



CLIENT ALERT

New York City's New Workplace Lactation Room And Accommodation Requirements

New York City employers have long been required to provide reasonable break time during which breastfeeding employees could express breast milk and “make reasonable efforts” to provide a room or other location, other than a restroom, to express milk in private.

Beginning March 18, 2019, New York City employers with at least four (4) employees in New York City must provide dedicated “lactation rooms” in which employees can express breast milk as well as a refrigerator for storing breast milk. Employers must also establish written policies regarding lactation accommodations.

Lactation Rooms & Refrigerator Storage

Employers will need to provide a dedicated lactation room in which to express breast milk as well as a refrigerator for breast milk storage in “reasonable proximity” to the breastfeeding employee’s work area.

The lactation room must:

1. Not be a restroom;
2. Be available for use to express breast milk shielded from view and free from intrusion; and
3. Include, at minimum, an electrical outlet, a chair, a surface on which to place a breast pump and other personal items, and nearby access to running water.

If providing a compliant lactation room would pose an “undue hardship” on the employer, the employer may be excused from these requirements. Employers claiming an undue hardship must engage in a “cooperative dialogue” with the requesting employee. For more information on the “cooperative dialogue” process, please review our December 17, 2018 Client Alert.

There is no “undue hardship” exception regarding the requirement to provide the employee with a refrigerator in which to store the expressed breast milk.

Written Policy

Covered employers must also adopt a written lactation room accommodation policy and distribute it to new and existing employees. The policy must state that employees have the right to request a lactation room, and include a process that:

1. Specifies the means for submitting a request for a lactation room;
2. Requires that the employer respond to such a request within a reasonable amount of time not exceeding five business days;
3. Establishes a procedure for when more than one employee requests the use of the lactation room at the same time;
4. States that the employer will provide “reasonable break time” for expressing breast milk; and
5. Specifies that the employer will engage in a “cooperative dialogue” with the employee if providing a lactation room would pose an undue hardship on the employer.

New York City employers should review their existing policies and procedures and make revisions as necessary in order to come into compliance with these new laws.

* * *

If you have questions or would like additional information, please contact EGS' Employment Law Practice Group Leader Amanda M. Fugazy (afugazy@egsllp.com) or the primary EGS attorney with whom you work.



THE EMPLOYMENT LAW PRACTICE GROUP

Amanda M. Fugazy, Esq.

Paul P. Rooney, Esq.

Valerie J. Bluth, Esq.

Stephania C. Sanon, Esq.

Mohammad B. Shihabi, Esq.

Ilan Weiser, Esq.

Allison Vieyra, Paralegal

1345 Avenue of the Americas, New York, NY 10105

Telephone: (516) 801-8139/(212) 370-1300

afugazy@egsllp.com | www.egsllp.com

This memorandum is published solely for the informational interest of friends and clients of Ellenoff Grossman & Schole LLP and should in no way be relied upon or construed as legal advice.