest Territories)
- Public Health Law Ctr. & Great Lakes Inter-Tribal Epidemiology Ctr., *Gifts Across Generations, Policies and Laws in Support of Breastfeeding in Bemidji Area American Indian Communities* (June 2021), <https://www.publichealthlawcenter.org/sites/default/files/resources/Gifts-Across-Generations.pdf> (report sharing observations and findings from a policy and legal scan of breastfeeding policies within Tribes and Tribal organizations in the Great Lakes Area)
- Mara Santilli, *Here's How Lactation Experts Are Working to Redefine and Decolonize Breastfeeding*, WELL + GOOD, Dec. 7, 2020, <https://www.wellandgood.com/decolonizing-breastfeeding/> (describes how Indigenous, Black, Latinx and LGBTQ+ people are reclaiming bodyfeeding (breastfeeding/chestfeeding) as an act of resistance and resilience in the face of a history and current context of colonization and intergenerational trauma)

Sources

- ¹ Jasha Lyons Echo-Hawk, Nursing Babies, Nurturing Families, *A Closer Look at Native Breastfeeding Week*, Sept. 24, 2019, <https://lllusa.org/a-closer-look-at-native-breastfeeding-week/>.
- ² April Van Buren, *Tribal Communities in Michigan Use Traditional Knowledge to Tackle Modern Public Health Crisis*, MICHIGAN RADIO (Aug. 8, 2019), <https://www.michiganradio.org/post/tribal-communities-michigan-use-traditional-knowledge-tackle-modern-public-health-crisis> (recording and transcript).
- ³ Joan E. Dodgson and Roxanne Struthers, *Traditional Breastfeeding Practices of the Ojibwe of Northern Minnesota*, 24 HEALTH CARE FOR WOMEN INTERNAT'L 58 (2003).
- ⁴ Am. Pregnancy Ass'n, *What's In Breast Milk?* <https://americanpregnancy.org/healthy-pregnancy/first-year-of-life/whats-in-breastmilk/> (undated).
- ⁵ Cesar G. Victoria et al., *Breastfeeding in the 21st Century: Epidemiology, Mechanisms, and Lifelong Effect*, 387 THE LANCET 475, 475-490 (2016). [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(15\)01024-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(15)01024-7/fulltext); Johns Hopkins Medicine, *Breast Milk Is Best*, <https://www.hopkinsmedicine.org/health/conditions-and-diseases/breastfeeding-your-baby/breast-milk-is-the-best-milk> (undated).
- ⁶ Ctrs. for Disease Control and Prevention, *Breastfeeding: About Breastfeeding*, https://www.cdc.gov/breastfeeding/php/about/?CDC_AAref_Val=https://www.cdc.gov/breastfeeding/about-breastfeeding/why-it-matters.html (last updated July 31, 2024); Am. Acad. of Pediatrics, *Benefits of Breastfeeding*, <https://www.aap.org/en/patient-care/breastfeeding/breastfeeding-overview/> (Mar. 9, 2021).
- ⁷ Ctrs. for Disease Control and Prevention, *Breastfeeding: About Breastfeeding*, https://www.cdc.gov/breastfeeding/php/about/?CDC_AAref_Val=https://www.cdc.gov/breastfeeding/about-breastfeeding/why-it-matters.html (last updated July 31, 2024).
- ⁸ Am. Acad. Of Pediatrics, *Benefits of Breastfeeding*, <https://www.aap.org/en/patient-care/breastfeeding/breastfeeding-overview/> (Mar. 9, 2021); Ctrs. for Disease Control and Prevention, *Breastfeeding: About Breastfeeding*, https://www.cdc.gov/breastfeeding/php/about/?CDC_AAref_Val=https://www.cdc.gov/breastfeeding/about-breastfeeding/why-it-matters.html (last updated July 31, 2024).
- ⁹ See, e.g., Kathleen M. Krol and Tobias Grossman, *Psychological Effects of Breastfeeding Children and Mothers*, 61 BUNDESGESUNDHEITSBLATT - GESUNDHEITSFORSCHUNG – GESUNDHEITSSCHUTZ 983 (2018), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6096620/pdf/103_2018_Article_2769.pdf. See also, Carley J. Pope and Dwight Mazmanian, *Breastfeeding and Postpartum Depression: An Overview and Methodological Recommendations for Future Research*, 2016 DEPRESSION RESEARCH AND TREATMENT (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4842365/pdf/DRT2016-4765310.pdf>.
- ¹⁰ Joan Younger et al., *Policy Statement: Breastfeeding and the Use of Human Milk*, 150 PEDIATRICS e2022057988 (2022), <https://publications.aap.org/pediatrics/article/150/1/e2022057988/188347/Policy-Statement-Breastfeeding-and-the-Use-of>; World Health Org., *Breastfeeding, Recommendations*, https://www.who.int/health-topics/breastfeeding#tab=tab_2.
- ¹¹ Katelyn V. Chiang et al., *Racial and Ethnic Disparities in Breastfeeding Initiation – United States, 2019*, 20 MORBIDITY MORTALITY WEEKLY REP. 769, 770-71 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8158892/>.
- ¹² Sources: GREAT LAKES INTER-TRIBAL EPIDEMIOLOGY CTR., *NATIVE HEALTH IN THE BEMIDJI AREA, MATERNAL AND CHILD HEALTH: BREASTFEEDING RATES 2* (2019), copy on file with the Public Health Law Center; EMILY CALLAHAN ET AL., *RACIAL AND ETHNIC DISPARITIES IN HUMAN MILK FEEDING IN THE UNITED STATES: A RAPID REVIEW* [INTERNET] 26-27, 30-31, 34-35 (2023), https://www.ncbi.nlm.nih.gov/books/NBK597911/pdf/Bookshelf_NBK597911.pdf (using data about 2015 AI/AN rates (most recent available) from Tables 7, 8, 9); Ctrs. for Disease Control & Prevention, *Breastfeeding Report Card—United States, 2022* at 5, <https://www.cdc.gov/breastfeeding/pdf/2022-Breastfeeding-Report-Card-H.pdf>.
- ¹³ Rona Cohen et al., *Comparison of Maternal Absenteeism and Infant Illness Rates Among Breast-Feeding and Formula-Feeding Women in Two Corporations*, 10 AM. J. OF HEALTH PROMOTION 148, 148-153 (Aug. 1, 1995), <https://doi.org/10.4278/0890-1171-10.2.148>.
- ¹⁴ U.S. DEP'T OF HEALTH AND HUM. SERVS., *THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE* (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_business-case-for-breastfeeding-for-business-managers.pdf.
- ¹⁵ Thomas M. Ball and Anne L. Wright, *Health Care Costs of Formula-Feeding in the First Year of Life*, 103 PEDIATRICS (Supp. 1) 870, 870-876 (1999). https://pediatrics.aappublications.org/content/pediatrics/103/Supplement_1/870.full.pdf.
- ¹⁶ INDIAN HEALTH SERV., *INDIAN HEALTH MANUAL, PART 4 CHAPTER7: LACTATION SUPPORT PROGRAM* (undated), <https://www.ihs.gov/ihtm/pc/part-4/p4c7/>; U.S. DEP'T OF HEALTH AND HUM. SERVS., *THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE* (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_business-case-for-breastfeeding-for-business-managers.pdf.

Some Breastfeeding Words and Phrases

Anishinaabemowin

- Ndoodooshim – My breast/nipple
- Megade' – Burp
- Nawadanjige – S/he latches on
- Ninoonaawas – I breastfeed
- Noobaajigan – A baby's bottle
- Nooni – S/he nurses

Dakota


- Azínkhiye/a –To breastfeed, to nurse
- Azé – Woman's breast
- Azínkičhiya – To nurse one's own child
- Azín – To nurse from a mother's breast
- Škabyeda aziñ – To make a slurping sound while nursing
- Čiñkši aziñwaқиye ye – I nursed my son

For additional examples, see: Great Lakes Inter-Tribal Epidemiology Ctr., Maternal and Child Health: Cultural Breastfeeding Practices in Minnesota (2019), https://www.glitc.org/2020/wp-content/uploads/2020/07/Cultural-breastfeeding-practices-in-MN-factsheet_GLITECSept2019.pdf



Photo credit: Christen Turning Heart

Section Two: Community Engagement

ommunity engagement is the process of working collaboratively with groups of people in a community to address issues that are important to them and affect their well-being.¹ Good policies start and end with community engagement. This is particularly true for Indigenous communities and also for public health policies such as breastfeeding/chestfeeding support policies. These policies are deeply rooted in cultural practices, are connected with historical and ongoing trauma and resilience, and are intensely personal. In addition, historically and post-colonization, Indigenous people have had many negative experiences with non-Indigenous groups around law, policy, and research, which has caused well-grounded mistrust for initiatives coming from outside of a Tribal community. Any breastfeeding/chestfeeding policy initiative will require diligent, authentic, and culturally sensitive engagement. Technical assistance providers and Tribal employees should have cultural knowledge and the personal capacity to navigate and build relationships. A neutral public health entity—including one from outside of the community—can provide technical assistance, *but community members must set the priorities and guide the work if policies are to be effective and sustainable.*

Gathering Input and Building Buy-In

A robust community engagement process can help build buy-in with community members, partners and influencers. It can:

- deepen understanding about the policy idea, the needs it can meet, and the purpose
- identify who will be affected by the policy and how
- anticipate possible concerns
- inform the implementation timeline
- support equitable and appropriate enforcement mechanisms.

A community engagement process should engage people from across a community, including youth, Elders, parents, teachers, health staff, child care providers, government staff, community leaders, policymakers, small-business owners, and others who may be impacted by the policy issue. This allows people to contribute their perspectives and experience to the policy change effort. Community engagement processes can also raise up community members who might not hold elected positions or formal titles but who bring valuable life experience and perspectives or are influential because of their relationships and reputation within the community. Engaging these natural community leaders as coalition members or policy champions can assist with carrying policy initiatives forward.

Community engagement often involves building a coalition or work group or working with an existing one. Some key parties will be members of the coalition, while others will not. For example, some may be community members or representatives of specific community groups who actively participate in the coalition, others may be policymakers with decision-making authority, and some people may be potential opponents to the policy. Consequently, being strategic about how and when to engage various types of perspectives and roles is also important. For example, some workplace managers may be concerned about the difficulties in providing lactation time or space and may initially resist the idea of a comprehensive policy. Reaching out early and often to learn about people's concerns and talk through ideas for addressing them could go a long way to neutralizing potential opposition from this group—and result in a better policy. In addition, compensation should be offered whenever possible for community members to support their participation; consider also providing other support such as evening or weekend meeting times or child care help. This is especially important for community members who are not participating in the coalition as part of their job. Food is also a wonderful way to bring people together; providing a meal or snack during meetings is a good thing to do.

Strategies for Effective Engagement

At its core, engagement means that community members set the vision, mission, and goal for the policy initiative. This means that engagement involves relationship-building, education, and opportunity for input before the policy is drafted and moved forward for approval. This establishes more buy-in and can potentially prevent or minimize pushback on the policy. Community engagement can be done in different ways, and usually more than one way is a good idea.

For a breastfeeding/chestfeeding law or policy, community engagement will likely involve several activities. An important early step is to work with community members to gather ideas and information about the benefits of breastfeeding/chestfeeding and the connections with the Tribe's

traditions and values. To identify gaps and opportunities, it is crucial to do research, assessment, and power mapping (including through conversations with community members and other key parties) to learn how the Tribe or organization may already support breastfeeding/chestfeeding. Talking with decisionmakers, influencers and community members about their past experiences and present needs as parents, employees, managers, and family members can help to identify assets (asset mapping) as well as gaps. Formally or informally surveying Tribal decision-makers will help the coalition gain an understanding of the level of support, opposition, and knowledge that exists in the community, and help build relationships with decision-makers.

Engagement can also include one-to-one, direct communications. Prior to the COVID-19 pandemic, community events and gatherings were a common and important means of sharing information about a policy initiative and for getting relevant feedback from community members. As communities heal from the impacts of COVID-19, there may remain fear and uncertainty due to safety concerns. There are many other effective ways to share information and obtain input, such as social media campaigns, webinars, phone calls, use of virtual meeting applications (such as Zoom or Microsoft Teams) for meetings or discussions of surveys, printed materials sent via mail, and notices incorporated into communitywide newsletters. It is critical for anyone working toward policy implementation to understand how to best work with Tribal leadership and how to communicate information in a way that works well for a particular community.

Potential Key Players in a Breastfeeding/Chestfeeding Law or Policy Initiative

Community partners and influencers

- Breastfeeding/chestfeeding advocates
- Community health representatives (CHRs)
- Maternal and Child Health staff
- Health department/health center staff and clinicians
- School nurses
- WIC program staff
- Early care and education staff (Early Head Start, home visiting, and other child care programs)
- Representatives from community workplaces/businesses
- Breastfeeding/chestfeeding community members, including employees and relatives
- Elders
- Youth

Leadership and decision-makers

- Tribal council
- Tribal attorneys
- Tribal health directors
- Other departmental directors or leaders (governmental or organizational, such as child care directors, casino managers, school principals, college presidents, and leaders of other Tribal enterprises/organizations)
- Human resources directors/managers

Additional Resources

Organizations

- Native Organizing Alliance, <http://nativeorganizing.org/> (provides training on Native community organizing)

Webinars

- Global Breastfeeding Collective, Toolkits, *Breastfeeding Advocacy: Webinar Series* (2018), <https://toolkits.knowledgesuccess.org/toolkits/breastfeeding-advocacy-toolkit/breastfeeding-advocacy-webinar-series> (prepared for World Breastfeeding Week 2018, this series offers training on how to utilize social media to promote, protect and support breastfeeding)

Written resources

- Public Health Law Center, *Drafting Tribal Public Health Laws & Policies to Reduce and Prevent Chronic Disease* (2020), <https://www.publichealthlawcenter.org/sites/default/files/resources/Drafting-Tribal-Public-Health-Laws-2020.pdf> (policy guide for developing Tribal public health laws and policies, with a focus on community engagement)
- Centers for Disease Control and Prevention, Office of the Assoc. Director for Policy and Strategy, *The CDC Policy Process*, <https://www.cdc.gov/policy/polaris/policyprocess/> (last reviewed Jan. 2, 2019) (describes a framework for policy development to help address public health problems in a community; not Indigenous-specific)

Sources

¹ Ctrs. for Disease Control and Prevention, *Principles of Community Engagement* 9 (1st ed. 1997).

Section Three: Tribal Laws and Policies as a Tool to Support Breastfeeding/Chestfeeding

Breastfeeding/chestfeeding policies can take many forms. They can be Tribal laws that apply communitywide and/or organizational policies that are tailored for specific types of settings, such as government offices, casinos, child care centers, schools, health centers, or businesses. Tribal sovereignty is a powerful tool that can support breastfeeding/chestfeeding in ways that are tailored specifically for the community, reflecting the community's language and culture, with a broad reach. It can be applied to establish the basic protections or supports that must be provided in many settings, such as all workplaces, or all public and private spaces.

Organizational policies also play an important role because they help to implement laws, so they are meaningful in the specific situation. For example, a breastfeeding/chestfeeding policy for a K-12 school will look different from a casino policy, even though they both might provide the same basic set of protections. Organizational policies can also build on the law to provide additional supports. For example, laws often require supports for workers for only the first 12 months of a baby's life, or they may only address milk expression (pumping). An organization can decide to have a policy that supports their breastfeeding/chestfeeding employees for longer or a policy that also allows employees to bring their babies to work.

Note: Please note that the authors are not aware of any existing Tribal laws that refer to a right to chestfeed as well as breastfeed. The term "chestfeed" is being used to be inclusive and because Tribal laws may exist that are not publicly available.

Formal and Informal Policies

Policies can be formal or informal.

Formal policies are typically written policies that have been formally adopted by a Tribal government or by an agency or organization. They include Tribal codes, resolutions, executive orders, agency regulations, human resources policies, health department/health center policies, school district policies, policies in handbooks, and so on.

Informal policies are policies that are not written down but nonetheless show a consistent practice or system. They can be customary law, traditions, and organizational systems of practice. Informal policies can be shown by the designation of a lactation room, the creation of a system for employees to take milk expression breaks, a practice of providing lactation spaces at community events, and so on.

Informal policies can be useful and effective, and sometimes people are more open to them because an informal policy will not seem like a “rule” in the way that a formal policy does. Informal policies also may be a better fit for the culture of a Tribe or organization. However, informal policies can sometimes lead to inconsistent or ineffective implementation. They may be more vulnerable to changes in managers, or people may have different understandings about how to implement the policy or what it does and does not cover. It also may be harder for employees and others to learn about a policy that is not in writing. This toolkit focuses on written, formal policies, but the authors recognize that whether a formal or informal policy is the preferred approach will depend on the situation.

Tribal Laws That Support Breastfeeding/Chestfeeding

Tribal governments are applying their sovereignty to support breastfeeding/chestfeeding in many ways, including through the adoption of Tribal codes and resolutions.

These laws can focus on Tribal government employees, or on worksites within the Tribe’s jurisdiction. They can take the form of right-to-breastfeed/chestfeed laws that declare a right to breastfeed/chestfeed in any public or private space that a breastfeeding/chestfeeding parent and child are allowed to be. They can also include laws that clarify that breastfeeding/chestfeeding is exempt from public indecency laws. Resolutions recognizing the importance of breastfeeding/chestfeeding can also be helpful educational tools to raise awareness about the first food, its health benefits, and its traditional roots.

Laws are policies adopted by Tribal governments through their formal legislative processes. These processes vary by Tribe, as the implementation success stories in Section Eight reflect. If you do not already have experience working on Tribal laws, it will be helpful to get information about how your Tribe adopts laws or to work with advocates or Tribal leaders who are familiar with the process.

Types of Tribal Laws That Can Support Breastfeeding/Chestfeeding:

- Laws that establish break time and lactation space standards for breastfeeding/chestfeeding employees to express milk and/or breastfeed/chestfeed a baby at work.
- Laws that recognize the right to breastfeed/chestfeed in public and private spaces in the Tribe's jurisdiction.
- Laws that provide for paid parental leave for new parents.
- Laws that provide funding for people to purchase milk expression equipment.
- Laws that exempt breastfeeding/chestfeeding from public indecency or nudity laws.
- Resolutions that recognize August is Breastfeeding Awareness month, which is a month focused on educating people about the health and traditional benefits of breastfeeding/chestfeeding.

Organizational Policies to Support Breastfeeding/Chestfeeding

Tribal agencies, enterprises, child care programs, schools, colleges, and other entities can also have their own administrative policies to support breastfeeding/chestfeeding. For formal policies, these can be stand-alone policies or policies in departmental handbooks, human resources manuals, parent or student handbooks, and similar policy vehicles. What these policies cover can vary depending on the setting, and some settings may have more than one policy. See the “Organizational Breastfeeding/Chestfeeding Policy Ideas At-a-Glance” on page 21 for ideas.

As these policy ideas indicate, the policy's focus and content will vary depending on the policy's purpose and the setting. For example, a policy for Tribal government employees may need to address the different types of situations that employees work in, from office workers and casino staff to construction workers and bus drivers. A casino policy will need to take into account security protocols for staff who work on the gaming floor and also how to provide a smoke-free lactation space if the casino does not have a comprehensive smoke-free policy in place.

Organizational policies typically must be approved by the leader of the organization or department and/or by the human resources manager or department if the organization has one. Depending on the Tribe, policies for Tribal agencies or departments may need to be approved by the Tribal council. In child care programs, nutrition staff may play a key role in breastfeeding/chestfeeding policies, particularly for children in care. Tribal health departments and health centers can also be important partners in supporting other agencies and enterprises in adopting and implementing breastfeeding/chestfeeding policies and systems.

This toolkit focuses on laws and policies that support breastfeeding/chestfeeding in worksites, in specific settings (health centers, gaming facilities, child care centers, schools, colleges), and across a community.

The First Food Policy and Legal Scan (PALS) Project

In 2018 and 2019, the Great Lakes Inter-Tribal Epidemiology Center and the Public Health Law Center carried out the First Food Policy and Legal Scan (PALS) project. The First Food PALS project was a scan of laws and policies shared by federally recognized Tribes and Tribal organizations in the Bemidji Area of the Indian Health Service, also known as the Great Lakes Area. The project's goal was twofold: (1) to provide information to the Tribes and urban American Indian health centers in the Great Lakes Area about how their peers are using law and policy to support breastfeeding and (2) to facilitate the sharing of ideas and approaches across and within communities.

The project focused on five areas:

- Tribal codes, resolutions, and Tribal government administrative policies
- health departments, clinics, wellness centers, and Tribally operated or federally operated Indian Health Service service units
- gaming facilities and resorts
- early care and education settings (such as Early Head Start, Head Start, and child care programs)
- academic settings including Tribally operated Bureau of Indian Education schools and Tribal colleges and universities.

Policies were generously shared from almost every Tribe and urban American Indian health center in the Area during the period of June 2018 to August 2019. A total of 66 policies were shared, including 36 formal policies and 30 informal policies. The policies were analyzed for certain features or aspects, including policy focus, break time standards, lactation space standards, culture-related provisions, baby age limits, evaluation provision, and other components. The findings from the project are described in an aggregate report called *Gifts Across Generations: Policies and Laws in Support of Breastfeeding in Bemidji Area American Indian Communities*. The report discusses policies in a de-identified way unless consent was received to identify the Tribe or entity. Many of the learnings from that project have helped to inform this toolkit. This report can be found on the Public Health Law Center's website, www.publichealthlawcenter.org.

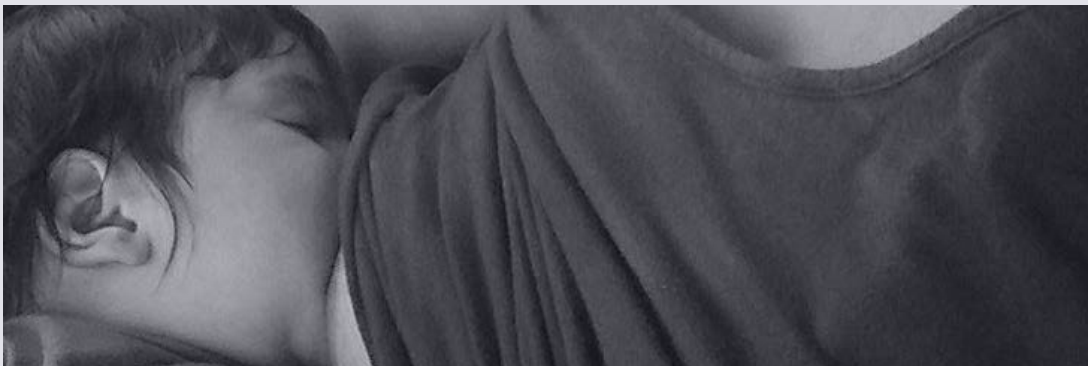


Photo credit: Christen Turning Heart

Organizational Breastfeeding/Chestfeeding Policy Ideas At-a-Glance

Worksites in general

- Policy for staff (milk expression and/or bringing a baby to work)
- Policy addressing visitor needs
- Paid family leave policy
- Insurance coverage policy (for pumping equipment, supplies, etc.)

Health department/health center

- Policy for staff (milk expression and/or bringing a baby to work)
- Becoming a designated “Baby Friendly” facility¹
- Policy to provide education, services, and support for patients and community members
- Pumping equipment loan policy for patients and community members
- Policy to provide lactation space(s) for community members at the health center and/or at powwows and community events (e.g., in tents or trailers)

Gaming facilities

- Policy for staff (milk expression and/or bringing a baby to work)
- Policy for guests
- Policy for both staff and guests

Child care programs

- Policy for staff (milk expression and/or bringing a baby to work)
- Policy for parents
- Human milk use and storage policies
- Breastfeeding/chestfeeding educational policies

Schools/colleges

- Policy for staff (milk expression and/or bringing a baby to work/school)
- Policy for students

Kinds of Breastfeeding/Chestfeeding Laws and Policies

Tribal Nations have applied their sovereignty both to adopt laws and resolutions that protect and support breastfeeding/chestfeeding communitywide as a right and to provide other supports, including paid parental leave and reimbursement for breast pumps. Tribal organizations and enterprises have acted similarly to adopt policies to support first food feeding within specific settings, such as government offices, casinos and resorts, child care centers, K-12 schools, Tribal colleges and universities, health centers, and businesses. Tribal laws and organizational policies can work together to create a strong, supportive web for breastfeeding/chestfeeding across the community, with law providing the frame and anchor threads, and organizational policies giving the web additional supports. Examples and ideas are discussed in more detail in the next parts.

Laws to Provide Paid Leave and Other Supports

Most parents need at least six to 12 weeks of maternity or parental leave to recover from childbirth or implement an adoption, and to establish a good milk supply. The federal Family Medical Leave Act provides most (but not all) workers up to 12 weeks of unpaid leave after the birth or adoption of a child.² Tribes can apply their sovereignty to adopt laws providing for paid parental leave for new parents. For example, the Ho-Chunk Nation provides its employees with up to three weeks of paid leave for new parents for the birth or adoption of a child, in addition to unpaid leave opportunities.³ Likewise, Tribes can adopt policies to help employees pay for milk expression equipment or lactation counseling services to cover possible gaps in insurance coverage, or they can offer these services directly to employees.

Right to Breastfeed/Chestfeed Laws

These laws typically declare and protect the right to breastfeed/chestfeed across a community. These laws usually apply to both public and private spaces and state that breastfeeding/chestfeeding is allowed wherever a breastfeeding/chestfeeding parent and baby are authorized to be. They also often prohibit someone from trying to move a breastfeeding/chestfeeding person, force a breastfeeding/chestfeeding person to cover their breast (or chest), or restrict breastfeeding/chestfeeding in any other way. These laws or resolutions may also state that breastfeeding/chestfeeding is not considered indecent exposure under the Tribe's criminal laws.

The Native Breastfeeding Coalition of Wisconsin developed a sample resolution in support of public breastfeeding, which is included in Appendix A of this toolkit. Coalition members worked with community champions and leaders to support adoption of similar resolutions by three Tribal Nations. (To learn more about this effort, see the Coalition's success story in Section Eight of this toolkit.)

Example: Excerpt From Title 6 Ho-Chunk Tribal Code Section 4-28 (of the Employment Relations Act)

a. Maternity/Paternity Leave. The Ho-Chunk Nation will provide maternity/paternity leave for regular employees when the employee has completed his or her ninety (90) day Initial Probationary Period, as the Nation deems he or she as a regular employee and specific conditions are met.

(1) Maternal Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Maternity Leave.

....

(3) Non-Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Non-Birthing Leave.

See Appendix A for a more complete excerpt from the Ho-Chunk Nation Employment Relations Act.

The Little Traverse Bay Bands of Odawa Indians adopted a similar Right to Breastfeed law in 2012 that has been codified in Chapter 8 of the Tribe's Waganakising Odawak Tribal Code of Law. The law establishes that interfering with a mother who is breastfeeding a child is a discriminatory practice that may result in a civil infraction.⁴ See Appendix A to read the full Right to Breastfeed law.

Worksite Breastfeeding/Chestfeeding Laws and Policies

A common, but important, type of breastfeeding/chestfeeding policy is one that protects and supports workers by requiring employers to provide break times and appropriate spaces for breastfeeding/chestfeeding and/or milk expression (referred to here as "lactation spaces"). These policies help increase the initiation and length of breastfeeding/chestfeeding, make it easier for a parent to go back to work, and can provide flexible options for breastfeeding/chestfeeding during work hours.

These policies can take the form of Tribal laws that cover most or all types of worksites. For example, in 2008, the Navajo Nation passed a law requiring employers within its territory and contractors with the Nation to provide ways for employees to continue to breastfeed, either by being able to breastfeed at work or having use of a breast pump during the workday.⁵ The law requires employers to provide a clean and private space that is not a bathroom and "a sufficient number of unpaid and flexible breaks" for breastfeeding or pumping.⁶ The Office of Navajo Labor Relations is charged with monitoring and enforcing the law, in the same way it enforces the Navajo Preference in Employment Act. Ho-Chunk Nation Employment Relations Act also includes a provision that allows its employees to have their babies at work for the purposes of breastfeeding. Appendix A includes another example of a de-identified, detailed and comprehensive law that supports both creation of lactation spaces at Tribal worksites and a right-to-breastfeed, developed by Tribal public health advocates in the Great Plains area.

Worksite policies can also be organizational policies adopted by a governmental department, child care center, health and wellness center, casino, college, school, or business.

The heart of a worksite law or policy is providing time and a supportive space for breastfeeding/chestfeeding and/or pumping while at work—a supportive space means not only a well-equipped lactation space (that is not a bathroom), but also a culture of support in the workplace. Many organizational policies also include components relating to breastfeeding/chestfeeding education, additional workplace supports, and maintaining a clean lactation space.

Break Time Considerations

Laws and policies commonly provide for "reasonable" break times, in terms of the number of breaks and how long the breaks should be. What is reasonable will vary by person and the job, so policies and/or implementation processes must allow for flexibility for employees and their supervisors to determine what makes sense for the specific situation. In general, breastfeeding/chestfeeding employees usually need to express milk two to three times in an eight-hour workday and can usually do so during their regular break times. The time needed to express milk or feed a baby during a break often takes about 20-30 minutes.⁷ But this of course can vary by person, and some people will need more time, for example, to minimize the chance of clogged ducts (and infection), walk some distance to the lactation space, or take

extra measures to clean the space before and after use.⁸ After six months, fewer breaks may be needed as babies often begin eating more solid food at this age.

If a workplace provides on-site child care or allows employees to bring their baby to work for the first few months, it may be more efficient for breastfeeding/chestfeeding parents to directly feed their infants.⁹ If extra time is needed outside of scheduled breaks, workers may have the option of using time under the Family and Medical Leave Act¹⁰ or other policy, and/or workplaces can be flexible about how and whether the employee has to make up the time.

Paid or Unpaid Breaks

Worksite support laws and policies typically require that if an employer provides paid break times to employees, it must allow breastfeeding/chestfeeding employees to use paid break time for breastfeeding/chestfeeding and/or milk expression. Federal and some state laws also state that an employee's pay cannot be docked for time used for milk expression and that employees cannot be required to do work during milk expression or breastfeeding/chestfeeding breaks. If they are working during that time, it is not a "break" (and they should be paid). Some Tribal laws and policies also specifically provide for paid breastfeeding/chestfeeding or milk expression breaks, which provides important support to employees.

Lactation Space Considerations

Setting out the minimum standards for a lactation space is a key part of worksite law or policy. Typically, this means requiring a private space that is shielded from intrusion (in other words, the door can be locked), that is as close as reasonably possible to the worksite, with access to an outlet to plug in a pump to express milk during the workday. A bathroom is not an acceptable space. Good lactation spaces will also have a comfortable chair, counter or table space, access to a sink, culturally specific items, and other features. Section Five has more information about creating supportive lactation spaces.

Identifying a lactation space can feel like a big challenge if one does not already exist. It is important to remember that the space can be a temporary space. One breastfeeding advocate shared the innovative idea of working with the Tribe's planning department in the future to propose a change to the Tribe's zoning law so that when new buildings are built, a lactation space would be included in the building design. This would literally "build in" lactation spaces across a community.¹¹

Where breastfeeding/chestfeeding is normalized and even celebrated, some employees may feel comfortable breastfeeding/chestfeeding or pumping in spaces that are not private or shielded from view. But that should be an option for employees who feel comfortable doing so and not an expectation.

Baby Age Limit Considerations

Another policy element is whether the requirement to provide break times and access to a lactation space will be limited based on the baby's age. Some people will stop breastfeeding/chestfeeding after the child reaches 12 to 15 months of age, whereas other people will continue beyond this time.¹² In earlier generations, it was customary for many Indigenous people to breastfeed/chestfeed babies for two years, with some carrying on the practice for much longer. This may be why many Tribal laws or policies provide supports beyond the first 12 months of a baby's life and/or do not include age limits.

Considerations for Bringing a Baby to Work

Non-Tribal worksite laws and policies commonly only address milk expression (pumping) and do not require employers to allow employees to bring their babies to work for breastfeeding/chestfeeding.¹³ However, Tribal policies can and do go beyond milk expression to give workers the flexibility to bring their babies to work for breastfeeding/chestfeeding.¹⁴

Being able to feed a baby directly (versus pumping) has multiple benefits including bonding time for the parent and baby, improved nutrition, and increased efficiency compared to pumping.¹⁵ COVID-19 has provided more employees with the opportunity to breastfeed/chestfeed directly due to increased remote work options. For employees who do not have the option to work remotely, there are still ways to make it possible for them to directly feed their infants safely during work hours.

On-site Care

If a workplace provides on-site child care or the Tribe offers a child care program near the worksite, a policy can allow breastfeeding/chestfeeding employees to feed their infants while working or to use their breaks to go to the off-site center to breastfeed/chestfeed.

Baby-on-site Options

For direct-feeding options, policies can allow for babies to be brought to work or to the breastfeeding/chestfeeding employee to feed during breaks. For example, the Ho-Chunk Nation adopted an employment law that allows its employees to have their babies at work for the purposes of breastfeeding. The law states that the Nation “provides a supportive environment to enable employees to breastfeed or express their milk during work hours,” and it specifically notes that workers may bring their infants or other dependents to work, with a supervisor’s approval, “to accommodate a mother’s right to breast-feed.”¹⁶

Similarly, some workplaces have “baby-on-site” policies that allow the parent to bring the baby to work, typically until the baby is six months old or becomes mobile. For these types of policies, there may be additional factors to consider, including what types of workers are covered (for some workers, such as bus drivers, culinary staff, or construction workers, it may not be safe for the worker to have their baby with them); what the employee’s responsibilities are if the baby becomes sick during the workday; guidelines if the employee needs to travel off-site for a meeting during the day; and other considerations.

The Inter-Tribal Council of Michigan developed a sample workplace policy that provides paid breaks for both milk expression and for breastfeeding/chestfeeding and allows workers to bring babies up to six months old with them where the job is safe to do so.¹⁷ The American Indian Health and Family Services in Detroit, Michigan, also has a detailed policy that allows many employees to bring their babies to work.¹⁸ The de-identified Tribal organizational policy example described on page 39 also includes this option.

Implementation Considerations

Including specific directions about who must tell workers about the policy (typically, supervisors or managers) and when they should be told (such as when they are first hired, and also when they first ask about or request parental leave) is also important. The law and policy could include an example of a good notice. Also, the policy should make clear that figuring out a workable break schedule is meant to be a truly collaborative process between managers and employees.

Additional Components That Can Be Found in Organizational Policies

Laws focused on worksites typically focus on the break time and lactation space requirements. In contrast, organization policies often go beyond these minimum requirements to address flexible schedules for people returning to work; lactation room set up, use and maintenance; milk storage; education and support services; and other factors. These types of components are not well suited for laws and are best addressed in organizational policies. For more about these types of provisions, please see Section Five on implementation.

Allowing Flexibility in Work Schedules and in How Employees Return to Work

Workplaces can provide options to support an employee's transition back to work and facilitate first food feeding. There are several return-to-work options that Tribal organizations can include in their policies to provide breastfeeding/chestfeeding employees flexibility when transitioning back to work. These include allowing employees to:

- return to work on a part-time basis at first and then transition to full time if applicable
- work remotely or combine working at home and working at the worksite
- work a split shift, allowing a large break in the middle of the day
- take Wednesdays off for a midweek break.

These return-to-work options may not be possible for all employees.



Lactation Room Setup, Use, and Maintenance

Organizational policies may include provisions that address the design, use, and maintenance of lactation spaces in ways that go beyond minimum legal requirements. For example, organizational policies may provide for culturally tailored decorations and supplies, the provision of a hospital-grade pump, cleaning supplies, and other features. It is also good to remember that as long as these spaces meet the requirements, they do not have to be dedicated spaces—they can also be temporary spaces (e.g., a vacant office or storage area with screens).

For agencies or organizations with a large staff, or with several breastfeeding/chestfeeding employees, it can be useful to include a process for scheduling lactation room usage, such as an electronic sign-in, sign-in sheet on the door, email notices, key checkout, or the like.¹⁹ Policies can also address employees' and employers' responsibilities for keeping the lactation room clean and sanitary.²⁰

Milk Storage

Organizational policies can also address whether the organization will provide facilities for storing milk, and if so, the employee's responsibility to clearly label milk. Milk storage options could include a personal cooler, a workplace-provided cooler, or a workplace-provided refrigerator.

Educational Supports

Organizational policies can also call for supervisors to help employees learn about breastfeeding/chestfeeding education programs and services. These programs and services may be offered by the employer or through the Tribe's health department or health center, Maternal and Child Health staff, WIC program, or other agencies in the community. Educational programs may include prenatal education, postpartum lactation counseling, and back-to-work education. Many pregnant or new parents may know something about the benefits of first food feeding, but they may not have experience with breastfeeding/chestfeeding or know about recommended practices. Employers can state in their policies that educational programs will be made available to employees at hiring, periodically, and/or when the employee informs their supervisor of a pregnancy.

Other Workplace Supports

Organizational policies can also include provisions establishing other workplace supports for breastfeeding/chestfeeding employees. Many of these supports are closely tied with how the policy is implemented. For example, policies can require or encourage supervisors to:

- include information about the basic needs of breastfeeding/chestfeeding employees in established training programs for managers and supervisors
- train all employees about the lactation policy and policy changes⁵
- include information about breastfeeding/chestfeeding policies and supports in the employee handbook
- encourage all supervisors and managers to be flexible about breaks for milk expression and allowing extra time for equipment sanitation needs
- support use of paid leave time to receive lactation services

- allow avenues for receiving ongoing feedback about the program from both breastfeeding/chestfeeding employees and other employees⁵
- post supportive signs and posters
- create a message board or bulletin board to promote sharing
- facilitate the creation of a peer support group.

Considerations Specific to Policies in Healthcare, Gaming, Child Care, and Educational Settings

Considerations Specific to Policies in Healthcare Settings

Many Tribal health departments, health centers, and Maternal and Child Health staff provide lactation space and support for their employees, patients, and also the wider community.

Staff at Tribal health departments and health facilities are valuable partners and champions in first food policy development. Often, they provide breastfeeding/chestfeeding educational and support services as part of their work. For example, Tribal health departments can offer programs to educate the breastfeeding/chestfeeding person's primary support network (partners, grandmothers, aunts, cousins, and friends) about the benefits of breastfeeding/chestfeeding and how to offer support, which can encourage lactation.²¹ These programs can also help partners understand the role they play in supporting breastfeeding/chestfeeding and help them develop and maintain strong ties with their family.²² Tribal health departments can also establish mother-to-mother (or parent-to-parent) support programs, which can provide a way for parents to share information and experiences and offer each other emotional support.²³ These programs can help to promote breastfeeding/chestfeeding as a cultural norm. The Tribe's WIC programs are also crucial partners in these programs.

Considerations Specific to Gaming Facility Policies

Employees at gaming facilities work in a wide variety of settings, from offices and gaming floors to kitchens/restaurants and hotels. Gaming facilities may require employees who work on the gaming floor to go through specific security steps when entering and leaving the gaming floor. This means that a gaming facility policy should be designed to provide flexibility to account for different conditions.

Gaming facility policies could also address the needs of restaurant customers and other visitors, especially those who may not be staying overnight and do not have a room to go to for breastfeeding/chestfeeding. Some gaming facilities may do this already through informal policies that make a vacant smoke-free designated room, lounge, or other private space available upon request, but it could also be incorporated into a formal policy.

Considerations Specific to Child Care/Early Care and Education Program Policies

Tribal Maternal and Child Health, early care, and education programs—including Early Head Start and Head Start, home visiting, and other programs—play a uniquely important role in supporting breastfeeding/chestfeeding families. In addition to having a worksite policy to support breastfeeding/chestfeeding by their own staff, child care programs can provide important supports for babies and parents through policies. These policies could address topics such as:

- providing prenatal and postnatal education and referrals for parents who are breastfeeding/chestfeeding or expecting parents who are interested in breastfeeding/chestfeeding
- making sure to talk about the baby's usual feeding pattern and family preferences as part of orientation for new families
- encouraging families to provide backup supplies of refrigerated or frozen human milk
- storage and use of human milk (including policies that make it clear that human milk is not a hazardous substance)
- providing a private space for parents to come in to breastfeed/chestfeed during the workday or school day.

Tribes can also incorporate first food education and supports into their Maternal and Child Health and home visiting programs geared towards expecting and new parents. This has been found to be effective in improving breastfeeding initiation or duration rates.²⁴ These programs can also refer breastfeeding/chestfeeding parents to lactation consultants or clinical providers to help with answering questions or problem solving.

Considerations Specific to Policies for K-12 Schools and Tribal Colleges

Breastfeeding/chestfeeding students also need an appropriate space, breaks, and other accommodations to breastfeed/chestfeed or express milk while in school. This would apply to both students who are in K-12 school and students at a Tribal college. Federal law, through Title IX of the Education Amendments of 1972 and its implementing regulations, prohibits discrimination against a student based on pregnancy and childbirth and related conditions.²⁵ However, federal law is unclear about what schools are required to do to support breastfeeding/chestfeeding students; it simply prohibits discrimination on that basis.²⁶ Tribal schools and colleges can adopt policies to proactively support breastfeeding/chestfeeding students (as well as employees) by providing appropriate lactation spaces and reasonable flexibility in scheduling so that they can pump or breastfeed/chestfeed as needed.

Additional Resources

Webinars and videos

- *Breastfeeding Support within the Ho-Chunk Nation* (CDC-U.S. Breastfeeding Coalition Bi-Monthly Coalitions Webinar, Feb. 13, 2018), <https://www.youtube.com/watch?v=FK07zZEyNLI> (webinar describing breastfeeding policy work across settings in the Ho-Chunk Nation)
- Camie Goldhammer, *Breastfeeding is Food Sovereignty* (Sept. 21, 2017 presentation for Food Sovereignty SD), <https://www.youtube.com/watch?v=IZN7zANzybo> (discussing breast milk as a traditional, first food and the importance of acknowledging it as a foundation of Indigenous food sovereignty work)

Written resources, focused on Indigenous communities

- Inter-Tribal Council of Michigan, *Breastfeeding: Following Tradition Works for Working Women* (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf (toolkit to support Tribal breastfeeding policies focused on worksites, with examples from Tribes and Tribal organizations in Michigan)
- Public Health Law Ctr. & Great Lakes Inter-Tribal Epidemiology Ctr., *Gifts Across Generations, Policies and Laws in Support of Breastfeeding in Bemidji Area American Indian Communities* (June 2021), <https://www.publichealthlawcenter.org/sites/default/files/resources/Gifts-Across-Generations.pdf> (Tribal breastfeeding policies in the Great Lakes Area)

Written resources, focusing on breastfeeding/chestfeeding policies in general

- Leila Barraza et al., *The Role of Law and Policy in Assisting Families to Reach Healthy People's Maternal, Infant, and Child Health Breastfeeding Goals in the United States* (Dep't of Health and Human Servs., Office of Disease Prevention and Health Promotion, 2020), <https://tinyurl.com/y45aunxc> (report discussing laws and policies that can support initiating and maintenance of breastfeeding/chestfeeding through the first year of a baby's life)
- Ctrs. for Disease Control and Prevention - Division of Nutrition, Physical Activity and Obesity, Breastfeeding and Early Care and Education (ECE), *Help ECE Centers and Homes Make an Impact by Supporting Breastfeeding Moms* (Jan. 2019) <https://www.cdc.gov/breastfeeding/pdf/ece-breastfeeding-factsheet-508.pdf> (fact sheet summarizing some state and local policies that support breastfeeding/chestfeeding in child care programs)
- Parenting in the Workplace Institute, *Resources*, <https://www.babiesatwork.org/resources> (providing template policies, fact sheets, and other resources for babies-at-work policies)
- U.S. Dep't of Health & Human Servs., Head Start Early Childhood Learning & Knowledge Ctr., *Breastfeeding: Tips for Head Start Staff*, <https://eclkc.ohs.acf.hhs.gov/nutrition/article/breastfeeding-tips-head-start-staff> (guidance for Head Start and other child care programs)

Sources

¹ Baby Friendly USA (launched by the World Health Organization and the United Nations Children's Fund) has a program to designate hospitals as "Baby Friendly," and Tribal hospitals have participated. *Hastings Hospital Deemed "Baby-Friendly,"* TAHLEQUAH DAILY PRESS, Sept. 21, 2015, https://www.tahlequahdailypress.com/community/community_briefs/hastings-hospital-deemed-baby-friendly/article_569f3a26-60a8-11e5-91e5-f30df89450ad.html. Also, the Indian Health Service has a Baby-Friendly Hospital initiative to support IHS facilities in developing policies and practices to create a culture that supports breastfeeding. See Indian Health Serv., *Breastfeeding Promotion and Support*, <https://www.ihs.gov/babyfriendly/> (undated).

² 29 U.S.C.A. § 2611 et seq. (West 2023). Appendix E has more information about the Family Medical Leave Act and other federal and state law supports.

³ 6 HO-CHUNK NATION CODE Section 5 (28) (Feb. 7, 2023).

⁴ LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, WAGANAKISING ODAWAK TRIBAL CODE OF LAW Sections 11.801 et seq. (updated

through Jun. 12, 2023), available at <https://ltbbodawa-nsn.gov/wp-content/uploads/2021/02/TribalCode.pdf>.

⁵ NAVAJO NATION HEALTHY START ACT OF 2008, codified at 15 NAVAJO CODE § 701 et seq. (2021), available at <https://www.nnols.org/wp-content/uploads/2021/02/V0030-1.pdf>.

⁶ 15 NAVAJO CODE § 704 (B) (2021).

⁷ U.S. Dep't of Health and Human Servs., Off. on Women's Health, *Supporting Nursing Moms at Work: Break Time and Private Space*, <https://www.womenshealth.gov/supporting-nursing-moms-work/break-time-and-private-space/time-breaks> (last updated Feb. 22, 2021).

⁸ Concerns about cleaning and sanitizing a space were particularly heightened during the COVID-19 pandemic, but also could apply during flu and cold seasons in general. See, e.g., WORKLIFE LAW AND THE U.S. BREASTFEEDING COMMITTEE, *YOUR COVID-19 WORKPLACE RIGHTS: BREASTFEEDING AND LACTATION*, <https://www.pregnantatwork.org/wp-content/uploads/Rights-of-Breastfeeding-Workers-in-the-Context-of-COVID-19.pdf> (undated fact sheet).

⁹ U.S. Dep't of Health and Human Servs., Off. on Women's Health, *Business Case for Breastfeeding*, <https://www.womenshealth.gov/breastfeeding/breastfeeding-home-work-and-public/breastfeeding-and-going-back-work/business-case> (last updated Feb. 18, 2021); and U.S. Dep't of Health and Human Servs., Off. on Women's Health, *Supporting Nursing Moms at Work: What Employers Need to Know*, <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know> (last updated May 23, 2023).

¹⁰ 29 U.S.C.A. § 2611 et seq. (West 2023).

¹¹ Breastfeeding Support within the Ho-Chunk Nation (CDC-U.S. Breastfeeding Coalition Bi-Monthly Coalitions Webinar, Feb. 13, 2018), <https://www.youtube.com/watch?v=FK07zZEyNLI> (at approximately 25:40 in the recording).

¹² U.S. Dep't of Health and Human Servs., Off. on Women's Health, *Supporting Nursing Moms at Work: Break Time and Private Space*, <https://www.womenshealth.gov/supporting-nursing-moms-work/break-time-and-private-space/time-breaks> (last updated Feb. 22, 2021).

¹³ The Parenting in the Workplace Institute was tracking organizations that have baby-inclusive policies, up until May 21, 2021. Their database is available at <https://www.babiesatwork.org/organizations>.

¹⁴ Julie Ralston Aoki & Meghan A. Porter, *First Food Policy and Law Scan: How Tribes in the Bemidji Area Are Applying Policy and Systems Approaches to Support Breastfeeding*, 18 PREV. CHRONIC DISEASE E73 (July 22, 2021), <http://dx.doi.org/10.5888/pcd18.200460>.

¹⁵ Catherine Crider, *What's Best for You? Exclusively Breastfeeding or Pumping?*, HEALTHLINE, Jan. 28, 2021, <https://www.healthline.com/health/breastfeeding/breastfeeding-vs-pumping>.

¹⁶ 6 HO-CHUNK NATION CODE Section 5 (18)(l) and (33)(e)(25)(a) (Feb. 7, 2023), available at <https://ho-chunknation.com/wp-content/uploads/2023/04/02.07.23-ERA.pdf> (cited in Breastfeeding Support within the Ho-Chunk Nation (CDC-U.S. Breastfeeding Coalition Bi-Monthly Coalitions Webinar, Feb. 13, 2018), <https://www.youtube.com/watch?v=FK07zZEyNLI>).

¹⁷ INTER-TRIBAL COUNCIL OF MICHIGAN, *BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN* 27 (2013), https://www.gliitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf.

¹⁸ A copy of the policy is on file at the Public Health Law Center.

¹⁹ MATERNAL AND CHILD HEALTH BUREAU OF THE HEALTH RESOURCES AND SERVS. ADMIN. (HRSA), *THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE* (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_easy-steps-to-supporting-breastfeeding-employees.pdf.

²⁰ As long as COVID-19 remains a concern, in addition to recommending that all employees (including breastfeeding/chestfeeding employees) get vaccinated (unless their doctor advises otherwise), workplaces should ensure there is the ability to physically distance (be six feet apart), stagger lactation schedules, and/or install physical shields between lactation stations. WORKLIFE LAW AND THE U.S. BREASTFEEDING COMMITTEE, *YOUR COVID-19 WORKPLACE RIGHTS: BREASTFEEDING AND LACTATION* (undated), <https://www.pregnantatwork.org/wp-content/uploads/Rights-of-Breastfeeding-Workers-in-the-Context-of-COVID-19.pdf>. See also Ctrs. for Disease Control and Prevention, *Care for Breastfeeding People: Interim Guidance on Breastfeeding and Breast Milk Feeds in the Context of COVID-19*, <https://stacks.cdc.gov/view/cdc/107294> (last updated June 17, 2021).

²¹ ALYSSA SCHNELL, *THE ROLE OF THE PARTNER IN BREASTFEEDING: HOW THE SUPPORT OF DADS, CO-MOMS AND OTHER PEOPLE MAKES A DIFFERENCE* (La Leche League Int'l) (Aug. 3, 2020), <https://www.llli.org/the-role-of-the-partner-in-breastfeeding-how-the-support-of-dads-co-moms-and-other-people-makes-a-difference>.

²² Thosh Collins, *A Dad's View on Supporting Breastfeeding*, WELL FOR CULTURE, Aug. 14, 2018, <https://www.wellforculture.com/blog/2018/8/13/a-dads-view-on-supporting-breastfeeding>.

²³ CTRS. FOR DISEASE CONTROL AND PREVENTION, *HOW COMMUNITIES CAN HELP: THE SURGEON GENERAL'S CALL TO ACTION TO SUPPORT BREASTFEEDING* (undated), https://www.cdc.gov/breastfeeding/pdf/actionguides/Communities_in_Action.pdf.

²⁴ See LEILA BARRAZA ET AL., *THE ROLE OF LAW AND POLICY IN ASSISTING FAMILIES TO REACH HEALTHY PEOPLE'S MATERNAL, INFANT, AND CHILD HEALTH BREASTFEEDING GOALS IN THE UNITED STATES* 65 (Dep't of Health and Human Servs., Office of Disease Prevention and Health Promotion, 2020), <https://tinyurl.com/y45aunxc>.

²⁵ 20 U.S.C. §§ 1681- 1688 (West 2023); U.S. Dep't of Educ., 34 C.F.R. §§ 106.21(c), 106.31, and 106.40 (2018).

²⁶ U.S. DEP'T OF EDUC., OFFICE OF CIVIL RIGHTS, *SUPPORTING THE ACADEMIC SUCCESS OF PREGNANT AND PARENTING STUDENTS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972* (2013), <https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.html>.



Photo credit: Great Lakes Inter-Tribal Council

Section Four: Writing the Policy Down

Basic Policy Elements

Community experiences and priorities should inform all the pieces of the policy. Table 2 below explains the typical elements and provides prompts for things to think about when developing and writing each element. Not every policy has to include every element. Which elements are needed will depend on the type of policy, what it covers, and the customs or practices of the Tribal government or organization. In general, a policy contains these elements:

- findings
- purpose
- definitions
- main policy provisions
- enforcement
- implementation
- evaluation (optional)
- exemptions or exceptions (only if necessary).

Table 2: Breastfeeding/Chestfeeding Policy Elements

<p>Findings</p>	<p>Findings are brief statements of fact, data, statistics, and other information that help explain the need for the policy. They can include information about:</p> <ul style="list-style-type: none"> • the health benefits of first food feeding for babies and parents • the Tribe’s breastfeeding/chestfeeding rates (if available) or area rates • the economic and community benefits of first food practices • things that can cause barriers, including the roles of forced assimilation and intergenerational trauma • the benefits to employers, including increased retention and a healthier and more productive workforce • teachings, beliefs, or principles related to breastfeeding/chestfeeding and human milk that are specific to the Tribe. <p>Findings are more commonly used in laws, resolutions, and executive orders. In these types of policies, they often begin with the word “whereas” and may be called “whereas clauses.” In organizational policies, they may be presented as background or introductory text.</p> <p>Think about:</p> <ul style="list-style-type: none"> • How do the findings support the purpose of the policy? • How do the findings anticipate possible concerns or challenges to the policy? • How do the findings address traditions, values, and purposes that are important to the Tribe? <p>Note: In laws, resolutions, and executive orders, many Tribes also include standard language about Tribal sovereignty, as well as references to treaties and other laws referring to Tribal sovereignty. Tribal attorneys will have this language.</p> <p>Example: The [Tribe Name] finds that breastfeeding has many health benefits to babies including: providing antibodies that help protect their immune systems from disease; fewer and less severe instances of bacterial meningitis, diarrhea, ear infections, respiratory infections, and urinary tract infections; and breastfeeding protects against future illness, obesity, and disease.</p> <p>[American Academy of Pediatrics, Policy Statement: Breastfeeding and the Use of Human Milk (March 2012), https://publications.aap.org/pediatrics/article/129/3/e827/31785/Breastfeeding-and-the-Use-of-Human-Milk?autologincheck=redirected.]</p> <p>Additional examples are in the policies included in Appendix A.</p>
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<p>Purpose</p>	<p>The purpose is a statement that explains the goal(s) of the policy. It could describe goals of creating work environments that support the first food, helping increase breastfeeding/chestfeeding in the community, and upholding the traditional practice of first food to preserve and promote cultural wisdom for resilience and health.</p> <p>Example (taken from a de-identified Tribal law): In recognition of the well-documented health advantages of breastfeeding for infants, mothers, the community, and employees, along with the aim to promote Indigenous cultural first food practices, the purpose of this [Section, Ordinance, Resolution, etc.] is to formally establish a supportive work environment and policy for tribal employees who are breastfeeding. The policy upholds traditional Lakota values in honoring women’s health and intends to ensure that employees of the Tribe who are breastfeeding may obtain the health benefits for not only themselves, and their families, but also for future generations. Additionally, there is a benefit to the Tribe in prioritizing the health and wellness of employees of the Tribe for a whole and well-functioning tribal community workplace.</p> <p>(The complete, de-identified law is included in Appendix A.)</p>
<p>Definitions</p>	<p>The definitions are detailed explanations of the key phrases or words in the policy. Definitions are important for promoting understanding. However, it is also important not to go overboard and define things that do not need to be defined.</p> <p>Think about:</p> <ul style="list-style-type: none"> • What are the key phrases or words that are essential for clear and consistent understanding of what the policy is about, who or what it applies to, who is responsible for carrying it out, etc.? • For example, “lactation room,” “milk expression,” and “infant” or “baby” may be important terms in a breastfeeding/chestfeeding policy. • Are there phrases or words that have a specialized meaning within the context of the policy, making a definition necessary? For example, a “lactation room” could be a space to support breastfeeding/chestfeeding on-site and/or pumping (“milk expression”). • Are definitions consistent with other definitions in the Tribal code? For example, if the term “employee” is defined in another part of the Tribal code, it is important to be aware of that definition when creating a worksite policy for government employees. • Are there phrases or words that could mean different things to different readers, so that a definition is helpful to avoid confusion? • Are the definitions written broadly enough to encompass new or emerging concepts or products without being overly broad? For example, more and more people are using the term “chestfeeding” along with “breastfeeding” to be more inclusive of a wider range of human perspectives and experiences.

<p>Definitions</p>	<ul style="list-style-type: none"> • Are there any terms that are unique to the Tribe that would be helpful to define? If so, consult local cultural experts for assistance and reference them by name or organization. <p>See Appendix A for an example of a policy with definitions.</p>
<p>Main policy provisions</p>	<p>The main policy provisions are the heart of the policy. They explain what the policy requires, including what is expected by the people who are covered by the policy. For workplace-focused policies, these provisions would typically:</p> <ul style="list-style-type: none"> • establish break times for milk expression or breastfeeding/chestfeeding • address whether the breaks will be paid or unpaid • describe the minimum standards for a lactation room • describe notice and implementation responsibilities for managers. <p>If the policy is designed to allow workers to bring their babies to work, this section would include information about the responsibilities of the breastfeeding/chestfeeding employee, the employer, and other workers to make sure this can be done successfully for everyone.</p> <p>For a right-to-breastfeed/chestfeed policy, these sections would explain the scope of the right (who has the right and where it applies) and what is required to recognize it.</p> <p>Think about:</p> <ul style="list-style-type: none"> • Are all the requirements and prohibitions reasonable? • Do the provisions clearly relate to the purpose of the policy? • Are the provisions consistent with other policies and laws of the Tribe or organization? • Are the provisions stated in a way that is as easy to understand as possible? • Is it clear to whom and where the policy applies? <p>These provisions will vary depending on the type of setting and type of policy. The de-identified Tribal organizational policy below provides an example of what implementation provisions can look like for a worksite focused policy.</p>



<p>Enforcement</p>	<p>The enforcement section typically identifies the parties responsible for enforcing the policy, outlines the enforcement procedures, describes any consequences for violating the policy, and any appeal process. The appropriate process will of course be unique to the Tribe. For example, a policy may include language stating that discrimination against breastfeeding/chestfeeding employees is not acceptable and assign responsibility to the Tribe’s human resources office (if available) for addressing complaints about discrimination or harassment. Policies that provide protections for breastfeeding/chestfeeding workers often lack clear enforcement provisions, which can undermine their effectiveness.¹</p> <p>Think about:</p> <ul style="list-style-type: none"> • What kinds of enforcement mechanisms does the Tribe or organization use for other policies that may be similar? For example, if the Tribe or organization has human resources staff, a worksite breastfeeding/ chestfeeding policy could be enforced the same way that other human resources policies are enforced. • What kind of enforcement mechanisms are appropriate, considering the community context and the nature of the policy? • Who would be responsible for enforcing the policy? • What, if any, additional resources or capacity would the Tribe or organization need to enforce the policy appropriately? For example, supervisors may need training about the benefits of breastfeeding/ chestfeeding, how to create a supportive environment, and what the policy requires so that they can implement and enforce it effectively. <p>Note: For examples, see the de-identified Tribal organizational policy on page 39 and Appendix A. Read Section Six of this toolkit for more information relevant to equitable enforcement considerations.</p>
<p>Implementation</p>	<p>The implementation section typically states the effective date for the policy, addresses how the policy should be publicized across the community or organization, and describes the steps needed to operationalize the policy.</p> <p>Think about:</p> <ul style="list-style-type: none"> • What kind of implementation processes does the Tribe or organization use for other policies that may be similar? For example, similar to other employment policies, a first foods support policy could be integrated into a staff handbook, the orientation process for new employees, and trainings for supervisors and staff. For a right-to-breastfeed/chestfeed law, educational materials and signs may be an important part of the implementation process to help create a supportive work environment.

<p>Implementation</p>	<ul style="list-style-type: none"> • What, if any, additional resources or capacity would the Tribe or organization need to implement the policy appropriately? For example, an important part of implementing a first foods support policy in an organization or workplace is providing a suitable private space for breastfeeding/chestfeeding or milk expression. This space often includes a comfortable chair, an outlet, and counter space. It can include additional features such as a sink (or quick access to a sink) for washing equipment, access to a refrigerator to store milk, cleaning supplies, and pleasant lighting and decorations to create a comfortable environment. • If the policy requires significant changes or adjustments, would a delayed implementation date be beneficial to allow people or organizations time to comply? <p>For example, Tribes, agencies, or organizations may need time to create lactation spaces or to develop guidelines and supports to allow workers to safely bring their babies to work.</p> <p>Note: See Section Five for more information relevant to implementation considerations.</p>
<p>Evaluation (often optional)</p>	<p>Including an evaluation component in policies is a preferred practice in public health. However, it is not commonly done, often due to practical considerations such as a lack of funding, expertise, and/or staff capacity to carry out evaluation activities.</p> <p>An evaluation section outlines the timeline and process to assess the effectiveness of the policy, including assessing how well it is meeting the goals or whether there are unintended consequences. It can also provide a framework for policy revision.</p> <p>Think about:</p> <ul style="list-style-type: none"> • Which department, agency, or staff role is best equipped to evaluate the policy? For example, health department staff may be able to evaluate a breastfeeding/chestfeeding policy, or a human resources department could create a simple employee survey to evaluate a worksite policy. • What kinds of measures make sense and are possible to do? For example, a community could try to measure awareness about a current or newly implemented breastfeeding/chestfeeding policy, or it could collect data about breastfeeding/chestfeeding rates before and after a policy is implemented. • How will the evaluation report(s) be shared with community members or the rest of the organization? • What actions should be taken in response to evaluation report(s) and by whom? <p>Appendix C includes an example of a simple evaluation form adapted from a Tribal health department policy.</p>

Table 3: Policy Example

This table contains excerpts from a personnel handbook for a Tribal organization. This policy example addresses the need for space and time, allows for employees to bring their babies to work, and expressly connects harassment based on breastfeeding to the organization's sexual harassment policy. It is relatively short yet comprehensive, and it includes important, key policy elements.

Policy element	Policy language
Findings	[The Organization] recognizes the importance of breastfeeding for both mother and infant.
Purpose	[The Organization] will support continuation of breastfeeding upon the mother's return to work.
Main policy provisions	Management and employees shall work together to find mutually agreeable hours of work and breaks which support the continuation of breastfeeding. This shall be done within the policies of [the Organization].
Enforcement	Statement of Breastfeeding Harassment: The employee's supervisor shall be informed immediately if an employee is subjected to any type of harassment, perceived or otherwise, with respect to breastfeeding. The Sexual Harassment policy shall then be followed to address the harassment.
Main policy provisions and implementation	Breastfeeding Guidelines: Employees may have their babies brought to work at break time and/or lunchtime to be breastfed. [The Organization] shall also provide a reasonable amount of break time to accommodate an employee desiring to express breast milk. The break time shall, if possible, run concurrently with any break time already provided to the employee. Flexibility regarding timing of these scheduled breaks or additional time required will be discussed with the Supervisor. The employee will be responsible for making up any additional time taken, in consultation with the Supervisor. The employer shall make reasonable efforts to provide the employee with the use of a room or other location in close proximity to the employee's work area for the employee to feed the baby or express milk in private. The room or location may include the place where the employee normally works, if privacy can be maintained. Employees will be responsible for the storage of the expressed milk. The milk may be stored in any [Organization] refrigerator and must be labeled with the employee's name to ensure the safety of stored breast milk.

Be Cautious When Considering Exceptions or Exemptions:

Exceptions or exemptions from the policy may also be included if they are essential to achieve the purpose of the policy. People who are worried about the policy's impacts are likely to propose exemptions or exceptions, so a coalition should be ready to address worries and limit them as much as possible. Exceptions or exemptions can undermine the policy if they are too broad so they should be treated with caution. If there are exceptions or exemptions, they should be kept as narrow as possible.

A Framework for the Writing Process, Starting with Community Engagement

Effective laws and policies start and end with community engagement, and this is especially important for public health policies such as a first foods law or policy. Ideally, a right-to-breastfeed/chestfeed law or worksite-focused law or policy will be largely self-enforcing. When supporting breastfeeding/chestfeeding is a shared value and is integrated into the cultural and social norms of a community, it will be easier to make sure that people are able to breastfeed/chestfeed their babies and feel comfortable doing so.

With this in mind, the most important part of any policy writing process is not actually the writing part, but instead it is talking with and gathering input from community members, employers, health department staff, Tribal leaders, and other people who will be invested in a breastfeeding/chestfeeding support policy.

A Framework for Developing a Policy

The process of writing a policy includes four main stages: **research, engage, invite, and revise.**² Each stage is vital, but they can happen in different orders. Advocates may start at different stages, and sometimes work in two or more stages can be happening at the same time. So although the stages are mentioned here in a certain order, people should follow the process that works best for their communities or organizations.

The **research** step includes gathering research about the need for the policy and how it could support health. Research can be used to write the findings and purpose sections of a policy and also provide information to support media campaigns and other educational efforts.

The Public Health Law Center has developed a detailed resource on developing and writing effective Tribal public health laws and policies (listed in Additional Resources on page 43). That resource provides additional information about community engagement and the policy writing process that is not included in this toolkit.

Research can also be done to understand what policies may already exist within the community and to collect policy examples from other Tribes or Tribal organizations. Research also includes identifying the key decision-makers. They may be Tribal leadership, departmental directors, or organizational leaders. Identifying decision-makers can be important for gaining buy-in, gauging support, and getting feedback. Decision-makers are also the ones who have the authority to develop and implement the policy. In addition, research can be done to identify the best way to get the policy adopted. For example, a policy might fit better in a Tribal government human resources manual than in the Tribe's legal code, or vice versa. The Tribe's legal counsel will be a critical source of guidance on these questions.

Another phase of policy writing is to **engage** a local champion and/or a coalition subcommittee or similar group to help write the policy. The policy-writing group can talk through questions, feasibility concerns, and possible compromise areas so that the coalition can be prepared if tough questions come up. For example, for a workplace law or policy, the group can talk through considerations around whether paid breaks could be required or if a policy should address both bringing a baby to work and milk expression, as well as how to do that. Engaging the Tribe's legal counsel relatively early in the drafting stage (with leadership's buy-in, of course) can help to avoid unnecessary surprises and confusion.

Another step is to **invite** input and feedback on the policy idea and language. This process can build on the foundation of community engagement already in place and use whatever means of outreach is appropriate for the Tribal community and situation. This can include inviting ideas on how to make sure the policy both incorporates the Tribe's language and culture and reflects the Tribe's values. It can also include input on the process of rolling out and implementing the policy (e.g., identifying and creating a lactation space, preparing signs, etc.) and how much time will be needed for these steps.

Checking in with Tribal leadership about the policy idea and writing process can be an important way to invite support and feedback. In talking with Tribal leadership, as well as other key influencers (such as business managers), being ready with messages that emphasize the positive and/or neutral impacts of the policy change is a good strategy. This includes highlighting the benefits of the breastfeeding/chestfeeding policy for parents, infants, future generations, and employers. Expert partners could also help present the policy idea to leadership, including health department staff, Maternal and Child Health staff, WIC program staff, lactation support counselors, home visiting program staff, and community leaders, such as Elders, coalition leaders, and community members who are breastfeeding/chestfeeding and their supporters. One advocate shared that having the help of a Tribal family physician who worked for the clinic was a key part of their success in getting a policy adopted; it was also helpful for promoting the policy.

Finally, the group should **revise** the policy draft to reflect input and feedback from community members and other key parties as much as possible. This process needs to recognize the importance of compromise while at the same time maintaining the effectiveness of the proposed law or policy and being grounded in a feasible implementation process. An organization that provides legal technical assistance can review the draft law and help; but again, the coalition and Tribal attorney is a crucial part of this process.

Drafting Tips

Using the stages of research, engage, invite, and revise, all founded in community engagement, will help result in a feasible, culturally specific policy that is well grounded in the needs and values of the community. In addition to following this framework, here are some practical tips that can be used during the writing process:

- **Be clear and specific.** Use definitions as needed. Make sure that meanings and intentions are clear.
- **Be concise.** Choose words carefully and with readability in mind.
- **Be consistent.** Make sure that all parts of the policy work together to support the goal and that the policy language is consistent with other policies of the Tribe or organization.
- **Be practical.** Be ambitious but also realistic with what the policy can accomplish, and make sure that the implementation and enforcement provisions are feasible and provide clear guidance.
- **Be true to the community.** Incorporate the Tribe's language, culture, and values. Tailor the policy to the community or organization; avoid just cutting and pasting language.
- **Be connected.** Make sure the policy writing is informed by community engagement and research about the larger policy landscape for the organization or the community: What other relevant laws or policies exist? Where are the gaps? How does the organization or community make new policies? Also, be sure to connect with others to write the policy.

A well-written policy that is supported by a strong community engagement process will make a compelling case to decision-makers. After the policy is finalized, it should be sent to the appropriate leadership for approval; this process will vary by Tribe and organization. Once a policy is adopted, celebrating publicly is an important initial implementation step; it can bring awareness to the policy and promote first food as a cultural norm within the community or organization. The next section provides more advice about implementing a policy.



Once a policy is adopted, celebrating publicly is an important initial implementation step; it can bring awareness to the policy and promote first food as a cultural norm within the community or organization.



Additional Resources

- Northwest Portland Area Indian Health Board and Nat'l Indian Child Welfare Ass'n, *Tribal Policy Guide* (2019), <http://www.npaihb.org/wp-content/uploads/2016/02/Toolkit-for-Policy-Change-Interactive.pdf> (an in-depth and comprehensive policy guide designed to support community-driven and culturally-informed policy development for Indigenous communities)
- Public Health Law Center, *Drafting Tribal Public Health Laws & Policies to Reduce and Prevent Chronic Disease* (2020), <https://www.publichealthlawcenter.org/sites/default/files/resources/Drafting-Tribal-Public-Health-Laws-2020.pdf> (a short policy guide for developing Tribal public health laws and policies, with a focus on community engagement)

Sources

¹ See LEILA BARRAZA ET AL., THE ROLE OF LAW AND POLICY IN ASSISTING FAMILIES TO REACH HEALTHY PEOPLE'S MATERNAL, INFANT, AND CHILD HEALTH BREASTFEEDING GOALS IN THE UNITED STATES 72 (Dep't of Health and Human Servs., Office of Disease Prevention and Health Promotion, 2020), <https://tinyurl.com/y45aunxc>.

² This framework was adapted from the Cherokee Nation's Healthy Tribal Nations Toolkit (copy on file with Public Health Law Center).



Section Five: Implementation



policy may be passed and approved by leadership, but putting it into action can be a challenging part of the process. Putting a policy into action in a good way is what implementation is all about.¹ Normalizing change is an important and critical piece of the implementation process.

Normalizing First Food as Medicine

One important component of implementing a breastfeeding/chestfeeding policy is destigmatizing breastfeeding/chestfeeding and normalizing first food as medicine. Some community members may have concerns about safety connected to historical oppression, experiences of sexual violence, or individual adverse experiences. People understandably can feel uncomfortable breastfeeding/chestfeeding at workplaces or in the community due to the hyper sexualization of women being a reality of today's society, especially for Indigenous women. And some Indigenous women may feel shy about exposing their bodies in public for breastfeeding because of a cultural emphasis on modesty.²

One step toward destigmatizing this practice is to emphasize the cultural relevancy and openly support the practice at the community level. Providing community members, supervisors, and other people with culturally specific education about first food practices should be part of the implementation process. This education can help build buy-in around the policy so that people will naturally follow it. Supporting breastfeeding/chestfeeding at workplaces and using media to

deepen awareness can help to make breastfeeding/chestfeeding in public feel like a normal part of daily life. Posters and images of breastfeeding can be placed in public spaces and workspaces to create a positive and affirming environment. Open conversations about the health, cultural, and economic benefits of breastfeeding/chestfeeding should be supported in the community and at worksites. Another strategy is to uplift local support groups to start conversations about the importance of first food and the traditional teachings around it. It is also critical for community members to teach children about the benefits of first food to normalize breastfeeding/chestfeeding for future generations.

Provide Training and Education About the Policy

In addition to culturally specific education about first food as medicine, another important implementation practice for all types of policies is to educate people about the new policy (or changes to the policy). This is especially relevant for the people and organizations who will be directly affected by the policy. Often, it falls to the breastfeeding/chestfeeding person to raise awareness about the policy and advocate for consistent implementation, so training for all employees, including supervisors, is crucial. For worksite lactation policies and other types of organizational policies, new staff can be trained on the policy/policies as part of their onboarding process, while other staff can be trained annually. Annual training can increase awareness about and compliance with the policy, and it provides a routine opportunity to tell staff about updates to the policy.

For a law, information and training on the policy is a critical part of rolling out a new policy. Community members, those who will be responsible for monitoring or enforcing the policy (such as law enforcement in the case of a right-to-breastfeed law), and other key parties should receive information and training (if applicable) about the new policy and how it will be implemented. For an organizational policy, a new policy should be promoted with staff and leadership within the organization. For a lactation support policy, promoting it outside the organization can also help establish a positive image for the organization within the community.³ The Inter-Tribal Council of Michigan's breastfeeding policy toolkit lists several good ideas for ways to build interest in and awareness of a breastfeeding/chestfeeding policy,⁴ including:

- employee wellness or health fairs
- staff meetings
- open houses for the lactation room
- articles in newsletters or newspapers
- social media
- new employee informational packets
- employee handbook
- word-of-mouth
- organization wide mailing or email.

A breastfeeding/chestfeeding law or policy, and worksite lactation policies in particular, can be established in many different kinds of settings—Tribal government offices, health clinics, hospitals, schools, colleges, casinos, child care programs, and businesses. Each setting will have its own challenges and opportunities for implementation. For example, casinos are likely to

have special security measures for gaming floor employees when leaving or entering the gaming floor; these should be taken into account when thinking about lactation spaces and flexible break times. Schools also have regimented schedules, testing days, and other issues to consider when thinking about providing lactation time and space for students, as well as staff. A hospital implementing a baby-friendly hospital policy will need to train and support staff about how to support breastfeeding/chestfeeding patients, the downsides of free formula giveaways, and other issues that go beyond a worksite lactation policy. Because each setting and situation will give rise to unique considerations, this means that a strong community engagement process is all the more important. The people who help with developing the policy will also have expertise and practical wisdom to help navigate issues for successful implementation.⁵

Because worksite lactation policies are one of the most common (and important) types of first food policies, this section focuses on considerations especially relevant to those policies. Breastfeeding/chestfeeding employees who are returning to work face three main concerns: 1) availability of a private space for pumping or breastfeeding/chestfeeding; 2) worries that supervisors and co-workers will perceive them as less productive; and 3) that co-workers will be uncomfortable or resent them.⁶ A good worksite policy should address all these factors.

Practical Implementation Considerations for Worksite Lactation Policies

Lactation Space

A key issue for implementing worksite lactation policies is the question of providing a suitable space for milk expression or breastfeeding/chestfeeding. Some organizations in the community may not have the funding or space to develop a lactation room. One strategy to overcome this barrier is to research local breastfeeding coalitions' websites for grant funding opportunities, as they may post different funding opportunities that are available. Another strategy is to remind partners that space as small as five feet by four feet can be used, as long as it is private, fits a chair, table, has an electrical outlet, and is near a sink.⁹ Closets, storage rooms, conference rooms, or unused offices can be converted into lactation space. Partitions and screens can be used to cost-effectively create a temporary lactation space within another room or to create several spaces for a lactation "suite."¹⁰ Using a space with a window that can be opened and/or a HEPA air filter to allow for fresh air is also a good idea.

Below are some basic guidelines for identifying and establishing lactation rooms or spaces.¹¹

- Facility management staff and at least one employee who has first-hand experience with milk expression and breastfeeding/chestfeeding should help with assessing lactation space options.
- Options for the types of spaces that could be used include:
 - » employee's own office (if the employee has one and it is private or can be made private)
 - » infrequently used or vacant office space, conference room, or other room
 - » infrequently used space near an employee restroom or lounge
 - » infrequently used closet or storage area

- » a small section of a room that can be made private through the use of portable partitions.
- Essential room/space features include:
 - » it is private, screened from view, and if it has a door, the door can be locked
 - » an electrical outlet
 - » a safe, clean environment
 - » a chair and table/surface for a breast pump
 - » a space near, or with access to, a sink.
- Optional, but recommended, room features include:
 - » a space near or with access to a refrigerator to store expressed milk
 - » a white noise machine
 - » decorations that are culturally grounded and promote relaxation
 - » a mirror (useful for checking appearance/clothing after feeding or pumping)
 - » hanging hooks or lockers, to store personal belongings.

Pumping Equipment and Storage Space for Milk

For people who cannot bring their babies to work or who need to express milk, having access to a pump is essential. People can use a personal pump or the employer/organization can purchase or rent a shared hospital-grade pump (with users bringing their own tubing and storage containers). Federal law requires most health insurance plans to cover the costs of breastfeeding support and counseling services from a trained provider, as well as equipment rental or purchase.¹² The Tribe may also have a policy to provide financial support for buying a pump and sanitation equipment, or the health center may have a policy to rent pumps to community members.

Another practical implementation component is providing storage space for human milk through a shared refrigerator, freezer, or similar space. Appendix C has a simple chart that provides milk storage guidelines that can be taped to a refrigerator or placed in a lactation room.

Lactation Support

Providing support for expecting and new parents can also be part of policy implementation. Many Tribes have their own lactation consultants on staff, and there are also growing numbers of doulas and breastfeeding/chestfeeding counselors who have gone through Indigenous Breastfeeding Counselor training and can provide culturally specific services and supports for pregnancy, birthing, lactation, post-birth, and cleaning and sanitizing milk expression equipment. Local and regional breastfeeding coalitions such as the Native Breastfeeding Coalition of Wisconsin¹³ or the Indigenous Breastfeeding Coalition of Minnesota¹⁴ can be good contacts to find Indigenous breastfeeding counselors.

Communications Campaigns to Support Implementation

A communications campaign, also referred to as a media campaign, is a set of coordinated marketing activities designed to educate and inform people about an issue or policy change. Campaigns can be implemented through a variety of platforms, including newspapers, television, radio, posters, billboards, pamphlets, emails, and social media. The platform that makes the most sense to use will depend on the audience and the forms of media that they are most likely to use.

These campaigns are an important policy implementation tool because they can help inform community members and employers about new policies that will have an impact on them. A strategic and culturally relevant campaign can inform, raise awareness, and encourage changes in attitudes and behaviors. A purposeful campaign can increase knowledge and understanding, secure buy-in, and motivate the development of positive attitudes around breastfeeding/chestfeeding policies in the community.

Online media and virtual meeting applications have become an essential tool for communications. This is especially true in the aftermath of the COVID-19 pandemic, which made face-to-face interactions, especially with people outside of the family household, much rarer at times. Social media already was used broadly worldwide before the pandemic, and usage has only increased, with social media becoming a primary way to communicate, get information about current news, and bring awareness to issues.⁷ Video conferencing platforms have also increased as a way to connect and share information with people virtually, and can be used to hold awareness raising events or as a tool to support survey delivery by giving people an opportunity to ask questions about a survey in a virtual setting.

Using social media as part of a communications campaign can be an effective way to connect with community members about breastfeeding/chestfeeding policies. It is a cost-effective strategy that can reach a large audience and can encourage community participation and conversation. Examples of social media platforms that can help share the media campaign information are Facebook, Instagram, Twitter, YouTube, TikTok, Snapchat, and LinkedIn. Tribal staff will know the best media platforms to use. To effectively communicate the message using social media, use easily approachable and culturally tailored language, include hashtags, keep it short and instructive, know the audience, and encourage a call for action, such as “contact us” or “learn more” statements with links.

Online media, email, and virtual meeting tools require reliable access to the internet, which is a challenge for many Indigenous people and communities. The Federal Communications Commission (FCC) is working to increase access to broadband access in American Indian/Alaska Native (AI/AN) communities, as 53.4% of rural AI/AN communities do not have access to fixed broadband coverage.⁸ Grant programs, such as the National Tribal Broadband Grant, have a goal of bringing broadband services to AI/AN communities. There is still work that needs to be done to decrease the gap in broadband access, so media campaign strategies should also incorporate print material and other mechanisms for the delivery of information.

Printed pamphlets, posters and other materials can be made available at community centers and health centers. These materials can also be designed to be easily accessed through email as well as in print form, so they can be distributed both electronically (through email, or social media) as well as by mail or in-person.

Information about new policy changes can be featured in newspaper stories, mailed flyers, and radio broadcasts. Another strategy is to follow up with people through phone calls to encourage feedback and engagement. Recommendations for effective and informative pamphlets, flyers, and newspaper articles include having plain language, using engaging

graphics, and ensuring the overall product is visually appealing and culturally relevant. Using community engagement to receive feedback on recommendations about communications material design and content can ensure it is reflective of community voices.

Here are examples of engaging, culturally tailored communications materials that could be helpful (and Appendix B has more sample materials):

- American Indian Cancer Foundation, *Mother's Milk is Medicine* flyer, <https://www.facebook.com/AmericanIndianCancer/photos/2784449331587766> (featured on a Facebook post)
- Great Plains Good Health and Wellness Program flyers/handouts
 - » *The ABC's of Breastfeeding*, <https://www.greatplainstribalhealth.org/downloads/health-topics/health-promotion-prevention/good-health-wellness-program/tradition-and-nutrition/46-abc-s-of-breastfeeding-poster-18x24/file.html>
 - » *Bring Back the Tradition of Breastfeeding*, <https://www.greatplainstribalhealth.org/downloads/health-topics/health-promotion-prevention/good-health-wellness-program/tradition-and-nutrition/48-bringing-back-the-tradition-of-breastfeeding-poster-24x18/file.html>
- Inter-Tribal Council of Michigan, *Breastfeeding: Following Tradition Works for Working Women* 41-42 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf (has sample newsletter piece, sample news article, and additional communications materials available on a CD upon request)
- Native Breastfeeding Coalition of Wisconsin, *Nourishing Our Futures*, <https://twitter.com/NBCofWisconsin/status/1407783043415175169/photo/1> (example of a Tweet/media post promoting breastfeeding)
- Native Breastfeeding Coalition of Wisconsin, *Breastfeeding is Healing*, <https://www.glitc.org/programs/family-health-services/native-breastfeeding-coalition-of-wi/overview/> (features three posters that promote breastfeeding as healing)

Sources

¹ PEW RESEARCH CTR., SOCIAL MEDIA FACT SHEET (Apr. 7, 2021) <https://www.pewresearch.org/internet/fact-sheet/social-media/>.

² For example, Zoom usage increased from ten million daily users in December 2019 to 300 million daily users in April 2020. Mansoor Iqbal, *Zoom Revenue and Usage Statistics*, Bus. OF APPS (Jul. 18, 2023), <https://www.businessofapps.com/data/zoom-statistics/>.

³ U.S. Dep't of the Interior, Indian Affairs, *Expanding Broadband Access* (undated), <https://www.bia.gov/service/infrastructure/expanding-broadband-access>.



Postpartum Lactation Supports

Postpartum lactation support by a professional can help increase the duration of breastfeeding/chestfeeding. This benefits the breastfeeding/chestfeeding person and their baby, and it also benefits the employer. As explained in Section One, breastfeeding/chestfeeding is linked with healthier employees and babies, which contributes to reduced healthcare costs and greater employee productivity and retention.¹⁵ Employers can arrange with the Tribe's health department staff, WIC staff, lactation consultants, Indigenous breastfeeding counselors, and other community resources to provide education and lactation supports for employees and their partners.

Below are some other kinds of support that employers can provide as well:

- Hold lunch and learn opportunities for employees and their partners to learn about first food as medicine and breastfeeding/chestfeeding support in the workplace.
- Help employees navigate the health care benefits available to support work with a lactation consultant.
- Provide a resource list to help employees and their partners connect with:
 - » Indigenous breastfeeding counselors and other lactation consultants in the community
 - » health department services
 - » 24-hour breastfeeding/chestfeeding hotlines
 - » support groups
 - » other services.
- Support employees as they manage challenges in returning to work while continuing to breastfeed/chestfeed, including:
 - » knowing where to express milk at work
 - » navigating how to talk with a supervisor about their needs
 - » dealing with the physical and emotional demands of returning to work¹⁶
 - » creating time to support proper cleaning and sanitizing of pumping equipment.



Other Workplace Supports

Creating a supportive culture for breastfeeding/chestfeeding in the workplace is essential. Leadership and managers play a key role in creating a supportive environment,¹⁷ but in many worksites, they may be learning along with the breastfeeding/chestfeeding employee. Workplace support should start with the new hire orientation process, but it is especially relevant when an employee tells their supervisor they are expecting. Leadership, supervisors, and human resources staff should be trained on the policy and about the health, cultural, and economic benefits of supporting first food feeding. Supervisors and human resources staff should be responsible for and supported in proactively ensuring that information about the breastfeeding/chestfeeding policy is disseminated to all employees, both at hiring and with periodic reminders. Supervisors and other staff should feel empowered to speak up about supporting first food practices, encourage the posting of educational and supportive posters in the worksite, and promote the development of peer-support networks for breastfeeding/chestfeeding workers.

Supervisors, colleagues, and other breastfeeding/chestfeeding employees can support the employee in many ways.

Support From Supervisors

Supervisors can support employees by sharing information about programs, policies, and facilities that support milk expression and breastfeeding/chestfeeding at the workplace. The following recommendations can help supervisors show open support of breastfeeding/chestfeeding employees:

- Include information about the basic needs of breastfeeding/chestfeeding employees in established training programs for managers and supervisors so they are ready to talk with employees about this topic as soon as they learn they are expecting.
- Train all employees about the lactation policy and any policy changes.¹⁷
- Include information about breastfeeding/chestfeeding policies and supports in the employee handbook.
- Encourage all supervisors and managers to be flexible about breaks for milk expression or breastfeeding/chestfeeding.
- Seek out and display posters and other visuals that show positive images of breastfeeding/chestfeeding.
- Allow workers to attend prenatal classes offered in the community during the workday without having to take paid leave.

The Tribe's Maternal and Child Health staff may be able to help with these activities.

Support From Colleagues

The majority of co-workers, especially those with children, are likely to support breastfeeding/chestfeeding policies.¹⁸ However, sometimes a co-worker may view another co-worker as getting special treatment due to the breastfeeding/chestfeeding support policy, and may express resentment. If a breastfeeding/chestfeeding employee is worried

about how a colleague may perceive them, they may stop breastfeeding/chestfeeding sooner than planned or not talk to their supervisor to request lactation support.

The following recommendations can help gain buy-in and support from all employees.¹⁹

- Involve other employees as part of the initial planning phase of a lactation policy so their potential concerns can be addressed and so they feel invested in the policy.
- Promote the policy and support services as a health benefit for all new employees at orientation.
- Communicate the positive benefits of the policy (lower turnover, high productivity, faster return to workforce, etc.).
- Provide ways to get feedback from both breastfeeding/chestfeeding employees and other employees about how the policy is working for them (such as through a feedback form).

Breastfeeding Peer Support

Parent-to-parent support is a way to share valuable information and experiences about breastfeeding/chestfeeding while working. Worksites can encourage this kind of support by setting up monthly meetings (such as a lunch and learn), creating some kind of e-forum or intranet page to share information electronically, or providing a bulletin board in the lactation room to share photos or notes of encouragement.

Additional Resources

Guidelines for lactation rooms

- AM. INSTITUTE OF ARCHITECTS, RECOMMENDATIONS FOR DESIGNING LACTATION/WELLNESS ROOMS (Summer 2016), <https://wellnessroomsite.files.wordpress.com/2016/08/17-0908-eng.pdf> (providing guidelines for size, location, design and features for lactation rooms)
- Inter-Tribal Council of Michigan, *Breastfeeding: Following Tradition Works for Working Women* 10-16, 41-42 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf (describes essential and recommended lactation space components and other workplace supports; also has sample newsletter piece, sample news article, and additional communications materials available on a CD by request)

Sources for connecting with Indigenous breastfeeding/chestfeeding counselors and other lactation supports

- Indigenous breastfeeding coalitions:
 - » Native Breastfeeding Coalition of Wisconsin, <https://www.glitc.org/programs/family-health-services/native-breastfeeding-coalition-of-wi/overview/>
 - » Indigenous Breastfeeding Coalition of Minnesota and other regional and Tribal coalitions, <https://www.mnbreastfeedingcoalition.org/coalitions>
- Indigenous Breastfeeding Counselor Facebook, page <https://www.facebook.com/IndigenousBreastfeedingCounselor>

Building co-worker support

- World Health Organization, *Breastfeeding and Work: What Co-workers Can Do*, <https://twitter.com/WHO/status/1026814804898574336> (infographic about what co-workers can do to be supportive of breastfeeding co-workers)

Communications resources: Posters, flyers, and similar materials

- Great Plains Good Health and Wellness Program flyers/handouts
 - » *The ABC's of Breastfeeding*, <https://www.greatplainstribalhealth.org/downloads/health-topics/health-promotion-prevention/good-health-wellness-program/tradition-and-nutrition/46-abc-s-of-breastfeeding-poster-18x24/file.html>
 - » *Bringing Back the Tradition of Breastfeeding*, <https://www.greatplainstribalhealth.org/downloads/health-topics/health-promotion-prevention/good-health-wellness-program/tradition-and-nutrition/48-bringing-back-the-tradition-of-breastfeeding-poster-24x18/file.html>
- Michigan Breastfeeding Network, *Breastfeed Anytime, Anywhere*, <https://mibreastfeeding.org/wp-content/uploads/2018/08/BAA-8.5-x-11-Poster-professional.pdf> (poster)
- Michigan Breastfeeding Network, *Breastfeeding is good for everyone*, <https://mibreastfeeding.org/wp-content/uploads/2018/06/Breastfeeding-is-good-for-everyone-flyer.pdf> (poster/flyer illustrating benefits of breastfeeding for babies, mothers, families, business, and the environment)
- Native Breastfeeding Coalition of Wisconsin, *Breastfeeding is Healing*, <https://www.glitc.org/programs/family-health-services/native-breastfeeding-coalition-of-wi/overview/> (features three posters on the bottom of the page that promote breastfeeding as healing)

Sources

¹ Ctrs. for Disease Control and Prevention, Off. Of the Assoc. Director for Policy and Strategy, *Policy Implementation*, <https://www.cdc.gov/policy/polaris/policyprocess/implementation/index.html>. (last updated Mar. 5, 2021).

² For a discussion of some of these social and cultural issues, see Joan Dodgson et al., *An Ecological Perspective of Breastfeeding in an Indigenous Community*, 34 J. NURSING SCHOLARSHIP 235 (2002), https://www.academia.edu/13708924/An_Ecological_Perspective_of_Breastfeeding_in_an_Indigenous_Community.

³ MATERNAL AND CHILD HEALTH BUREAU OF THE HEALTH RESOURCES AND SERVS. ADMIN. (HRSA), *THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE* 17 (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_easy-steps-to-supporting-breastfeeding-employees.pdf.

⁴ INTER-TRIBAL COUNCIL OF MICHIGAN, *BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN* 19 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf.

⁵ Ctrs. for Disease Control and Prevention, Off. of the Assoc. Director for Policy and Strategy, *Policy Implementation*, <https://www.cdc.gov/policy/polaris/policyprocess/implementation/index.html> (last reviewed March 5, 2021).

⁶ Jie Zhuang et al., *The Impact of Coworker Support and Stigma on Breastfeeding After Returning to Work*, 46 J. APPLIED COMMUNICATION 491, 493 (2018), https://www.researchgate.net/publication/326516897_The_impact_of_coworker_support_and_stigma_on_breastfeeding_after_returning_to_work.

⁷ PEW RESEARCH CTR., *SOCIAL MEDIA FACT SHEET* (Apr. 7, 2021), <https://www.pewresearch.org/internet/fact-sheet/social-media>.

⁸ U.S. Dep't of the Interior, Indian Affairs, *Expanding Broadband Access* (undated) <https://www.bia.gov/service/infrastructure/expanding-broadband-access>.

⁹ MATERNAL AND CHILD HEALTH BUREAU OF THE HEALTH RESOURCES AND SERVS. ADMIN. (HRSA), THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE 8 (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_easy-steps-to-supporting-breastfeeding-employees.pdf; see also INDIAN HEALTH SERV., INDIAN HEALTH MANUAL, PART 4 CHAPTER7: LACTATION SUPPORT PROGRAM Section 4-7.3 (A)(2) (Procedures) (undated), <https://www.ihs.gov/ihtm/pc/part-4/p4c7/>.

¹⁰ To manage concerns about reducing risk of spreading COVID-19 or other infectious illnesses such as flu, workplaces can try to ensure that there are at least six feet separating lactation stations, stagger lactation schedules, and/or install physical shields between lactation stations. WORKLIFE LAW AND THE U.S. BREASTFEEDING COMMITTEE, YOUR COVID-19 WORKPLACE RIGHTS: BREASTFEEDING AND LACTATION, (undated), <https://www.pregnantatwork.org/wp-content/uploads/Rights-of-Breastfeeding-Workers-in-the-Context-of-COVID-19.pdf>.

¹¹ These guidelines are drawn from the following sources: INTER-TRIBAL COUNCIL OF MICHIGAN, BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN 10 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf; U.S. Dep't of Health and Human Servs., Off. on Women's Health, U.S. *What the Law Says about Breastfeeding and Work: What Employers Need to Know*, <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know> (last updated May 23, 2023); WORKLIFE LAW AND THE U.S. BREASTFEEDING COMMITTEE, YOUR COVID-19 WORKPLACE RIGHTS: BREASTFEEDING AND LACTATION (undated), <https://www.pregnantatwork.org/wp-content/uploads/Rights-of-Breastfeeding-Workers-in-the-Context-of-COVID-19.pdf>.

¹² Coverage for breastfeeding support and supplies is part of preventative services coverage, which is implemented through regulations at 45 C.F.R § 147.130 and federal guidance from the relevant federal agencies. These regulations apply to most employer plans and to women who become eligible for Medicaid through Medicaid expansion. See, e.g., U.S. Ctrs. For Medicare and Medicaid Servs., *Preventative Care Benefits for Women*, <https://www.healthcare.gov/preventive-care-women> (undated).

¹³ Great Lakes Inter-Tribal Council, *Native Breastfeeding Coalition of Wisconsin*, <https://www.glitc.org/programs/family-health-services/native-breastfeeding-coalition-of-wi/overview/>.

¹⁴ The Minnesota Breastfeeding Coalition has contact information for the Indigenous Breastfeeding Coalition of Minnesota and other regional and Tribal coalitions, at <https://www.mnbreastfeedingcoalition.org/coalitions>. See also Minn. Dep't of Health, *COVID-19 Stories, Reconnecting with Indigenous Roots: Tradition and Breastfeeding during the COVID-19 Pandemic*, <https://www.health.state.mn.us/diseases/coronavirus/stories/tradition.html> (updated Oct. 5, 2022) (highlighting Nitamising Gimashkikinaan, a group of Indigenous doulas who provide culturally grounded pregnancy and lactation support to Indigenous mothers and babies); Propel Nonprofits, *Case Study, Mewinzha Ondaadiziike Wiigaming*, <https://www.propelnonprofits.org/studies/mewinzha-ondaadiziike-wiigaming/> (undated) (highlighting Mewinzha Ondaadiziike Wiigaming, a Native nonprofit providing support to Indigenous women and families during pregnancy, labor, delivery, and post birth).

¹⁵ MATERNAL AND CHILD HEALTH BUREAU OF THE HEALTH RESOURCES AND SERVS. ADMIN. (HRSA), THE BUSINESS CASE FOR BREASTFEEDING: STEPS FOR CREATING A BREASTFEEDING FRIENDLY WORKSITE 14 (2008), https://owh-wh-d9-dev.s3.amazonaws.com/s3fs-public/documents/bcfb_easy-steps-to-supporting-breastfeeding-employees.pdf.

¹⁶ INTER-TRIBAL COUNCIL OF MICHIGAN, BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN 15 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf.

¹⁷ See, e.g., Liz Morris et al., *How Companies Can Support Breastfeeding Employees*, HARV. BUS. REV. (Apr. 30, 2019), <https://hbr.org/2019/04/how-companies-can-support-breastfeeding-employees>.

¹⁸ Jie Zhuang et al., *The Impact of Coworker Support and Stigma on Breastfeeding After Returning to Work*, 46 J. APPLIED COMMUNICATION 491, 501-02 (2018), https://www.researchgate.net/publication/326516897_The_impact_of_coworker_support_and_stigma_on_breastfeeding_after_returning_to_work.

¹⁹ INTER-TRIBAL COUNCIL OF MICHIGAN, BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN 16 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf; and U.S. Dep't of Health and Human Servs., Off. on Women's Health, *Supporting Nursing Moms at Work: What Employers Need to Know*, Will other employees think breastfeeding mothers are getting special treatment?, <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know#2> (last updated May 23, 2023).



Photo credit: Jewel Poss

Section Six: Strategies for Equitable Enforcement

Including enforcement provisions in breastfeeding/chestfeeding policies is important. These policies are designed to protect the health and well-being of babies, women, new parents, and other people who may be vulnerable due to age or gender or who may feel anxious about talking to their employer or supervisor about their needs.

These policies tend to be underenforced, in part because they often lack clear enforcement provisions.¹ Whether the policy is a right-to-breastfeed/chestfeed law, a worksite support law, an employer policy, or another kind of policy, clearly identifying who has responsibility for enforcing the policy and what the enforcement process should be is an essential part of a policy. For example, the Little Traverse Bay Bands of Odawa Indians Right to Breastfeed law (see Appendix A) treats violations as a civil offense, and officers of the law can issue a citation if the violation happens when they are present or if they have reasonable cause to believe it occurred.²

Tribal laws that protect breastfeeding/chestfeeding at worksites could be enforced by the Tribe's health department, department of labor, or another appropriate department. These agencies and other organizations could create a checklist/assessment tool that worksites can use to see how well they are in compliance. If these assessments show that a worksite has gaps, this could provide an opportunity for education and technical assistance to help the worksite achieve compliance, with corrective or punitive actions taken only for violations that are deliberate or willful. Educational strategies, including media campaign strategies, should be used to strengthen a supportive culture for breastfeeding/chestfeeding across a community.

For an organizational worksite policy, these could be enforced in the same way that other worksite or human resources policies are enforced. Typically, a supervisor or manager would be responsible for ensuring the policy is being followed. One strategy to address an employee who is unsupportive or making a breastfeeding/chestfeeding co-worker feel uncomfortable is to provide one-on-one education, which could involve working with Maternal and Child Health staff, an Indigenous breastfeeding counselor, or a similar expert. However, if a breastfeeding/chestfeeding employee is being harassed, appropriate disciplinary action should be taken by the organization, just as for any other policy violation. Employers could also use employee surveys and/or create a system for employees to file complaints about problems or possible violations.

Ideally, a breastfeeding/chestfeeding policy will be easy and natural to follow. Achieving this requires an intentional focus on building a culture of acceptance and support. Suggestions for how to do this are described in Section Five on implementation.



Additional Resources

- Michigan Breastfeeding Network, *Breastfeed Anytime, Anywhere*, <https://mibreastfeeding.org/wp-content/uploads/2018/08/BAA-8.5-x-11-Poster-professional.pdf> (poster)
- Michigan Breastfeeding Network, *Breastfeeding is good for everyone*, <https://mibreastfeeding.org/wp-content/uploads/2018/06/Breastfeeding-is-good-for-everyone-flyer.pdf> (poster/flyer illustrating benefits of breastfeeding for babies, mothers, families, business, and the environment)
- World Health Organization, *Breastfeeding and Work: What Co-workers Can Do*, <https://twitter.com/WHO/status/1026814804898574336> (infographic about what co-workers can do to be supportive of breastfeeding co-workers)

Sources

¹ LEILA BARRAZA ET AL., THE ROLE OF LAW AND POLICY IN ASSISTING FAMILIES TO REACH HEALTHY PEOPLE'S MATERNAL, INFANT, AND CHILD HEALTH BREASTFEEDING GOALS IN THE UNITED STATES 72 (Dep't of Health and Human Servs., Office of Disease Prevention and Health Promotion, 2020), <https://tinyurl.com/y45aunxc>.

² LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, WAGANAKISING ODAWAK TRIBAL CODE OF LAW Sections 11.802 (C) and (D) (updated through June 12, 2023), <https://ltbbodawa-nsn.gov/wp-content/uploads/2021/02/TribalCode.pdf>.



Photo credit: Jewel Poss

Section Seven: Evaluation

Policy evaluation can play a role in each stage of the policy process¹ including:

- documenting policy development
- documenting and informing policy implementation
- assessing support for and compliance with a policy
- showing policy impact and value
- providing evidence of the policy's effects
- informing future policy development
- providing accountability.

Including some kind of evaluation provision in the policy if possible is a recommended practice from a public health perspective, but it is not common to see these. Often, considerations about staff capacity, expertise, and resources may present practical challenges to embedding an evaluation into a policy. However, there may be ways to include simple evaluation strategies, such as including feedback forms for workers and supervisors in a worksite policy.

Additionally, Tribal health department staff or others—with grant funding or other kinds of support—may be able to carry out other kinds of evaluations. For example, data on breastfeeding/chestfeeding rates before and after the adoption of a Tribal right-to-breastfeed/chestfeed law could be collected. This could help a community assess how well the law is being implemented and whether breastfeeding/chestfeeding rates have increased.

What Is Indigenous Evaluation?

Indigenous evaluation is the practice of approaching evaluation “from a perspective and using methods influenced by Indigenous ways of knowing, frameworks, and cultural paradigms.”²

Implementing Indigenous evaluation is more than just tweaking an evaluation framework; it requires a reconceptualization of the purpose of evaluation.³ In other words, it requires decolonization of the evaluation process and building the evaluation around the values and perspectives of Indigenous communities. The Indigenous Evaluation Framework, developed by the American Indian Higher Education Consortium (AIHEC), identifies four essential elements of evaluation practice that guide the way that evaluation may be approached within Indigenous communities:

- **Creating the Story:** First, reflect on what the program or policy aims to do. Then, through storytelling, examine what was planned to happen compared to what actually happened.
- **Building the Scaffolding:** Use traditional ways in which knowledge is gained through observation to design an evaluation to capture multiple perspectives and assess change. Incorporate “intangibles such as respect for elder guidance, prayers, and ceremony to guide the evaluation processes, and inclusive consultation and reflection.”
- **Responsive Information Gathering:** Take into account cultural and community appropriateness for the different methods that may be used to gather information.
- **Planning, Implementing, and Celebrating:** Center cultural values and beliefs in the evaluation plan, and apply these values and beliefs throughout the analysis and sharing of findings. Celebrate the learnings from the story being told.

Using these ideas to reconceptualize policy evaluation can empower Indigenous communities to practice evaluation in a way that is centered in and reflects Indigenous ways of knowing.



Whether evaluation is built into a policy or done as a separate process, making sure that the results are shared in appropriate and meaningful ways with the key audiences (decision-makers, community members, workers, supervisors, etc.) is crucial to support accountability and policy improvement efforts.

The type of policy will of course shape how the evaluation is designed. An evaluation of a right-to-breastfeed/chestfeed law will look different from an evaluation of a health center's breast pump loan policy or child care program's policy on educating parents about breastfeeding/chestfeeding, for example. Because lactation space and worksite policies are one of the most common types of policies in this area, this section focuses on those policies.

Evaluating a Worksite Support Law or Policy

Evaluating a law or policy that supports breastfeeding/chestfeeding in the workplace can help to promote successful implementation and measure community or worker awareness and acceptance of the law or policy. It can also provide information about the policy's value to community members and workers, as well as the businesses and organizations they work for. The impact of these policies can be measured in different ways.

Community and/or Employee Feedback:

Surveys, feedback forms, and suggestion boxes can be a good way to get input and feedback from breastfeeding/chestfeeding employees, supervisors, and colleagues about how well a first food policy is working. These methods can also be used to collect ideas on how to improve a policy, and they can measure acceptance and awareness of policies.

If the policy is a law that applies to worksites across a community, a multi-site survey or assessment form designed to gather information from worksites and people who work for different businesses or organizations within the community could be used. For example, a survey could be used to collect feedback from people about the availability and quality of the lactation space(s) in their worksites, including questions about whether there is enough privacy, are there sufficient rooms, or is the space clean enough? In addition, questions could assess the satisfaction of breastfeeding/chestfeeding workers with the amount and length of break times; the amount of flexibility in their work schedules; the amount of support they feel from their employers and colleagues; whether they can bring their babies to work; their awareness about paid leave or insurance benefits; and their awareness about support services.

If a community has a policy to provide lactation spaces and support services across the community (e.g., through providing lactation spaces at community events and/or providing lactation education and support through a home visiting program or through WIC), then assessments, surveys, and feedback forms could also be used to evaluate these policies in similar ways.

In addition, employers can assess their own progress and success with implementing policies in the workplace. Self-assessments can be used to gauge the level of workplace support for breastfeeding/chestfeeding employees by identifying areas of strength and areas that need further support.⁴ The Inter-Tribal Council of Michigan's 2013 toolkit has a sample worksite assessment form.⁵

Appropriate incentives can boost survey participation. For example, some Tribes have created “Breastfeeding Bags” with a soft blanket, educational handouts, resources with phone numbers, and other items related to chestfeeding/breastfeeding to give to survey participants.

Some Tribal organizational policies include feedback forms that breastfeeding/chestfeeding workers can fill out to provide information about how the policy worked for them and ideas for improvement. The Inter-Tribal Council of Michigan’s toolkit has sample feedback forms for workers, colleagues, and supervisors,⁶ and another example is included in Appendix C.

Supportive Data:

Various types of data can be collected and used to assess the usefulness and success of a policy. For example, gathering data on the use of pumps or lactation rooms can help communities, agencies, and organizations understand how often the equipment and rooms are used and help identify additional needs. When providing education, data on attendance or how people are using the education materials can help show the reach and value of a program. On a larger scale, data on breastfeeding/chestfeeding initiation and duration rates within the community or organization, employer health care costs, and employee absenteeism and turnover can be used to understand how supporting breastfeeding/chestfeeding affects employee health and satisfaction.



Additional Resources

General evaluation resources

- American Indian Higher Education Consortium (AIHEC), *Check List for Reframing Evaluation Practice*, https://portalcentral.aihec.org/Indigeval/AdditionalResources/Checklist_ReframingEvaluationPractice.pdf (checklist for reframing evaluation practice using the elements of the Indigenous Evaluation Framework)
- Dr. Donald Warne & Mary J. Berg, *Why Evaluate? Indigenous Evaluation Frameworks*, https://seedsofnativehealth.org/wp-content/uploads/2017/09/330p-Warne-Indigenous-Evaluation_2017.pdf (PowerPoint presentation from the 2nd Annual Conference on Native American Nutrition, Sept. 18, 2017, describing an Indigenous evaluation framework)
- Center for Public Health Law Research, Temple University, *Designing Public Health Law Evaluations* (undated), <http://publichealthlawresearch.org/method/designing-public-health-law-evaluations>

Evaluation resources specific to breastfeeding/chestfeeding worksite policies

- Inter-Tribal Council of Michigan, *Breastfeeding: Following Tradition Works for Working Women* 37-38 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf (sample feedback forms for managers and colleagues, and for workers)
- Wendy Slavit, Center for Prevention and Health Servs., Nat'l Business Group on Health, *Investing in Workplace Breastfeeding Programs and Policies: An Employer's Toolkit* 8.8-8.12 (2009), <https://www.eatsmartmovemorenc.com/wp-content/uploads/2019/08/Investing-in-Workplace-BF-Programs.pdf> (sample forms for supervisor, colleague, and employee feedback on policies)

Sources

¹ CTRS. FOR DISEASE CONTROL AND PREVENTION, BRIEF 1: OVERVIEW OF POLICY EVALUATION (undated), https://cdn.ymaws.com/www.safestates.org/resource/resmgr/evaluation_resources_webpage/CDC_Policy_Evaluation_Briefs.pdf.

² Great Plains Tribal Chairmen's Health Board, *Indigenous Evaluation Toolkit*, <https://www.greatplainstribalhealth.org/great-plains-tribal-epidemiology-center/indigenous-evaluation-toolkit-133.html> (last updated Oct. 25, 2022).

³ JOAN LAFRANCE, INDIGENOUS EVALUATION & NATIVE STUDENT SUCCESS (INDIGENOUS EDUCATION TOOLS) (undated), http://indigenouseducationtools.org/assets/primaryimages/IET_02_IndigenousEvaluationNative-StudentSuccessResearchBrief-Issue2d.pdf.

⁴ For examples of worksite assessment forms, see West Central Public Health Partnership, *Making Breastfeeding Work: Worksite Self-Assessment* (undated), <https://www.gunnisoncounty.org/DocumentCenter/View/4731/Breastfeeding-Self-Assessment--WCPHP-?bidId=>, and INTER-TRIBAL COUNCIL OF MICHIGAN, *BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN* 25-27 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf.

⁵ INTER-TRIBAL COUNCIL OF MICHIGAN, *BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN* 20, 25-27 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf. For another example, see West Central Public Health Partnership, *Making Breastfeeding Work: Worksite Self-Assessment* (undated), <https://www.gunnisoncounty.org/DocumentCenter/View/4731/Breastfeeding-Self-Assessment--WCPHP-?bidId=>. INTER-TRIBAL COUNCIL OF MICHIGAN, *BREASTFEEDING: FOLLOWING TRADITION WORKS FOR WORKING WOMEN* 20, 37-38 (2013), https://www.glitc.org/2020/wp-content/uploads/2020/07/Breastfeeding-Toolkit-for-the-American-Indian-Worksite_web.pdf.



Section Eight: First Food Policy Implementation Inspirations

Like any kind of policy work, developing and implementing a first food policy can be challenging, but it also brings many joys and rewards. Human milk has been the traditional first food and first medicine of Indigenous communities throughout North America since time immemorial. Today, reclaiming and supporting the use of this traditional food to nourish the physical, mental, emotional, and spiritual aspects of both the human body and greater community can be a powerful act of Tribal sovereignty. Tribal leaders, public health staff, child care providers, employers, and community members are working together in many ways to support this work, and we would like to close this toolkit with some of their inspiring stories.

Oneida Nation's Breastfeeding Journey

By Candi Cornelius, Prenatal Nurse/Lactation Counselor

I have been the Prenatal Care Coordinator at the Oneida Community Health Center for 11 years. I have had the honor of assisting pregnant women and families in the Oneida community by providing support and education. I have many moms who chose to breastfeed because it is a traditional Native American practice to give baby the First Sacred Food, breast milk. Therefore, our initiation rates have been high, but at three and six months, the breastfeeding rates dramatically decrease. This was a signal that additional support was needed to help women get through the first few weeks of breastfeeding.

The Oneida Community Health Department has been fortunate to receive the Rural Infant Health grant to help continue providing maternal child health services. I have worked on several grant objectives over the years, from promoting and increasing prenatal services to providing education and awareness on safe sleep practices. Most recently in 2018 I selected the breastfeeding objective, which was to increase lactation spaces in the community and workplaces. I also decided to become a certified lactation counselor so I could directly help my clients in all settings: the clinic, the hospital, or in the home, which other staff are unable to do. This also avoided making unsuccessful referrals since some women did not feel comfortable reaching out to an additional person.

The first step to help meet the objective was to first gain insight from others working with families in the Oneida community. I invited a variety of people and asked for individuals who would like to work on improving breastfeeding in our community. I was fortunate to have a small but consistent group of people attend the first and ongoing meetings. This group is now known as the Oneida Breastfeeding Group. All of the members are passionate about helping breastfeeding families, which has greatly helped us be successful and sustainable. At our first meeting in 2018, we identified many areas that needed improvement based on client feedback and things observed in the community. A list was devised, and we have worked on items each year up to today, 2021, including:

- Promote increased awareness/education on breastfeeding (normalizing breastfeeding):
 - » Presented a “Supporting Breastfeeding in the Community” Tribal Resolution to the Oneida leaders who approved and supported our efforts
 - » Organized community events that included breastfeeding education games (held Latch On event in Oneida—we were the first Wisconsin Tribe to do so)
 - » Started to offer “Breastfeeding Basic” classes for community members
 - » Great Lakes Inter-Tribal Council (GLITC) helped organize a “Pizza and Picture” event and made posters with local moms to be posted throughout the Oneida buildings
- Improve/increase lactation spaces in the following Oneida buildings and worksites:
 - » 2018-2021: Oneida Health Center, Oneida casinos, the Oneida Human Resources Department, Oneida Nation Elementary School, and Oneida retail centers

- Increase amount and type of breastfeeding supports available:
 - » The previous resources we had included the Oneida Clinic staff who may not be available during the workday, and/or unfamiliar hospital staff. We wanted to expand resources and specifically to include Native American women. We were able to secure funding to have the Indigenous Breastfeeding Counselor training in Oneida. Fourteen Indigenous women completed training and half were local women who agreed to share their contact information with other breastfeeding moms if they needed assistance.
 - » We offered to lead a few moms' breastfeeding groups and eventually had the moms take the lead. These groups are now known as "Breastfeeding Families" (BFFs) and meet regularly to support each other and also host events.



Strong, Resilient, and Latched—The Work of the Stockbridge-Munsee Health and Wellness Center

By Anita Mihtukwsun, CLS; Bria Pingel, RN, CLS; and Casey Rosenberg, MS, RD, CD, CLS

Here at the Stockbridge-Munsee Health and Wellness Center in Bowler, Wisconsin, we have a breastfeeding team that consists of three lactation specialists: Anita Mihtukwsun, who serves as our WIC clerk and peer counselor, as well as a lactation specialist; Bria Pingel, RN, who is our Maternal Child Health Nurse as well as a lactation specialist; and Casey Rosenberg, RD, who is our clinic Dietitian, works with WIC, and is a lactation specialist. Together we serve both our WIC mothers and children and our community mothers and children to increase awareness and education about breastfeeding and the traditional food of breast milk.

In the past five years, we have been working diligently to increase acceptance of and opportunities for breastfeeding. Two of our big accomplishments have been getting a lactation room at our clinic and at our casino for working mothers to utilize as needed during their breastfeeding working journey and passing a resolution to allow breastfeeding anywhere on the reservation.

Other programming we have worked on includes breastfeeding awareness walks to help normalize breastfeeding in our community, setting up breastfeeding tents at both our community summer powwow and at our Shawano County Fair, and involvement in Native Breastfeeding week, which occurs in August each year. Last year, during Native Breastfeeding week, some of our lactation specialists were featured on webinars about breastfeeding, which not only promoted our work here in our community, but also showed our work across the nation. We also participated in the Big Latch On virtual event and handed out t-shirts and yard signs to those families who were currently breastfeeding or had breastfed their children in the past. To this day, some families are still supporting breastfeeding with their signs remaining in their yards.

We all serve on the Native Breastfeeding Coalition of Wisconsin and get to work and network with other Wisconsin tribes on a quarterly basis. This helps us to share our ideas and events and bring other ideas back to our community, all in hopes of increasing breastfeeding rates and acceptance in our community.

Our efforts over the last five years have led to increased support in the community and increased normalization of breastfeeding. We have helped families lengthen and improve their personal breastfeeding journeys, and we continue to be Strong, Resilient, and Latched in our efforts to support breastfeeding.

Success Story for the Native Breastfeeding Coalition of Wisconsin

By Cheri Nemec, Great Lakes Inter-Tribal Council, WIC Program Director

The Native Breastfeeding Coalition of Wisconsin (NBCW) was created in 2016 as an advisory committee for a grant from the W.K. Kellogg Foundation. As a new coalition, a group of coalition participants completed a Community Teams program through the University of Wisconsin.

The Community Teams program provided the coalition with tools and activities to explore the topic of increasing breastfeeding duration. We completed a logic model and a root cause analysis. The root cause analysis assisted with determining potential areas for intervention at the tribal sites.

From the root cause analysis, our group developed an intervention planning matrix, which assessed spheres of influence including the individual level, organizational level, and community level. We were able to identify interventions that included programs and policy, as well as systems and environmental approaches.

From there we reviewed policies associated with breastfeeding in tribal communities and found a sample tribal resolution used by tribes in Montana to assure support for breastfeeding on tribal lands. The coalition determined they would use this for a model to present to our members.

Before presenting the sample tribal resolution, we created an action plan that included goals, objectives, indicators, communication plans, and activities, with members assigned to complete them.

As part of our action plan, we decided to create a toolkit for NBCW members to use. The toolkit included:

- Sample tribal resolution
- Letter of support template
- Sample presentation of the issue (intended audience was tribal councils)
- Educational resources about breastfeeding (benefits, support resources in the community)

We presented the tribal resolution and toolkit to the NBCW membership at a quarterly meeting. Attendees received a flash drive of all materials and were asked to identify communities with champions. The champion was a community member or professional who agreed to make steps toward presenting the resolution in their community.

To date, three tribes have passed the resolution. Their journeys were very different depending upon the process each tribe requires for the passing of a resolution. For one Tribal Nation, a presentation to Tribal Council was all that was needed, while for others, adoption required going through layers of legal approval.

The coalition's goal of having one tribe present and pass the resolution in the first year was exceeded, and we were able to celebrate the successful passing of resolutions in three tribes. We hope to continue to promote the resolution and support additional tribes in Wisconsin in instituting breastfeeding policies and resolutions.

Additional Inspirational Stories Resources

- *Breastfeeding Support within the Ho-Chunk Nation* (CDC-U.S. Breastfeeding Coalition Bi-Monthly Coalitions Webinar, Feb. 13, 2018), <https://www.youtube.com/watch?v=FK07zZEyNLI>
- Resources related to the Navajo Nation Healthy Start Act:
 - » Poster presentation about the effort to get the law adopted: <https://slidetodoc.com/healthy-start-act-navajo-nation-breastfeeding-coalition-cdc/>
 - » Resolution: <https://www.nnols.org/wp-content/uploads/2021/02/CO-40-08.pdf>
 - » Navajo Nation Healthy Start Act Facebook page: <https://www.facebook.com/Navajo-Nation-Healthy-Start-Act-326648750713016/>
 - » Noel Lyn Smith, *Navajo WIC Program Employees Set Example for Breastfeeding at Work*, FARMINGTON DAILY TIMES (March 3, 2019), <https://eu.pnj.com/story/news/local/navajo-nation/2019/03/03/navajo-wic-program-employees-set-example-breastfeeding-work/3034964002/>



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Appendix A: Policy Examples

Excerpts From the Ho-Chunk Nation Employment Relations Act

Section 4-28 of the Ho-Chunk Nation Employment Relations Act (which is Title 6 of the Ho-Chunk Nation Tribal Code) provides for paid maternity and paternity leave (in addition to up to 12 weeks of unpaid, Family Medical Leave and unpaid maternity or paternity leave), including for adoptive parents, as follows:

- a. **Maternity/Paternity Leave.** The Ho-Chunk Nation will provide maternity/paternity leave for regular employees when the employee has completed his or her ninety (90) day Initial Probationary Period, as the Nation deems he or she as a regular employee and specific conditions are met.
 - (1) Maternal Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Maternity Leave.
 - ...
 - (3) Non-Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Non-Birthing Parental Leave.
- b. **Adoptive Parental Leave.** The Ho-Chunk Nation will provide new adoptive parents leave for regular employees when the employee has completed his or her ninety (90) day Initial Probationary Period, as the Nation deems he or she as a regular employee and specific conditions are met.
 - (1) Adoptive Parents may claim up to one hundred and twenty (120) consecutive hours of paid Adoptive Parental Leave for the adoption of a child.

Section 5-33(e)(25) of Title 6 allows employees to bring their children to work as follows:

- a. To accommodate a mother's right to breast-feed.
- b. To accommodate an employee who works at any of the Nation's facilities where day care, recreation, or other supervision is provided for infants or dependent children.
- c. In all cases, an employee must request approval of their supervisor in order to bring a child to their workplace.

Little Traverse Bay Bands of Odawa Indians, Waganakising Odawak Tribal Code of Law, Right to Breastfeed Law

Chapter 8. Right to Breastfeed and Civil Offense for Discrimination

11.801 PURPOSE

Little Traverse Bay Bands of Odawa Indians (LTBB) recognizes the importance of increasing the breastfeeding practice. The Tribe supports and promotes breastfeeding of children to ensure that children achieve an optimal healthy condition. Breast milk provides a better nutrition and higher immunity against diseases, is better to digest, and may increase the children's IQ.

11.802 RIGHT TO BREASTFEED

- A. A mother may breastfeed her child on any Tribal property.
- B. *Breastfeeding, prohibition of discriminatory practices.* Any direct or indirect act of exclusion, alienation, restriction, segregation, limitation, rejection, or any other act or practice of differentiation, including denying a person the total enjoyment of goods, services, facilities, privileges, advantages, and accommodations in any public or private place on Tribal Property which she attends, whether it is visited by the public or used for recreation, based on the fact that a mother is breastfeeding her child, shall constitute a discriminatory practice prohibited by this Statute and may result in a civil infraction.
- C. Breastfeeding Discrimination shall be prohibited on any Tribal property and shall be deemed a civil offense.
- D. A law officer has the authority to issue a notice of violation citation when:
 - a. When the violation is committed in the officer's presence;
 - b. If an officer investigating the violation has reasonable cause to believe that the alleged violation has occurred.
- E. *Breastfeeding is not a violation of the law.* A mother breastfeeding her child in any place, whether public or private, on Tribal property shall not be deemed as indecent exposure, obscene act or other punishable action established in the Tribe's Criminal Code or Sex Offense Statute, or as may be amended.

11.803 SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof

11.804 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

Native Breastfeeding Coalition of Wisconsin Sample Tribal Resolution

{Tribal Nation}

Address

Phone: (xxx)xxx-xxxx

[Insert image here]

City, WI

Zip Code

{BC Resolution} # _____

{Tribal Nation's} Support of Public Breastfeeding

WHEREAS, the {Tribal Nation} is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the {Tribal Nation} {General Tribal Council} is the governing body of the {Tribal Nation}; and

WHEREAS, the {Tribal Nation} {Business Committee} has been delegated the authority of {Article __, Section __}, of the {Tribal Nation} Tribal Constitution by the {Tribal Nation} {General Tribal Council}; and

WHEREAS, the {Tribal Nation} is actively committed to promoting the health, quality of life, and wellbeing of Tribal members; and

WHEREAS, the {Tribal Nation} recognizes that breastfeeding is a normal and traditional part of daily life for mothers and infants; and

WHEREAS, supporting and promoting breastfeeding through offering a breastfeeding-friendly environment contributes to the optimal development of young children and to the health and well-being of {Tribe} women, children, and families.

NOW THEREFORE BE IT RESOLVED, that {Tribal Nation} welcomes and protects the act of breastfeeding within the boundaries of the {Tribal Nation} Reservation in any public or private location where the mother and child are otherwise authorized to be present, irrespective of whether or not the mother's breast is covered during or incidental to the breastfeeding. In such a location, no person may prohibit a mother from breastfeeding her child, direct a mother to move to a different location to breastfeed her child, direct a mother to cover her child or breast while breastfeeding, or otherwise restrict a mother from breastfeeding her child.

Sample, De-Identified Tribal Workplace Breastfeeding Support Law or Policy

This example is based on a policy that was developed by Tribal public health advocates in the Great Plains area, with technical assistance from the Public Health Law Center. It is being included here with permission to share it in a de-identified way.

Section One. Findings and Intent

- A. The _____ Tribe is committed to improving the health and welfare of all tribal members, to promote a healthy environment, and has an obligation to enact policies that promote health and protect members from harm.
- B. The _____ Tribe acknowledges that breast milk is the first traditional food for babies and a Lakota tradition, and the most healthful, natural, and economic method of infant nutrition. The _____ Tribe encourages all of our pregnant and postpartum employees to consider breastfeeding their children as a means of promoting the health of both child and mother. We encourage and support employees in their efforts to combine working and breastfeeding.
- C. The _____ Tribe finds that breastfeeding has many health benefits to babies including: providing antibodies that help protect their immune systems from disease; fewer and less severe instances of bacterial meningitis, diarrhea, ear infections, respiratory infections, and urinary tract infections; and breastfeeding protects against future illness, obesity, and disease.[1]
- D. The _____ Tribe finds that exclusive or even partial breastfeeding saves lives by reducing the risk of sudden infant death syndrome (SIDS).[1]
- E. The _____ Tribe finds that breastfeeding has many health benefits to mothers including lower rates of diabetes, cancer (breast, uterine, and ovarian), osteoporosis, benefits child spacing, promotes emotional health, and reduces the risk of postpartum depression in new mothers.[1]
- F. The _____ Tribe finds that breastfeeding mothers who are supported at work are more productive, have fewer distractions, less absenteeism, and are more likely to continue with breastfeeding.[2] [3]
- G. The _____ Tribe finds that the tribe will benefit from a supportive breastfeeding policy by increased productivity, improved employee loyalty, better recruitment and retention of people of childbearing age, and improved job satisfaction.
- H. The _____ Tribe finds _____ (insert data about breastfeeding rates of Indigenous women in your area) _____.

1. American Academy of Pediatrics, Policy Statement: Breastfeeding and the Use of Human Milk (March 2012), <https://pediatrics.aappublications.org/content/pediatrics/129/3/e827.full.pdf>.
2. L. Murtagh & A.D. Moulton, *Working Mothers, Breast Feeding, and the Law*, 101 *American Journal of Public Health* 217-223 (2011).
3. J. Ortiz et al., *Duration of Breast Milk Expression Among Working Mothers Enrolled in an Employer-sponsored Lactation Program*, 30 *Pediatric Nursing* 111-119 (2004).

4. See David Steven et al., *Breastfeeding: A Review of the Benefits for American Indian Women*. 61 South Dakota Medicine: The Journal of The South Dakota State Medical Association n.448 (2009).

Section Two. Purpose

- A. In recognition of the well-documented health advantages of breastfeeding for infants, mothers, the community, and employees, along with the aim to promote Indigenous cultural first food practices, the purpose of this Section is to formally establish a supportive work environment and policy for the _____ Tribe employees who are breastfeeding.
- B. The policy upholds traditional Lakota values in honoring women's health and intends to ensure that employees of the _____ Tribe who are breastfeeding may obtain the health benefits for not only themselves, and their families, but also for future generations.
- C. Additionally, there is a benefit to the _____ Tribe in prioritizing the health and wellness of employees of the _____ Tribe for a whole and well-functioning tribal community workplace.

Section Three. Definitions

- A. "Breastfeeding" means feeding human milk to an infant from a person's chest.
- B. "Employee" means employee as defined by [citation to relevant code if applicable].
- C. "Nursing" means feeding an infant at the breast; tending and caring for a child.
- D. "Milk expression" means pumping (or "expressing") breast milk.
- E. "Pumping breast milk" means using an electric or manual device used to mechanically remove breast milk from a person's chest.
- F. "Mother's Room" means space dedicated to nursing or pumping breast milk.

Section Four. Protections for Breastfeeding and Milk Expression

- A. Reasonable Break Times: The _____ Tribe will provide flexible schedules and a reasonable number of breaks of sufficient duration for milk expression for as long as the employee is breastfeeding, acknowledging the frequency and duration of time necessary may vary depending on the needs of the employee.
 1. Creative use of normal breaks and earned time/leave for milk expression is encouraged. Examples include: taking shorter meal breaks, using break times, coming in to work earlier or leaving work later, etc.
 2. Time to travel to or from a provided Mother's Room or space that is not in close proximity to the employee's workspace is considered work time and the employee will not be required to either make up the time or use leave.
 3. The same break time accommodations and flexibility will be made available to employees when traveling away from the office for work.
 4. Employees who wish to express milk during the work period shall keep supervisors informed of their needs so that appropriate accommodations can be made to satisfy the needs of both the employee and the workplace.

- B. Space for Milk Expression: The _____ Tribe shall provide employees with a private space (other than a bathroom or toilet stall) that is shielded from view and free from intrusion by others to express breast milk. The space does not need to be exclusively dedicated to this purpose, and a temporary space that meets best practices may be offered. Best practices include: access to electricity (outlets), a comfortable chair, privacy signage, disinfectant wipes, and access to a sink and refrigerator (for breast milk storage) in the room or nearby. All efforts should be made to ensure the space provided will be in close proximity to the employee's workspace.
- C. Other Supports:
1. Education: The _____ Tribal department will provide annual employee education to explain why breastfeeding mothers need support from their employers and co-workers, and to promote the availability of and location(s) of Mother's Room(s).
 2. Staff Support: Supervisors are responsible for alerting pregnant and breastfeeding employees about the [Tribal Worksite Breastfeeding Support Law] protections and for negotiating workplace accommodations to help facilitate each employee's infant feeding goals consistent with the protections provided by this law. It is expected that all employees will assist in providing a positive atmosphere that supports breastfeeding employees.
 3. The _____ Tribal building supervisors will ensure signs are posted to promote the Mother's Room(s) in common areas and directly outside the Mother's Room(s).

Section Five. Right to Breastfeed

Individuals have the right to breastfeed within the boundaries of the _____ Tribe. A person breastfeeding their child in any place, whether public or private, shall not be deemed as indecent exposure, an obscene act, or any other punishable action under the [*insert citation to relevant code*], as may be amended from time to time.

Section Six. Enforcement

- A. If employees or community members have grievances within the boundaries of the _____ Tribe relating to this Section, they should follow the chain of command and the general grievance process, as set forth in [*citation to relevant code*]. Examples of conduct that could be worthy of a grievance include disapproving comments or criticism of employees who use time for lactation; jokes, comments, or ridicule that may result in embarrassment for employees whether or not they are breastfeeding; tampering with or theft of milk expression equipment or stored pumped milk; altering or scheduling over break times or planned break times intended for milk expression or breastfeeding purposes.
- B. Conduct that interferes with the protections provided by this law for breastfeeding employees will also be considered a violation of the _____ Tribe employment anti-discrimination law at [*citation to relevant code*].

The following guidelines were not part of the law but were offered as provisions to be incorporated into a companion formal administrative policy to support implementation of the breastfeeding support law.

- a. Each space will provide, at a minimum, access to electricity (outlets), a comfortable chair, privacy signage, access to a sink and refrigerator (for breast milk storage) in the room or nearby. A community refrigerator will suffice for breast milk storage because breastmilk is not hazardous bodily fluid and it is not a contamination danger. A reasonable method for scheduling use (for example, a sign-up sheet, dry-erase board, or an online calendar schedule as time allotted for scheduling is usually in 30-minute increments).
- b. Breastfeeding employees are responsible for cleaning milk expression areas after each use, using anti-microbial wipes to clean the pump and area around it. Employees are also responsible for keeping the general lactation room clean for the next user. This responsibility extends to both designated milk expression areas, as well as other areas where expressing milk will occur.
- c. Janitorial staff will clean the area as part of a routine cleaning regimen.
- d. Employees are not required to use the designated space for breastfeeding or milk expression. Employees may choose to express breastmilk or breastfeed in an alternate location.
- e. Individuals who breastfeed shall not dispose of diapers or other odorous materials in the space provided for breastfeeding or expressing milk. Individuals will ensure materials are stored properly in an area not used by other staff and taken home or disposed of each day.

For additional policy examples, please contact Julie Ralston Aoki at the Public Health Law Center (Julie.ralstonaoki@mitchellhamline.edu).

Appendix B: Communication Examples

Example of a template for a letter of support for a breastfeeding/chestfeeding policy

(shared by the Native Breastfeeding Coalition of Wisconsin)

(use letterhead)

{DATE}

Name

Agency/Program/Entity

Address

City, State ZIP

Dear/To Whom It May Concern,

As the [POSITION] for the [TRIBE] [PROGRAM], I am writing this letter to support the Tribal Resolution for Breastfeeding Support in our community.

Breastfeeding provides numerous benefits to women, infants, families, communities, and businesses. It improves the health of our mothers and infants and reduces health care costs to the community. {Add in example of writer's connection to breastfeeding and how the resolution will impact you/your program/your participants}

[PROGRAM] supports the Tribal Resolution for Breastfeeding Support to improve the health, quality of life and well-being of our present and future generations.

Please vote to support the Tribal Resolution for Breastfeeding Support in our community. {Adjust call to action as needed}

Sincerely,

Name

Position title

Program

Sample template PowerPoint to explain the importance of a breastfeeding/chestfeeding policy (shared by the Native Breastfeeding Coalition of Wisconsin)



Problem

- Low breastfeeding duration rates in Tribal Communities in Wisconsin



Breastfeeding: The Traditional Way

Breastfeeding is:

- A community issue
- Tradition
- Made exclusively for baby
- Something most women can do with community and family support
- Inexpensive and good for the environment

Breastfeeding isn't:

- A woman's issue
- New
- The same as other forms of infant food
- Restricted by income, race or ethnicity
- Expensive



Issue to Address

- Lack of community support, education and awareness about breastfeeding
- Breastfeeding traditions are not normalized and have been lost
- Colonization has created generational trauma leading to lower breastfeeding rates



Benefits of Breastfeeding and Tribal Resolution

- Healthier generations
- Lower rates of chronic disease
- Lower health costs
- Stronger families and communities
- No shame in breastfeeding



Solutions

- Tribal resolution supporting breastfeeding in tribal communities
- Presenting resolution to 3 tribes
- Passing resolution in at least 1 tribe
- Building capacity with tribal resolution
- Lead to Breastfeeding Friendly Worksite initiatives



Why Does This Matter?

- Enormous health benefits of breastfeeding
- Less illness
- Less money spent on health care
- Lower rates of diabetes, obesity, SIDS, hypertension, CVD
- Lost wages for parents who stay at home with sick kids
- Lack of preparedness for disasters
- Less bonding between mothers/children/families



Insert details of your resolution
if needed



Thank You!

- Your participation is essential!



Appendix C: Implementation Supports

Sample Milk Storage Guidelines Handout

Storage Guidelines for Freshly Expressed or Pumped Human Milk

<i>Storage Type</i>	<i>Temperature</i>	<i>Storage Time Period</i>
Room temperature	77° F or colder	Up to 4 hours
Refrigerator	40° F	Up to 4 days
Freezer	0° F or colder	Six to twelve months

Source: Ctrs. For Disease Control and Prevention, *Proper Storage and Preparation of Breast Milk*, <https://www.cdc.gov/breastfeeding/breast-milk-preparation-and-storage/handling-breastmilk.html> (last reviewed Nov. 27, 2023).

Sample Evaluation Form for Employee Lactation Support Policy

(adapted from a Tribal health center policy)

[Tribe/Organization Name]

Upon completion of the use of the [insert name of or reference to the breastfeeding/chestfeeding support policy], the employee, their supervisor, and immediate co-workers will be asked to complete this evaluation form.

Individual completing this form:

Employee Co-Worker Supervisor

Today's Date _____

Your Name _____

Name of Employee Utilizing Policy _____

Date lactation support at the worksite began _____

Date lactation support at the worksite ended _____

Worksite Lactation Support Summary:

A) Please describe the impact of the use of the [breastfeeding/chestfeeding/lactation support] policy on your work performance:

B) Please describe the impact of the use of the [breastfeeding/chestfeeding/lactation support] on your worksite:

- C) What benefits did the policy bring for you on your job and in your worksite?
- D) Did you encounter any problems or challenges in using the policy or while the policy was being used? If so, please describe the problems/challenges you experienced:
- E) If you encountered problems/challenges, please describe what, if anything you or anyone else (if others were involved) were able to do to address them?
- F) We welcome your comments and recommendations for improving the existing policy:

Return this form to [your supervisor, Human Resources, other appropriate person/office]. Copies of completed evaluations should be sent to [Maternal and Child Health, Health Department, other relevant department or office].

Appendix D: Selected Academic Papers

Articles available for free to the public:

Jaime Cidro et al., *First foods as Indigenous Food Sovereignty: Country Foods and Breastfeeding Practices in a Manitoban First Nations Community*, 5 CANADIAN FOOD STUDIES 25 (May 2018), <https://canadianfoodstudies.uwaterloo.ca/index.php/cfs/article/view/249>.

Jaime Cidro et al., *Breast Feeding Practices as Cultural Interventions For Early Childhood Caries In Cree Communities* 15 BMC ORAL HEALTH (2015), <https://bmcoralhealth.biomedcentral.com/track/pdf/10.1186/s12903-015-0027-5.pdf>.

Joan Dodgson et al., *An Ecological Perspective of Breastfeeding in an Indigenous Community*, 34 J. NURSING SCHOLARSHIP 235 (2002), https://www.academia.edu/13708924/An_Ecological_Perspective_of_Breastfeeding_in_an_Indigenous_Community.

Cara L Eckhardt et al., *Knowledge, Attitudes, and Beliefs That Can Influence Infant Feeding Practices in American Indian Mothers*, 114 J. ACAD. NUTRITION AND DIETETICS 1587 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4177320/pdf/nihms606484.pdf>.

Bailey Houghtaling et al., *Grandmother and Health Care Professional Breastfeeding Perspectives Provide Opportunities for Health Promotion in American Indian Community*, 208 SOC. SCIENCE & MEDICINE 80 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6015548/pdf/nihms969977.pdf>.

David Stevens et al., *Breastfeeding: A Review of the Benefits for American Indian Women*, 61 SOUTH DAKOTA J. MED. 448 (2008), https://www.researchgate.net/profile/Amy-Elliott-15/publication/24182634_Breastfeeding_a_review_of_the_benefits_for_American_Indian_women/links/00b4952a91b8294da6000000/Breastfeeding-a-review-of-the-benefits-for-American-Indian-women.pdf.

Articles that require a subscription or access to a library

Joan Dodgson and Roxanne Struthers, *Traditional Breastfeeding Practices of Ojibwe of Northern Minnesota*, 24 HEALTH CARE WOMEN INT. 49 (2003) <https://pubmed.ncbi.nlm.nih.gov/12746031/>.

Adetola Louis-Jacques et al., *Racial and Ethnic Disparities in U.S. Breastfeeding and Implications for Maternal and Child Health Outcomes*, 41 SEMINARS IN PERINATOLOGY 299 (2017), <https://isiarticles.com/bundles/Article/pre/pdf/139572.pdf>.

Kristine Rhodes et al., *American Indian Breastfeeding Attitudes and Practices in Minnesota*, 12 MATERNAL CHILD HEALTH J. 46 (2008), <https://link.springer.com/content/pdf/10.1007/s10995-008-0310-z.pdf>.

Appendix E: Information About Non-Tribal Laws

This toolkit is designed to support Tribal breastfeeding/chestfeeding laws and policies. There are also federal and state laws that support breastfeeding/chestfeeding, and some cities and counties also have these types of laws. (The authors are not aware of any examples of laws that use the term “chestfeeding” specifically, but will still use this term throughout this section, except when quoting or referring to specific laws.) These protections can be part of fair labor laws, family leave laws, laws that regulate health insurance, and laws relating to incarcerated people. Because federally recognized Tribes are sovereign nations that have a government-to-government relationship with the U.S., states do not have jurisdiction over Tribes except as delegated by Congress or determined by federal courts.¹ Local governments do not have any regulatory authority over Tribes, although they may offer programs or services in which Tribal members and other Indigenous people can participate. Regarding federal law supports for breastfeeding/chestfeeding, whether and how federal law applies to Tribes in this context is a complicated and situation-specific question, subject to court interpretation.² So this toolkit provides information about local, state, and federal law protections by way of providing context for how these government entities in the Great Lakes Area and the U.S. federal government approach this issue and to provide information about the legal landscapes around Tribal Nations and Indigenous people in this area.

A. Federal Law Supports for Breastfeeding/Chestfeeding

Federal law provides basic support for nursing parents (and specifically, mothers) through health insurance requirements worker protections, and provision of lactation rooms in federal buildings open to the public. The Patient Protection and Affordable Care Act of 2010³ (ACA) requires most health insurance plans to cover all the costs of breastfeeding support and counseling services from a trained provider and also for equipment rental or purchase.⁴ For employees who need time off or work breaks to breastfeed/chestfeed or pump, federal law provides employment protections through the Family Medical Leave Act⁵ and amendments to the Fair Labor Standards Act⁶ (FLSA) also made through the ACA.⁷ The federal Family and Medical Leave Act provides some job protection and a right to up to 12 weeks of unpaid leave for parents after the birth or placement of a child, which can include time for breastfeeding/chestfeeding initiation. Employers covered by the federal FLSA are required to provide a suitable space and reasonable break times for breastfeeding workers to express, or pump, breast milk while at work for babies up to one year old. The reasonable break time requirements established in the FLSA are summarized in Table 3. At the end of 2022, Congress amended the FLSA to expand the protections to more workers (such as nurses, teachers, and farmworkers), clarify the breacktime protections, and also to make a full range of remedies available for any violations.⁸ Congress also passed a law prohibiting employers from discriminating against pregnant women.⁹

Table 3. FLSA Reasonable Break Time Requirements for Nursing Mothers at Work⁹

Which workers are protected	Workers who are also covered by the Fair Labor Standards Act's overtime pay requirements ("nonexempt" employees). Workers who work for employers with less than 50 employees may not be covered if the employer can prove undue hardship (this is defined by the law and very difficult to prove). Protections apply regardless of the mother's citizenship status.
Break time requirements	Reasonable break times must be provided for milk expression (breastfeeding/chestfeeding a baby at a worksite is not addressed). No limits are specified as to number of or length of breaks. Breaks do not have to be paid unless the employer provides paid break time to other workers, and the employee is using paid break time to pump. The worker must be completely relieved of work duties during the break, or it does not count as breaktime.
Space requirements	The space must be private, shielded from view and free from intrusion by the public and other workers. It must be available when the worker needs it. It must not be a bathroom.
Age limits for babies	Break times must be provided for breastfeeding/chestfeeding employees up to one year after the baby's birth.
Whistleblower protections	Discrimination or retaliation against workers who file verbal or written complaints related to or under the FLSA is prohibited.

Congress also addressed the provision of lactation rooms in publicly accessible federal buildings through the Fairness for Breastfeeding Mothers Act of 2019. Under this law, public buildings that are open to the public and contain a public restroom must provide a lactation room, other than a bathroom, that is hygienic and is available for public use to express milk. The lactation room must be shielded from public view, be free from intrusion, and have a chair, a working surface, and an electrical outlet (if the building has electricity). A public building may be exempted from these requirements under certain conditions.¹⁰

Lactation is also protected by federal civil rights law as a pregnancy-related medical condition. This means that federal law protects people from discrimination based on the need for accommodations for breastfeeding or milk expression.¹¹

B. State and Local Legal Landscapes

One of the more well-known and also often misinterpreted examples of congressional delegation of jurisdiction is Public Law 280.¹² This 1953 law unilaterally and mandatorily conveyed concurrent state criminal jurisdiction and civil court jurisdiction over Tribal lands in six states, including Minnesota (except the Red Lake Nation) and Wisconsin (except the Menominee Indian Tribe), and it allowed other states the option to exercise criminal and civil court jurisdiction over Tribal lands in their states. This law reduced federal criminal jurisdiction over Tribal lands in the mandatory Public Law 280 states; it had no legal impact on Tribal jurisdiction. It also did not convey state civil or regulatory jurisdiction within Indian Country. Thus, state (and local) breastfeeding/chestfeeding laws—which are civil and regulatory laws—do not apply and are not enforceable within Tribal jurisdictions.

Nonetheless, these types of laws may provide some useful ideas for Tribal governments and organizations. The National Conference of State Legislatures (NCSL) has a webpage that tracks state breastfeeding/chestfeeding laws; it describes some innovative state laws, including those that focus on child care and school settings, address needs of incarcerated women who are nursing mothers, and laws exempting breastfeeding supplies from sales taxes.¹³ Summaries of state and local laws that are encompassed within the Great Lakes Area are provided below.

1. Illinois

Although many states have laws protecting lactating parents in public spaces and workplaces, Illinois has a particularly wide variety of breastfeeding/chestfeeding protection laws. It has a law declaring that breastfeeding is not an act of indecency,¹⁴ as well as a right-to-breastfeed law stating that a mother may breastfeed her baby in any location, public or private, where the mother is otherwise authorized to be (although in places of worship, the person must follow the appropriate norms within that place).¹⁵

Illinois has also adopted breastfeeding/chestfeeding protection laws that apply in specific settings, including worksites, public schools, and some government facilities. The state's Nursing Mothers in the Workplace Act requires that employers provide reasonable paid breaks each day to employees who need to express human milk or nurse a baby, up to one year after the baby's birth. The law also requires employers to make reasonable efforts to provide a room or other location (that is not a bathroom) where employees can express human milk in privacy.¹⁶ Illinois law requires public schools to provide reasonable accommodations for "lactating pupils" on a school campus to express milk, breastfeed/chestfeed an infant child, or address other needs related to lactation,¹⁷ and the law allows "nursing mothers" to be excused from jury duty.¹⁸ Additionally, Illinois has a law requiring every facility that houses a circuit court to designate at least one lactation room or area for the public to use. The lactation room or area cannot be in a restroom and must include a chair, a table, an electrical outlet, and, where possible, a sink with running water. Notice must be posted within the building regarding location and access, and the Illinois Supreme Court is requested to issue minimum standards for training court personnel about location and access requirements.¹⁹ Similarly, Illinois law required the designation of at least one "mothers' room" for lactation and wellness in each of three state government buildings, including the Illinois State Capitol building.²⁰

Illinois has also adopted a law requiring airport managers in airports operated by local governments that have more than one million enplanements per year to provide a room or other space at each airport terminal behind the airport security screening area for members of the public to express human milk in private in a place that is not a public restroom.²¹

Another Illinois law requires that every hospital that provides birthing services adopt an infant feeding policy that promotes breastfeeding. The hospital must routinely communicate this policy to staff and post the policy in a conspicuous place in the obstetric or neonatal area or on the hospital's website.²² Illinois also authorized the state's Department of Public Health to engage in educational campaigns to support breastfeeding/chestfeeding.²³ Further, Illinois legislators have adopted resolutions that recognize the health, economic, and societal benefits of breastfeeding/chestfeeding for babies, mothers, families, and communities, and that call for barriers to breastfeeding/chestfeeding to be removed.²⁴ Illinois legislators have also adopted a law recognizing the right to information about breastfeeding/chestfeeding as part of a comprehensive list of women's rights relating to pregnancy and childbirth.²⁵

The Illinois Legislature has also addressed situations where a breastfeeding/chestfeeding parent is involved in the criminal legal system. It expanded the list of mitigation factors to be considered in favor of withholding or minimizing a prison sentence to include whether the parent is breastfeeding/chestfeeding a child.²⁶

Illinois law also provides for health insurance coverage for the use of donated human milk for state employees, under the Public Aid Code and under the state's general Insurance Code. State law requires that the milk be prescribed by a licensed medical provider and obtained from human milk banks that meet specific quality control standards or are licensed by the state; the law also lays out what health conditions are required for coverage.²⁷

The American Indian Health Service of Chicago is located in Chicago. Although Chicago's city code does not have any generally applicable breastfeeding support laws, the city does have a Lactation Accommodation ordinance that says there must be a place for nursing mothers to express breast milk at an airport terminal and that this space must include a lockable door, a chair, a table, an electrical outlet, and a sink with running water. Additionally, this place cannot be a public restroom.²⁸

2. Indiana

Indiana has a strong set of workplace protection laws for breastfeeding/chestfeeding mothers. Indiana law requires state and political subdivisions (such as city and county governments) to provide for reasonable paid breaks for employees to express milk, a private space near the employee's workspace that is not a bathroom for milk expression, and to make reasonable efforts to provide a refrigerator for storing expressed breast milk.²⁹ State law also requires that employers with more than 25 employees must offer a private location, other than a bathroom, where an employee can express human milk in private and, if possible, offer a refrigerator for storing human milk that has been expressed.³⁰ Indiana also has a right-to-breastfeed law that says a woman may breastfeed her child anywhere the woman has a right to be.³¹

3. Michigan

Michigan's Breastfeeding Antidiscrimination Act³² protects the right of women to breastfeed/chestfeed in any place of public accommodation or public service. This law provides that "mothers" may "breastfeed" their children in any place of public accommodation or public service and cannot be denied services, or be told that they are unwelcome, because they are breastfeeding/chestfeeding a child.³³ This means nursing mothers are allowed to breastfeed in restaurants, stores, parks, malls, and other locations. This law allows someone who has been injured by a violation of this law to bring a lawsuit for actual or presumed damages, injunctive relief, and attorney's fees.³⁴ Breastfeeding/chestfeeding in public also is not a violation of Michigan's indecent exposure laws, even if a woman's nipple or aureole is exposed.³⁵ Neither Michigan nor the City of Detroit (where the American Indian Health and Family Services of Southeastern Michigan is located) have a worksite protection law for breastfeeding/chestfeeding people.

4. Minnesota

Minnesota also has strong laws supporting breastfeeding/chestfeeding. Minnesota has passed a parenting leave law that provides protections similar to the federal Family Medical Leave Act for working parents, allowing unpaid leave of up to 12 weeks in connection with a pregnancy, birth, or adoption of a child; beginning on January 1, 2026, workers will be able to take up to 20 weeks of partially paid leave.³⁶ Further, Minnesota has a worksite breastfeeding/chestfeeding protection law.³⁷ Under Minnesota law, employers with one or more employees are required to provide workers with reasonable time and appropriate space to express human milk, with no baby age limits (the old limit of one year was removed in 2023).³⁸ When read together, Minnesota law and federal law require employers to provide a clean space shielded from view, near the employee's work area (if reasonable), free from intrusion, and that includes access to an electrical outlet. The space cannot be a bathroom. Minnesota's law was amended in 2021 and again in 2023 to remove baby age limits; to clarify that multiple break times should be provided and were flexible; to clarify that an employee's compensation cannot be reduced for time spent expressing milk; and to implement specific notice requirements.³⁹

Minnesota law also allows a "mother" to breastfeed/chestfeed in any location, public or private, where the mother and child are allowed to be.⁴⁰ A person may breastfeed/chestfeed a child anywhere, even if the nipple or breast is uncovered while breastfeeding. This means that breastfeeding/chestfeeding is allowed in restaurants, stores, parks, malls, and other locations. Breastfeeding/chestfeeding in public also is not a violation of Minnesota's indecent exposure laws.⁴¹

In 2021, Minnesota enacted a law to address the needs (including for breastfeeding/chestfeeding) of incarcerated pregnant and new parents who have recently given birth. This law was a first-of-its-kind state law to allow pregnant inmates and inmates who have given birth to be eligible for conditional release to prison alternatives so that they can receive prenatal and postnatal support during pregnancy and for up to one year postpartum.⁴²

The City of Minneapolis, where the Indian Health Board of Minneapolis is located, also has a Paid Sick and Safe Time law that establishes a minimum paid leave requirement for workers who otherwise do not have sick leave, which can be used to care for family members.⁴³

5. Wisconsin

Wisconsin has passed a family and medical leave law that is similar to the federal Family and Medical Leave Act.⁴⁴ Wisconsin law also exempts breastfeeding/chestfeeding women from the state’s “lewd and lascivious behavior” law,⁴⁵ and it has a right-to-breastfeed law that provides that “mothers” may breastfeed their children in any public or private area where they are allowed to be.⁴⁶ Milwaukee, where the Gerald L. Ignace Indian Health Center is located, does not have a general law protecting breastfeeding/chestfeeding people, but it does exempt breastfeeding/chestfeeding women from criminal indecency laws.⁴⁷ Also, vendors bidding for city work can qualify as socially responsible contractors (which allows them to earn extra points in the bidding process) by, among other things, providing a breastfeeding space for employees.⁴⁸ Wisconsin has not adopted a law addressing breastfeeding or milk expression breaks for working mothers. Because Wisconsin does not have a state law that addresses these kinds of protections, the minimum standards set by federal law apply within the state’s jurisdiction.

Sources

¹ These principles of federal recognition of Tribal sovereignty are most famously articulated in the series of U.S. Supreme Court cases known as the Marshall Trilogy: *Johnson v. McIntosh*, 21 U.S. 543 (1823); *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); and *Worcester v. Georgia* 31 U.S. 515 (1832). See generally, NAT’L CONGRESS OF AMERICAN INDIANS, *TRIBAL NATIONS IN THE UNITED STATES, AN INTRODUCTION* (2020), <http://www.ncai.org/about-tribes>.

² See, e.g., *Nat’l Labor Relations Bd. v. Little River Band of Ottawa Indians Tribal Gov’t*, 788 F.3d 537 (6th Cir. 2015) (holding that National Labor Relations Act applied to Tribally operated casino even though Congress did not expressly say so); *Reich v. Great Lakes Indian Fish and Wildlife Comm’n*, 4 F.3d 490 (7th Cir. 1993) (holding that Fair Labor Standards Act overtime pay requirements did not apply to Tribal officers because law was silent on that point and officers are integral part of Tribal government operation); *E.E.O.C. v. Fond du Lac Heavy Equipment and Construction Co.*, 986 F.2d 246, 250 (8th Cir. 1993) (holding that federal Age Discrimination in Employment Act did not apply to Tribes where Congress was silent on that point and employment dispute was between Tribal member and Tribal government).

³ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010).

⁴ Coverage for breastfeeding support and supplies is part of preventative services coverage, which is implemented through regulations at 45 C.F.R. § 147.130 and federal guidance from the relevant federal agencies. These regulations apply to most employer plans and to women who become eligible for Medicaid through Medicaid expansion. See, e.g., U.S. Ctrs. for Medicare and Medicaid Servs., *Preventative Care Benefits for Women*, <https://www.healthcare.gov/preventive-care-women/>.

⁵ The Family Medical Leave Act is codified at 29 U.S.C.A. § 2611 et seq. (West 2023).

⁶ The Fair Labor Standards Act is codified at 29 U.S.C.A. § 201 et seq. (West 2023). The FLSA is the federal law that sets minimum wage and overtime protections for workers.

⁷ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 § 4207 (2010), codified at 29 U.S.C.A. § 207 (r) (West 2023). Section 4207 of the ACA was called the Break Time for Nursing Mothers Act and created the current federal requirements that employers provide reasonable break time for milk expression for breastfeeding employees for up to one year after a child’s birth.

⁸ Congress amended the FLSA with the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP ACT), Pub. L. No. 117-328 (2022), https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-act_hr2617.pdf (codified in part at 29 U.S.C. § 218d). The Pregnant Workers Fairness Act, Pub. L. No. 117-328 §§ 102-108 (2022), <https://www.eeoc.gov/statutes/pregnant-workers-fairness-act>, (codified at 42 U.S.C. § 2000gg) is the new federal law that requires many employers to provide reasonable accommodations for workers related to pregnancy, childbirth, and related conditions.

⁹ 29 U.S.C.A. § 207 (r) (West 2021). *See also*, Off. on Women's Health, U.S. Dep't of Health & Human Servs., *What the Law Says About Breastfeeding and Work*, <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work> (last updated Feb. 22, 2021).

¹⁰ Fairness for Breastfeeding Mothers Act of 2019, Pub. L. No. 116-30, 133 Stat. 1032 (codified at 40 U.S.C.A § 3318) (West 2023).

¹¹ Pregnancy Discrimination Act of 1978, Pub. L. No. 95-555, § 1, codified at 42 U.S.C. § 2000e (k) 1982. *See also* U.S. Equal Employment Opportunity Comm'n, EEOC Notice 915.003, Enforcement Guidance on Pregnancy Discrimination and Related Issues (June 25, 2015), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues>.

¹² Public Law No. 83-280 (1953). For helpful and concise explanations of Public Law 280, *see* Carole Goldberg, *Questions and Answers about Public Law 280* (undated), <https://www.tribal-institute.org/articles/goldberg.htm>; and Ada Pecos Melton & Jerry Gardern, *Public Law 280: Issues and Concerns for Victims of Crime in Indian Country*, <https://www.tribal-institute.org/articles/gardner1.htm>.

¹³ For more information and for highlights of innovative state laws, *see* the NCSL's State Breastfeeding Laws webpage at <https://www.ncsl.org/health/breastfeeding-state-laws>.

¹⁴ 720 ILL. COMP. STAT. ANN. 5/11-30 (a) (2) (West 2023).

¹⁵ 740 ILL. COMP. STAT. ANN. 137/1 et seq. (West 2023).

¹⁶ 820 ILL. COMP. STAT. ANN. 260/1 et seq. (West 2023).

¹⁷ 105 ILL. COMP. STAT. ANN. 5/10-20.60 (West 2023).

¹⁸ 705 ILL. COMP. STAT. ANN. 305/10.3 (West 2023).

¹⁹ 55 ILL. COMP. STAT. ANN. 5/5-1106 (West 2023).

²⁰ 25 ILL. COMP. STAT. ANN. 130/8A-21 (West 2023).

²¹ 410 ILL. COMP. STAT. ANN. 140/5 (West 2023).

²² 210 ILL. COMP. STAT. ANN. 81/1 et seq. (West 2023).

²³ 20 ILL. COMP. STAT. ANN. 2310-442 (West 2023).

²⁴ S.R. 170, Ill. Gen. Assemb., Reg. Sess. (Ill. 2011). *See also* H.R. 778, Ill. Gen. Assemb., Reg. Sess. (Ill. 2012) (urging departments that assist families and children to offer and promote educational materials about breastfeeding).

²⁵ 410 ILL. COMP. STAT. ANN. 50/3.4 (a) (16) (West 2023).

²⁶ 730 ILL. COMP. STAT. ANN. 5/5-5-3.1 (a) (18) (A) (West 2023).

²⁷ 2019 Ill. Legis. Serv. P.A. 101-511 (H.B. 3509) (West), codified at 5 ILL. COMP. STAT. ANN. 375/6.16; 215 ILL. COMP. STAT. ANN. 5/356Z.33, and 305 ILL. COMP. STAT. ANN. 5/5-40 (West 2023).

²⁸ CHICAGO, ILL., CODE § 10-36-345 (current through March 30, 2023).

²⁹ IND. CODE § 5-10-6-2 (West 2023) (noting an exception from the break time requirement if a state or political subdivision can show that providing the break time "would unduly disrupt ... operations").

³⁰ IND. CODE §§ 22-2-14-1-14-2 (West 2023).

³¹ IND. CODE § 16-35-6-1 (West 2023).

³² MICH. COMP. LAWS ANN. § 37.231 et seq. (West 2023).

³³ MICH. COMP. LAWS ANN. §37.232 (West 2023).

³⁴ MICH. COMP. LAWS ANN. § 37.233 (West 2023).

³⁵ MICH. COMP. LAWS ANN. §750.167 (3) (West 2023).

³⁶ MINN. STAT. § 181.940 et seq. (2022), as amended by Minn. Laws, Ch. 53, Art. 11, §§ 28-30 (2023).

³⁷ MINN. STAT. § 181.939 (2022), as amended by Minn. Laws, Ch. 53, Art. 11, §. 27 (2023).

³⁸ *See* 29 U.S.C.A. § 207 (r) (West 2021); MINN. STAT. § 181.939 (2022), as amended by Minn. Laws, Ch. 53, Art. 11, §. 27 (2023).

³⁹ Minn. Laws 2021, 1st Sp., c.10, art. 4, §3, eff. Jan. 1, 2022 (amending MINN. STAT. § 181.939 (West 2021)).

⁴⁰ MINN. STAT. § 145.905 (2023).

⁴¹ MINN. STAT. § 617.23, subdiv. 4 (2023).

⁴² MINN. STAT. § 244.065, subdiv. 2 (2023). *See also* Rebecca David, *New Law Keeping Incarcerated Mothers with Newborn Babies for a Year a 'Game Changer'*, BRING ME THE NEWS (Aug. 24, 2021), <https://bringmethenews.com/minnesota-news/new-law-keeping-incarcerated-mothers-with-newborn-babies-for-a-year-a-game-changer>.

⁴³ MINNEAPOLIS, MINN., CODE § 40.200 et seq. (current through June 12, 2023).

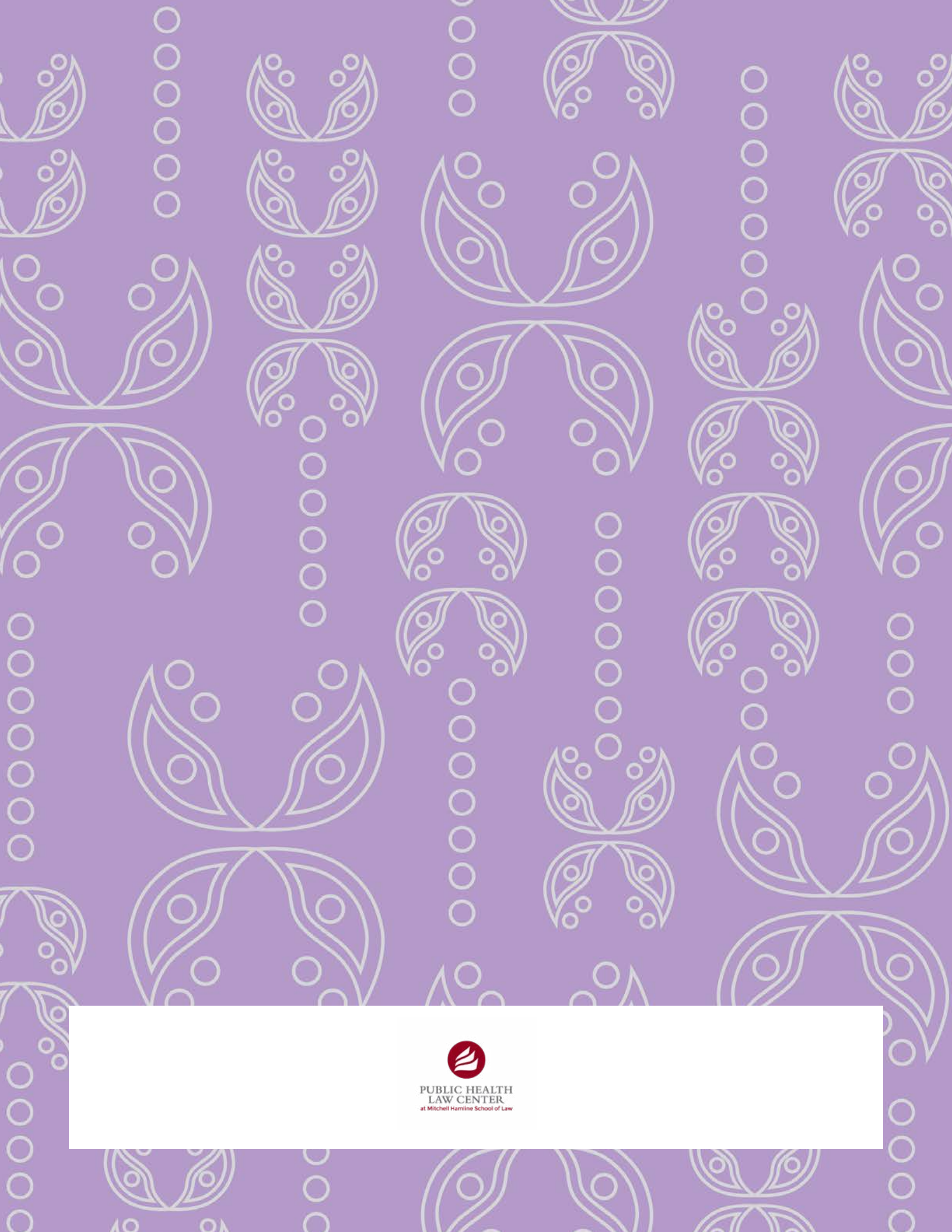
⁴⁴ Wis. STAT. ANN. § 103.10.3 (current through July 20, 2023) (allowing up to six weeks of unpaid leave for the birth of a child if the leave begins within 16 weeks of the birth).

⁴⁵ Wis. STAT. ANN. § 944.20 subsec. 2 (current through July 20, 2023).

⁴⁶ Wis. STAT. ANN. § 253.165 (current through July 20, 2023).

⁴⁷ MILWAUKEE, Wis., CODE § 106-5.3.a (current through Dec. 4, 2021).

⁴⁸ MILWAUKEE, Wis., CODE § 310-10.1.i (current through Jul. 27, 2021).



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