

New York State Expands Lactation Accommodations for Employees

The Bottom Line

- Effective June 7, 2023, New York employers should ensure that their lactation rooms meet the law's new specifications and that nursing mothers receive adequate break time to pump.
- New York employers will be required to implement a lactation accommodations policy, which should be provided upon hire, annually and when an employee returns to work following their child's birth.
- New York City employers should ensure that their policy meets both New York State and New York City requirements.

Update

The New York DOL has published the state [lactation accommodations policy](#).

On June 7, 2023, recent [amendments](#) to the New York Labor Law will take effect and provide expanded protections for nursing mothers. The new requirements largely mirror already existing lactation accommodation requirements under New York City law.

Break Time

The New York Labor Law already requires private employers to provide reasonable unpaid break time for employees to pump breast milk for up to three years following the birth of their child. New York Department of Labor guidance has interpreted this requirement to mean that employers must provide at least 20 minutes for each break and to allow employees to take breaks at least once every three hours to pump breast milk. The amended statute clarifies that employers must allow an employee to express breast milk *each time* an employee has a reasonable need to do so.

Lactation Room Requirements

Under existing New York law, employers were already required to make reasonable efforts to provide a room in close proximity to the employee's work area to express milk

in privacy. Under the amended law, the lactation room must be well lit, shielded from view and free from intrusion from others. It must also include the following:

- A chair
- A working surface
- Nearby access to clean running water
- An electrical outlet

If the lactation room is used for other purposes, it must be made available to a nursing mother when needed, must not be used for any other purpose while in use for pumping and employers must provide notice to all employees when the room is designated as a lactation room.

Additionally, if the workplace has refrigeration, employers must extend access to refrigeration for storing expressed milk.

If compliance with these requirements is impracticable because it would impose an undue hardship by causing significant difficulty or expense based on the employer's size, financial resources, business nature or structure, the employer still must make reasonable efforts to provide a room or other location, other than a restroom or toilet stall, in close proximity to the employee's work area to express breast milk in privacy.

Written Policy Requirements

The amended law also requires the New York Labor Commissioner to develop a written policy informing employees of their rights under the law, how they may request a lactation room and that employers respond to such requests within a reasonable timeframe that is no more than five business days.

Employers must provide this policy to employees: (i) upon hire, (ii) annually and (iii) when returning to work following the birth of a child. The state has not yet issued the model policy, although it is expected to be published close to the amended law's June 7, 2023 effective date.

Other Laws Still Apply

The New York State amendments largely mirror lactation accommodation requirements that New York City employers must already follow under the [New York City Human Rights Law](#).

On the federal level, the PUMP for Nursing Mothers Act was passed earlier this year to expand protections for nursing mothers under the Fair Labor Standards Act. However, employers in other locations, such as [Massachusetts](#) and California (including San Francisco), may have even more expansive accommodation obligations and written policy requirements.

For More Information

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