

March 20, 2019

NEW YORK CITY LACTATION ROOM POLICY GOES INTO EFFECT

New York City passed two new laws¹ (the “lactation room laws”) that went into effect on March 18, 2019 that expand the rights of nursing mothers in the workplace. Specifically, the laws set forth new mandatory standards that require employers to provide a lactation room and to implement written lactation room accommodation policies. These new laws amend the New York City Human Rights Law.²

The New York State Labor Law already required New York State employers to provide nursing mothers in the workplace with reasonable unpaid breaks to express breast milk for up to three years following the birth of a child and to provide access to a dedicated lactation room or other private area in close proximity to the employee’s work area.

The lactation room laws expand on the New York State Labor Law and require that the room designated as a lactation room (1) be a sanitary place other than a restroom that provides total privacy to an employee using the room to express milk, (2) be equipped with an electrical outlet, a chair, a surface on which employees may place a breast pump and other personal items, and (3) provide the employee with close access to running water, and also require employers to provide a refrigerator suitable for breast milk storage in reasonable proximity to an employee’s work area.

Significantly, the lactation room laws also require employers to distribute a written policy to new employees that (1) informs them of their right to request a lactation room, (2) sets forth the process for submitting an accommodation request, (3) specifies that an employee’s request for a lactation room will be responded to within a reasonable period of time not to exceed five business days, (4) establishes a procedure when two or more employees need to use the lactation room at the same time, (5) as required by New York State Labor Law Section 206-c, provides reasonable break time to employees needing to express breast milk, and (6) states that if an employee’s lactation room request poses an “undue hardship” for the employer, the employer will engage in “cooperative dialogue” with the employee.

¹ New York City Local Laws 185 and 186 of 2018.

² N.Y.C. Admin. Code §§ 8-101 to 8-131.

The lactation room laws apply to all New York City employers with four or more employees.

The New York City Commission on Human Rights recently developed model policies and a lactation room request form, both of which are available on its website.³ The Commission explained that the new policies were enacted because “New York City is striving to change work culture surrounding lactation accommodations to reduce stigma, educate employers, support employees, and normalize pumping at work.” The Commission continued that providing reasonable accommodations to employees who pump and/or express breast milk is not only the law, but also provides economic benefits to employers as well, including retention of experienced employees, reduction in time taken by employees for children’s illnesses, and lower healthcare and insurance costs.

In light of the lactation room laws, New York City employers must make certain that they provide lactation room arrangements to accommodate an employee needing to express breast milk, so that they are in compliance with New York City’s new mandatory standards. Employers should train their managers and supervisors regarding the new expanded obligations. New York City employers also must implement written lactation room accommodation policies and procedures consistent with the new requirements, which must be disseminated to all newly hired workers. Additionally, while not required by the lactation room laws, it would be prudent for New York City employers to distribute the relevant policies to all of their employees and not merely to their new hires.

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Please contact Avi Lew, the undersigned or your regular Warshaw Burstein attorney if you need assistance reviewing your human resources policies, or if you have any questions about how the new lactation laws apply to you, or about employment law issues in general.

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³ <https://www1.nyc.gov/site/cchr/law/lactation.page>.