

WORKPLACE LACTATION POLICY

New York State Labor Law Section 206-c gives all employees in New York the right to express breast milk in the workplace. This law applies to all public and private employers in New York State. This policy is intended to inform employees of their rights and the County's responsibilities as it applies to this law.

USING BREAK TIME FOR BREAST MILK EXPRESSION

The County will provide thirty (30) minutes of paid break time for employees to express breast milk when the employee has a reasonable need to express breast milk. Employees are permitted to use existing paid break or meal time if additional time for breast milk expression beyond the paid 30 minutes is needed. An employee is permitted to use regular break or meal time to take a longer paid break if needed. Employees may also opt to take shorter paid breaks.

Employees are eligible for this time for up to three years following childbirth.

The number of paid breaks an employee will need to express breast milk is unique to each employee and the County will provide reasonable break times based on the individual. The County is prohibited from discriminating in any way against an employee who chooses to express breast milk in the workplace. The County is prohibited from requiring an employee to work before or after their normal shift to make up for any time used as paid break time to express breast milk.

The County will continue to follow existing federal and state laws, regulations, and guidance regarding mealtimes and paid break time regardless of whether the employee uses such time to express breast milk.

Employees who work remotely have the same rights to paid time off for the purpose of expressing breast milk, as all other employees who perform their work in-person.

MAKING A REQUEST TO EXPRESS BREAST MILK AT WORK

If an employee wants to express breast milk at work, they must give the employer reasonable advance notice, generally before returning to the workplace if the employee is on leave. This advance notice is to allow the County time to find an appropriate location and adjust schedules if needed. Employees wishing to request a room or other location to express breast milk in the workplace should do so by submitting a written request to Human Resources for processing requests. The County will respond to this request for a room or other location to express breast milk in writing within **five days**.

Employers must notify all employees in writing through email or printed memo when a room or other location has been designated for breast milk expression.

LACTATION ROOM REQUIREMENTS

In addition to providing the necessary time during the workday, employers must provide a private room or alternative location for the purpose of breast milk expression. The space provided for breast milk expression cannot be a restroom or toilet stall.

The room or other location must:

- Be close to an employee's work area
- Provide good natural or artificial light
- Be private – both shielded from view and free from intrusion

- Have accessible, clean running water nearby
- Have an electrical outlet (if the workplace is supplied with electricity)
- Include a chair
- Provide a desk, small table, desk, counter or other flat surface

There does not need to be a separate space for every nursing employee. An employer may dedicate a single room or other location for breast milk expression. Should there be more than one employee at a time needing access to a lactation room, an employer may dedicate a centralized location to be used by all employees. Any space provided for breast milk expression must be close to the work area of the employee(s) using the space. The space must be in walking distance, and the distance to the location should not significantly extend an employee's needed break time.

If there is not a separate room or space available for lactation, an employer may use a vacant office or other available room on a temporary basis. This room must not be accessible to the public or other employees while an employee is using it for breast milk expression.

As a last resort, an available cubicle may be used for breast milk expression. A cubicle can only be used if it is fully enclosed with a partition and is not otherwise accessible to the public or other employees while being used for breast milk expression. The cubicle walls must be at least seven feet tall to insure the employee's privacy. To ensure privacy, if the lactation room has a window, it must be covered with a curtain, blind or other covering. In addition, the lactation space should have a door equipped with a functional lock. If this is not possible (such as in the case of a fully enclosed cubicle), as a last resort, an employer must utilize a sign advising the space is in use and not accessible to other employees or the public. If the workplace has a refrigerator, employers must allow employees to use it to store breast milk. However, employers are not responsible for ensuring the safekeeping of expressed milk stored in any refrigerator in the workplace.

Employees are required to store all expressed milk in closed containers and bring milk home each evening. The space designated for expressing breast milk must be maintained and clean at all times.

If an employer can demonstrate undue hardship in providing a space with the above requirements, the employer must still provide a room or other location - other than a restroom or toilet stall - that is in close proximity to the work area where an employee can express breast milk in privacy, that meets as many of the requirements as possible. Undue hardship is defined in the statute as "causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business." However, an employer may not deny an employee the right to express breast milk in the workplace due to difficulty in finding a location.

This policy shall be included in the employee handbook, which is provided to all employees during new employee orientation and upon confirmation of **return to work following the birth of a child.**