

October 12, 2018
SENT VIA MAIL AND EMAIL

President Ronnie Green
University of Nebraska Lincoln
128 Canfield Administration Bldg.
Lincoln, NE 68588-0437



134 S. 13th St. #1010
Lincoln, NE 68508
(402) 476-8091
aclunebraska.org

Dear President Green:

For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side — we the people dare to create a more perfect union.

As you may recall, we wrote to you in July 2018 regarding lactation policies applicable to students at your institution. This analysis was part of our broader women's rights work which has included helping to bolster our equal pay laws, strengthening protections for pregnant and breastfeeding employees, and establishing the first-of-its-kind state law to ensure that all public-school districts have policies in place to support breastfeeding rights.

You may also recall that the University of Nebraska-Lincoln's lactation policies were held out as a model for other institutions of higher education across the state. The policy served as a good model because it applies to both students and staff, is readily available on your website, and clearly establishes lactation spaces and the availability of refrigeration on campus.

However, disappointingly, we have recently become aware of specific concerns regarding some "semi-private" lactation spaces on campus. As an example, the lactation space in the Beadle Center is a restroom with no physical separation between the toilet and the chair where employees and students who pump sit to express breast milk. Under Nebraska state law, employers are required to provide reasonable accommodations for employees with "respect to pregnancy, childbirth, or related medical conditions" including "*appropriate* facilities for breast-feeding or expressing breast milk"¹ (emphasis added).

Additionally, the Reasonable Break Time for Nursing Mothers law under the federal Fair Labor Standards Act (FLSA) requires that covered employers, including universities, allow eligible hourly employees to pump breastmilk at

¹ Neb. Rev. Stat. § 48-1102(11).

work for one year after a child's birth. Employers must give workers reasonable break time to pump and a private location, *other than a bathroom*, to express milk.²

Although UNL's policy have been held up as a model for other institutions to emulate, we were disheartened to learn of these issues. Both the law and best practices tell us that a restroom is not an adequate lactation space. Notwithstanding potential health and safety concerns of pumping in restrooms, lactating students and employees must not feel forced to hide in a bathroom to pump.



In support of our shared goals of gender equity and inclusion, we ask that you ensure that your lactation spaces are adequate both in number and location and remind you that a restroom is not a substitute for a lactation room. Raising a family and employment or education are not mutually exclusive. No one should have to choose between breastfeeding their child and their job or education.

If you are able to provide adequate assurances that this matter has been appropriately addressed, we will close our file on this issue. Thank you in advance for your time and consideration of this important matter.

Sincerely

A handwritten signature in black ink that reads "Scout Richters".

Scout Richters
Legal & Policy Counsel
srichters@aclunbraska.org
(402) 476-8091 ext. 108

Enclosures

CC: Tami Strickman-tami.strickman@unl.edu
Timothy Clare (Vice chairman) - tclare@nebraska.edu
Howard Hawks - hhawks@nebraska.edu
Jim Pillen - jpillen@nebraska.edu
Bob Whitehouse - bwhitehouse@nebraska.edu
Robert Schafer (Chairman) - rschafer@nebraska.edu
Paul Kenney - pkenney@nebraska.edu
Bob Phares - bphares@nebraska.edu
Hal Daub - hdaub@nebraska.edu

² *Break Time for Nursing Mothers*, UNITED STATES DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, <https://www.dol.gov/whd/nursingmothers/> (last visited Oct. 11, 2018).