



March 1, 2024

VIA ELECTRONIC AND U.S. MAIL

Recipient Information

Re: Airline Breastfeeding Accommodations for Flight Crew

Dear **[INSERT AIRLINE]**:

The American Civil Liberties Union Women's Rights Project writes to urge your airline to adopt policies expressly permitting your flight crews to pump breastmilk aboard an aircraft. The failure to permit pilots and flight attendants from pumping during noncritical phases of the flight conflicts with longstanding medical guidance and may violate Title VII and the Pregnant Workers Fairness Act.¹

In response to lawsuits and an EEOC charge brought by the ACLU and partners, Frontier Airlines recently implemented several policy changes that better address the needs of their pregnant and lactating flight attendants and pilots, including permitting flight crew to pump breastmilk during non-critical phases of the flight.² These changes support families by allowing new parents at Frontier to work *and* breastfeed their baby, rather than being forced to choose.

We recommend that **[AIRLINE]**:

- Permit lactating pilots and flight attendants to pump breastmilk during non-critical phases of the flight;
- Provide alternative job assignments to lactating and pregnant employees who can no longer fly because of pregnancy, childbirth, or related conditions, including lactation;

¹ See ACLU and WorkLife Law, What is the Pregnant Workers Fairness Act? (June 27, 2023), <https://www.aclu.org/documents/what-is-the-pregnant-workers-fairness-act>.

² ACLU, Pilots Reach Settlement with Frontier Airlines Over Lactation and Pregnancy Policies (Dec. 4, 2023), <https://www.aclu.org/press-releases/pilots-reach-settlement-with-frontier-airlines-over-lactation-and-pregnancy-policies>; ACLU, Settlement Reached in Frontier Airlines Pregnancy and Lactation Discrimination Suit (Apr. 13, 2022), <https://www.aclu.org/press-releases/settlement-reached-frontier-airlines-pregnancy-and-lactation-discrimination-lawsuit>.

- Permit lactating employees to reduce the number of minimum hours they work if needed; and
- Maintain a regularly updated list of airport lactation rooms for employees.

Over 80 percent of babies born in the United States start out being breastfed; however, that number drops to 50 percent at six months of age.³ More than half of parents who breastfeed report stopping breastfeeding prior to their intended end date partially due to lack of breastfeeding accommodations in their workplace.⁴ On the other hand, working parents who have adequate time and space to pump breastmilk are more than twice as likely to be exclusively breastfeeding at six months than those without such access and accommodations.⁵ The American Medical Association,⁶ the American Academy of Pediatrics,⁷ and every other major medical authority⁸ recommend that new parents breastfeed for the first one to two years of a baby's life, if possible.

Most lactating people need to pump milk every three to four hours to maintain milk supply, and failure to do so can result in pain, infection, and a reduction of milk supply.⁹ Such a schedule is unworkable to maintain for flight crew

³ Alisha Haridasani Gupta and Catherine Pearson, *A New Breast Pumping Law Has Gone Into Effect. Here's What It Means*, N.Y. Times (May 3, 2023),

<https://www.nytimes.com/2023/05/03/well/family/pump-act-breastfeeding.html>.

⁴ Carly Stein, *The PUMP Act: Legislation for Working Mothers* (Sept. 7, 2023),

https://www.americanbar.org/groups/labor_law/publications/labor_employment_law_news/issue-summer-2023/the-pump-act/.

⁵ Gupta and Pearson, *supra* note 5.

⁶ Am. Med. Assoc., *AMA Support for Breastfeeding H-245.982*, <https://policysearch.ama-assn.org/policyfinder/detail/lactation?uri=%2FAMADoc%2FHOD.xml-0-1724.xml>.

⁷ Joan Younger Meek and Lawrence Noble, *Policy Statement: Breastfeeding and the Use of Human Milk*, Am. Acad. of Pediatrics (July 2022),

<https://publications.aap.org/pediatrics/article/150/1/e2022057988/188347/Policy-Statement-Breastfeeding-and-the-Use-of?autologincheck=redirected>.

⁸ *See also* Am. Acad. of Fam. Physicians, *Advocate for Breastfeeding*, <https://www.aafp.org/family-physician/patient-care/prevention-wellness/birth-control-pregnancy-childbirth/breastfeeding.html>;

World Health Org., *Breastfeeding*, <https://www.who.int/health-topics/breastfeeding>.

⁹ Centers for Disease Control and Prevention, *Recommendations and Benefits: Breastfeeding*,

<https://www.cdc.gov/nutrition/InfantandToddlerNutrition/breastfeeding/recommendations-benefits.html>

(last visited Feb. 14, 2023); American College of Obstetricians and Gynecologists, *Barriers to Breastfeeding: Supporting Initiation and Continuation of Breastfeeding* (Feb. 2023),

<https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/02/barriers-to-breastfeeding-supporting-initiation-and-continuation-of-breastfeeding>.



members who regularly have flights lasting more than three hours with very little time to pump in between flights. This puts lactating people in an impossible situation: stop working for the duration of the time they're breastfeeding (and forgo needed income) or stop breastfeeding so they can work (and forgo the health and bonding benefits of breastfeeding).

Providing lactation accommodations to flight crew members is not only the right thing to do but is required by federal laws. Title VII of the 1964 Civil Rights Act prohibits employers from discriminating against employees on the basis of sex, including on the basis of pregnancy, childbirth, or related medical conditions, such as lactation. In addition, the recently passed Pregnant Workers Fairness Act requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions. Failure to provide lactation accommodations to flight crew members violates Title VII and the Pregnant Workers Fairness Act. Furthermore, several states have passed lactation accommodations laws affirmatively requiring lactation accommodations for all employees, regardless of industry.



Reasonable accommodations such as those being implemented by Frontier support employees and their families, are simple, and are demonstrably safe. We urge you to incorporate policy changes that accommodate pregnant and lactating flight crew members. Should you wish to discuss this matter further, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Aditi Fruitwala'.

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