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Department
of Labor

LACTATION

INFORMATION FOR EMPLOYERS

Rights Of Nursing Employees To Pump Breast Milk At Work

EMPLOYEES HAVE THE RIGHT TO PUMP BREAST MILK AT WORK

New York State Labor Law Section 206-c guarantees employees paid break time to pump breast milk at work.

BUSINESSES COVERED

This law applies to all public and private employers in New York State, regardless of the size or nature of the business.

EMPLOYER NOTICE REQUIREMENT

All employers are required to inform all employees about the right to take paid leave for the purpose of pumping breast milk. Employees must be informed when they are hired, and once a year thereafter. Employers must also remind every employee returning to work following the birth of a child of these rights. As an employer, you can inform your employees of this right by providing them with the New York State Department of Labor's (NYSDOL) policy through email or printed copy. The policy is available here on.ny.gov/breastmilkexpression. Employers must also notify all employees when a space has been designated for breast milk expression.

EMPLOYEE NOTICE REQUIREMENT

Employees who want to pump breast milk at work must notify their employers in advance – preferably before they return to work from maternity leave. Employees must notify employers in writing. This request can be sent through email, text message, written correspondence or any chat-based app regularly used by the organization for correspondence that allows for the retention of messages. Employers should advise employees to include the following information in their written notification: anticipated return date, details regarding how many breaks they anticipate needing during the work day, and potential preferred times to express breast milk. Upon receiving a request, employers must respond in writing within five (5) days to the employee.

DURATION OF THE RIGHT TO PUMP BREAST MILK

An employee may take break time to pump breast milk at work for up to three years following the birth of a child.

LENGTH OF BREAKS

Employers must give their employees a 30 minute paid break when the employee has a need to express breast milk. Employees may take shorter breaks if they choose. This paid time is in addition to any regularly scheduled break time or meal time. Employees may use their regularly scheduled break times or meal time for milk expression should they need additional time in excess of 30 minutes.

FREQUENCY AND SCHEDULING OF BREAKS DURING THE WORKDAY

Employers must allow employees to take breaks as often as they reasonably need to express breast milk. Each employee is different, and employers must accommodate employees based on each individual's needs.

EFFECT OF BREAKS ON OTHER BREAK TIME

As an employer, you cannot deduct paid break time for breast milk expression from the employee's regular paid break or meal time. The paid time for breast milk expression is in addition to any regularly paid break or meal time. Employees can also choose to take breast milk expression breaks right before or after their regularly scheduled paid break or meal periods.

MAKING UP BREAK TIME PROHIBITED

An employee is not required to make up the time spent expressing breast milk. You cannot require an employee to stay beyond their regularly scheduled work hours because they used paid break time to pump at work.

BREAKS OF 30 MINUTES OR LESS MUST BE PAID

Employers must pay employees for up to 30 minutes of break time to pump breast milk. Employees also have the option of using their regular paid break or meal time to pump breast milk, but they are not required to do so. Employers must continue to pay any customarily paid regular break time for an employee who pumps breast milk. Employers cannot require an employee to complete work tasks while expressing breast milk, however, an employee may voluntarily decide to do so.

PROVIDING A PLACE TO PUMP BREAST MILK

Employers are required to provide employees with a private room or other location close to the employees' work area where they can pump breast milk. If the employer can't provide a dedicated lactation room, a temporarily vacant room may be used instead. As a last resort, a cubicle can be used, but it must be fully enclosed with walls at least seven feet tall. Please review the NYSDOL's breast milk expression policy for more details regarding specific space requirements on.ny.gov/breastmilkexpression. You should consult with NYSDOL's Division of Labor Standards if you believe you cannot provide any place for an employee to pump breast milk.

BATHROOMS PROHIBITED

The room or location provided by an employer to pump breast milk cannot be a restroom or toilet stall.

LACTATION ROOM REQUIREMENTS

The place where employees pump breast milk must contain a chair and small table or other flat surface, an electrical outlet (if the workplace has electricity), good natural or artificial light, and access to a clean water supply. If there is a refrigerator, employees must be allowed to use the space to store pumped milk.

PRIVACY OF THE LACTATION ROOM

The room or place provided by the employer cannot be open to other employees, customers, or members of the public while an employee is pumping breast milk. It should have a door with a functional lock, or, in the case of a cubicle, a sign warning the location is in use and not accessible to others. If the space has windows, those windows must be covered.

DISCRIMINATION AND RETALIATION PROHIBITED

Employers may not discriminate or retaliate in any way against any employee who chooses to pump breast milk in the workplace or who files a complaint with the NYSDOL. The Department takes allegations of retaliation very seriously and will investigate promptly.

COMPLAINT PROCESS

Any party may file a confidential complaint with NYSDOL's Division of Labor Standards alleging non-compliance with this law.

SIMILAR FEDERAL LAW

Recent amendments to the Fair Labor Standards Act also protect the rights of nursing mothers to pump breast milk at work. For more information, contact the Wage and Hour Division of the U.S. Department of Labor at **1-866-4USWAGE**. The federal PUMP Act went into effect in 2023, expanding protections for almost all employees pumping breast milk at work. Under the PUMP Act, any covered workers not provided with breaks and adequate space for up to a year after the birth of a child are able to file a complaint with the U.S. Department of Labor or file a lawsuit against their employers. For more information please visit dol.gov/agencies/whd/pump-at-work.

ADDITIONAL INFORMATION

NYSDOL has issued a policy on the rights of employees to express breast milk in the workplace. The policy, which employers must provide to all employees, is available online at on.ny.gov/breastmilkexpression. In addition, you may call NYSDOL at **1-888-52-LABOR**, email NYSDOL at LSAsk@labor.ny.gov, or come in to the nearest Division of Labor Standards office for more information. A list of offices is available at labor.ny.gov/workerprotection/laborstandards/workprot/lstdists.shtm.