

**ALERTS**

## New York City Adopts Lactation Accommodation Law

**March 19, 2019**

New York City's new lactation accommodation law is now in effect and imposes new requirements on employers with four or more employees. The new law adds to the obligations that employers already have under New York State's Labor Law. Under the Labor Law, employers are required to make reasonable efforts to provide a private room or location for employees to express breast milk. The room or location must be well lit, shielded from view and in close proximity to the employee's work area. The room or location also needs to have a functional lock or, if a lock is not available, a sign advising that the room or location is in use and not available to other employees or the public. Inside the room or location, employers must provide nursing mothers with a chair and small table or other flat surface. New York State law encourages, but does not require, employers to also provide an outlet, clean water supply and access to refrigeration.

New York City's new law incorporates these requirements but also takes them a step further. First, the lactation room must be a sanitary place, other than a restroom, that is shielded from view and free from intrusion. Second, the room needs to have an electrical outlet, a chair and a surface upon which employees may place a breast pump and other personal items. Third, the employee must also have nearby access to running water. Fourth, employers need to provide a refrigerator suitable for breast milk storage in reasonable proximity to the employee's work area. Finally, if the lactation room is also used for other purposes, it must only be used as a lactation room while an employee is using it to express milk, and the employer must give notice to employees that the room gets preference

for use as a lactation room. While some of these features are merely suggested under New York State law, New York City now requires them.

The new law also requires employers to adopt written lactation room accommodation policies, which employers must distribute to current employees and new employees upon hiring. The policy must:

1. State that employees have a right to request a lactation room;
2. Specify a process by which employees can make an accommodation request;
3. Require the employer to respond to accommodation requests within a reasonable amount of time not to exceed five business days;
4. Include a procedure for when two or more individuals need the room;
5. Provide contact information for any necessary follow up on conflicting needs;
6. State the employer's obligation to engage in cooperative dialogue if an employee's request for a lactation room imposes an undue hardship; and
7. State that the employer shall provide reasonable break time for employees to express breast milk pursuant to New York State's Labor Law Section 206-c.

The New York City Commission on Human Rights, in collaboration with the Department of Mental Health and Hygiene, developed model policies and a lactation room request form, which can be accessed through the links below:

1. Model Lactation Room Request Form
2. Model Lactation Accommodation Policy – Workplaces with No Dedicated Space for Lactation
3. Model Lactation Accommodation Policy – Workplaces with Multi-Purpose Space for Lactation
4. Model Lactation Accommodation Policy – Workplaces with Dedicated Space for Lactation

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

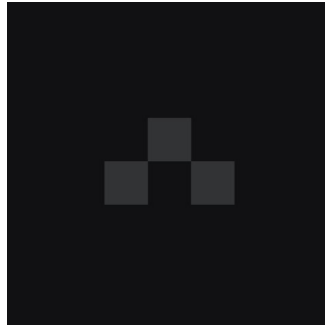
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