



August 28, 2023

**VIA Portal**

Roger Andoh  
CDC FOIA Officer  
1600 Clifton Road, N.E.  
Atlanta, GA 30333

**Freedom of Information Act Request: CDC Transgender Parent Breastfeeding Policies**

Dear Mr. Andoh,

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL’s Twitter page has over 177,000 followers, and the Twitter page of our Founder and President has over 504,000 followers.

**I. Background**

In response to the question, “Can transgender parents who have had breast surgery breastfeed or chestfeed [sic] their infants?” the Centers for Disease Control and Prevention (CDC) website answers, “Yes.”<sup>1</sup> However, the CDC advises that transgender parents “may need help” with “medication to induce lactation.”<sup>2</sup> The CDC website also provides an “Infant and Young Child Feeding in Emergencies (IYCF-E) Toolkit” that instructs providers to “ensure health equity” by using “terms that are inclusive of all gender identities such as ‘pregnant person,’ ‘breastfeeding

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<sup>1</sup> CTRS. FOR DISEASE CONTROL AND PREVENTION, *Breast Surgery | Breastfeeding* (July 9, 2023), <https://bit.ly/47rxoGZ> (last visited August 15, 2023).

<sup>2</sup> *Id.*

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parent,’ or ‘lactating person,” because the “gender identity or expression of transgender individuals is different from their sex at birth,” and an “individual does not need to have given birth to breastfeed or chestfeed [sic].”<sup>3</sup>

While the CDC suggests that transgender parents can take medication to induce lactation for “chestfeeding,” it does not warn parents of the specific risks of such medication. The Food and Drug Administration (FDA), for example, warns parents against using domperidone to increase their milk supply because of the side effects it presents to the mother and the infant.<sup>4</sup> The CDC provides no such warning.

It is unclear whether the CDC published its recommendation unaware of the risks it poses to parents and infants or if the CDC deliberately published this recommendation without including a warning. Accordingly, AFL requests the following records pursuant to the FOIA, 5 U.S.C. § 552.

## **II. Custodians**

- A. All employees at a grade of GS-15 and above and all political appointees in the Office of Health Equity.
- B. All employees at a grade of GS-15 and above and all political appointees in the National Center on Birth Defects and Developmental Disabilities.

## **III. Requested Records**

All records from August 2022 to the present with the custodians above and the following search terms:

- A. “Chestfeed”
- B. “Lactating person”
- C. “Breastfeeding parent”
- D. “Pregnant parent”
- E. “Domperidone”

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<sup>3</sup> CTRS. FOR DISEASE CONTROL AND PREVENTION, *Health Equity Considerations | Nutrition* (July 9, 2023), <https://bit.ly/47uKq6z> (last visited August 15, 2023).

<sup>4</sup> NAT’L INSTS. OF HEALTH, *Domperidone—Drugs and Lactation Database (LactMed)*, <https://bit.ly/45sLsxV> (last visited August 15, 2023).

#### **IV. Fee Waiver**

Per 5 U.S.C. § 552 (a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees associated with this request. First, AFL is a qualified non-commercial public education and news media requester. Our officials routinely appear on national television and use social media platforms to disseminate the information it has obtained about federal government activities. In this case, AFL will make your records and your response publicly available for the benefit of all citizens, scholars, and others, and the public's understanding of your policies and practices will be enhanced through AFL's analysis and publication of the requested records. As a nonprofit organization, AFL does not have a commercial purpose, and the release of the information requested is not in AFL's financial interest. Accordingly, AFL has been granted fee waivers on this basis by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. Second, a waiver is proper as disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government."

#### **V. Processing and Production**

Processing should strictly comply with the process guidance of the Attorney General's Memorandum on the Freedom of Information Act Guidelines.<sup>5</sup> If you have any questions about our request or believe further discussions regarding search and processing would facilitate more efficient production of records of interest to AFL, please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination. To accelerate your release of responsive records, AFL welcomes production on an agreed rolling basis. Please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native or PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231 Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed Rubinstein  
Reed Rubinstein  
America First Legal

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<sup>5</sup> DEPT OF JUSTICE, *Memorandum for Heads of Executive Departments and Agencies* (March 15, 2022), [bit.ly/45aySDP](https://bit.ly/45aySDP) (last visited August 15, 2023).