



e-Alert: New York City Expands Workplace Protections for Nursing Mothers

Background

On November 17, 2018, the New York City Council passed two measures, which require employers in New York City with four or more employees to provide a designated lactation room for employees and to implement an accommodation policy. Recently the city announced additional amendments to this law, which will take effect on March 18, 2019, and expand on the requirements already in place.

Significant changes and new policy language required

New York City law already prohibits discrimination based on pregnancy, childbirth, and related medical conditions and requires employers to provide reasonable accommodations to nursing employees. All covered employers must provide a designated lactation room in reasonable proximity to the employee's work area, free from view and intrusion, that must meet the state requirements. Employers must also display a poster to notify employees of their rights to express milk in the workplace.

The new amendments require employers to implement a Lactation Room Accommodation Policy and distribute it to all new hires, effective March 18. The policy must:

1. Detail how an employee may submit a request for a lactation room;
2. Require that the employer respond to a request for a lactation room within five (5) business days;
3. Provide a procedure to follow when two (2) or more individuals need to use the lactation room at the same time;
4. Indicate that the employer shall provide reasonable break time for an employee to express breast milk pursuant to section 206-c of the labor law; and
5. State that if the request for a lactation room poses an undue hardship on the employer, the employer shall engage in a cooperative dialogue, as required by subdivision 28 of this section.

Cooperative dialogue is when the employer explores the feasibility of accommodations or alternative positions and discusses with the employee to determine a solution. Additionally, the employer must provide a written determination if the request has been approved or denied for any person requesting an accommodation who they participated in the cooperative dialogue with. The New York City Commission on Human Rights will publish a model policy and request form that employers may adopt.

Employer next steps

1. All New York City employers should identify a suitable lactation room that meets the state requirements.
2. All New York City employers should review their current lactation accommodation policies to ensure they are in compliance.
3. HR Knowledge will continue to monitor this regulation and inform our clients once a model policy and form have been developed.
4. If you are a full-service client and would like assistance updating your current policy, please email your Client Account Manager. If you are a virtual HR client and would like assistance, please email VirtualHR@hrknowledge.com.



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