

New Requirements for New York City Workplace Lactation Rooms

March 4, 2019 Jason Habinsky, Raquel Alvarenga

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New York City recently passed two new laws, which go into effect on March 18, 2019, improving the rights of nursing mothers in the workplace. The laws require employers to provide a lactation room meeting new mandatory standards and implement a written lactation room accommodation policy.

New Mandatory Standards

New York employers likely are already familiar with the New York State Labor Law requiring 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 new law, likewise, requires employers to provide nursing mothers with access to a lactation room in reasonable proximity to the employee's designated work area.

In addition, the new law now requires employers to also provide a refrigerator suitable for breast milk storage in reasonable proximity to an employee's work area. It further requires that any room designated as a lactation room in the workplace now must (1) be a sanitary place that is not a restroom; (2) provide total privacy to an employee using the room to express milk; (3) be equipped with at least an electrical outlet, a chair, a surface on which to place a breast pump and other personal items; and (4) provide nearby access to running water.

The new law also specifies that if an employer uses the room it has designated as a lactation room for other purposes, it may not be used for any other purpose while it is being used to express milk. The employer must also notify other employees that the room has been given preference for use as a lactation room while the room is being used as a lactation room.

Employers are required to provide a lactation room unless it imposes an "undue hardship." While the law does not provide guidance as to what would pose an "undue hardship," it does provide that an employer claiming an "undue hardship" must first engage in a ["cooperative dialogue"](#) with an employee, as separately set forth under New York City law.

Lactation Room Accommodation Policy

The new law also requires employers to develop and implement a written lactation room accommodation policy. This policy, which is to be distributed to employees upon commencement of employment, must (1) inform employees of their right to request a lactation room; (2) set forth the process for submitting a request; (3) specify that an employee's request will be responded to within five business days; (4) set forth a procedure to be followed when two or more employees need to use the designated lactation room at the same time (including contact information for any follow up that may be required); and (5) state that as required by the New York State Labor Law, reasonable break time will be provided for employees needing to express breast milk. Finally, the policy must

state that if an employee's request for a lactation room poses an "undue hardship" for the employer, it will engage the requesting employee in a "cooperative dialogue."

Next Steps

In response to the new law, Employers should determine whether their current lactation room arrangements are compliant with the new mandatory standards and be prepared to make any necessary improvements as required by the law. Employers should also implement a written lactation room accommodation policy and accompanying workplace procedures consistent with the new requirements.