

One Minute Memo®



New York City Lactation Room Laws To Go Into Effect

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Seyfarth Synopsis: Effective March 18, 2019, New York City employers will be required to ensure their lactation rooms meet additional minimum standards and implement a new policy informing employees about the existence of a lactation room and the process for making lactation-related accommodation requests.

Last year, the New York City Council passed a series of bills that amend the New York City Administrative Code to address the needs of nursing mothers in the workplace. Our previous [Management Alert](#) outlined the requirements under the proposed bills, which were expected to become law. After Mayor de Blasio neither signed nor vetoed the proposed legislation within 30 days of receiving it, the bills were passed into law, and will go into effect on March 18, 2019.

The new laws require employers to provide a [lactation room](#), create new minimum standards for a compliant lactation room, and impose upon employers an obligation to develop and [implement a policy and process](#) regarding lactation-related accommodation requests. Of these requirements, the policy requirement is novel, as are some of the minimum standards for lactation rooms. The requirement that employers provide a lactation room generally is not new, as it was previously mandated under section 206-c of the [New York Labor Law](#). Highlights of the new minimum standards for lactation rooms and written policy requirement follow.

Minimum Standards For Lactation Rooms

Under the new law, employers must provide a lactation room in reasonable proximity to an employee's work area. This is consistent with the State Labor Law, which requires that the lactation room be in "close proximity to the work area of the employee(s) using it for the expression of breast milk."

Both the new City law and the State Labor Law require that the lactation room contain a chair and a flat surface on which to place a breast pump and other personal items. The new law, however, is novel in that it also **requires** employers to provide the following additional amenities, while the Labor Law simply "[encouraged](#)" employers to provide them:

- a refrigerator suitable for breast milk storage in reasonable proximity to the employees' work area;
- an electrical outlet in the lactation room itself; and
- nearby access to running water.

Lactation Policy

Employers will be required to have a written policy. The policy should apprise employees about the existence of a lactation room and also about the process for requesting lactation-related accommodations.

With regard to the accommodations process, the policy must:

1. Specify the means by which an employee may submit a request for a lactation room;
2. Require the employer to respond to a request for a lactation room within a reasonable amount of time not to exceed five business days;
3. Provide a procedure to follow when two or more individuals need to use the lactation room at the same time, including contact information for any follow up required;
4. State that the employer shall provide reasonable break time for an employee to express breast milk, consistent with 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.

The law requires the Commission on Human Rights in collaboration with the Department of Health and Mental Hygiene to develop a model lactation policy to comply with the requirements listed above. At present, the Commission has not published a model policy. We will continue to monitor and track developments regarding these laws.

Employer Takeaways

Although the law does not take effect for another two months, this is a good opportunity for employers to reassess whether their workplace is in compliance with the lactation room requirements under the New York State Labor Law and whether it will be compliant with the new requirements under the City Administrative Code. Additionally, while employers may look to the model policy (once released) as a guide, employers should avoid a last-minute scramble and consider early drafting of a policy, and the creation of a process tailored to the employer's workplace and employees.

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