

New York City to Require Private Employers to Establish Lactation Rooms and Policies

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Private employers in New York City will have to find space for a “lactation room” under legislation expected to be signed by Mayor Bill de Blasio.

On October 17, 2018, the New York City Council passed two pieces of legislation ([Intro. 879-A](#) and [Intro. 905-A](#)) that will require employers to accommodate nursing mothers by providing a lactation room and adopting a lactation room policy.

Requirements of a Lactation Room

Intro. 879-A, sponsored by Council Majority Leader Laurie Cumbo (D-Brooklyn), will create a new definition of “lactation room.” Under the bill, a lactation room is:

a sanitary place, other than a restroom, that can be used to express breast milk shielded from view and free from intrusion and that includes 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.

Under Intro. 879-A, employers with at least four workers must provide lactation rooms “in reasonable proximity to [an employee needing to express breast milk’s] work area” and a refrigerator close to that employee’s work area. The room designated as the lactation room may be used for another purpose when the employee is not using it to express breast milk.

If the provision of a lactation room would pose an undue hardship to the employer, the employer must engage in “a constructive dialogue” with the persons who may be entitled to the use of a lactation room. This is comparable to the City’s requirement as to other accommodations. See our article, [New York City ‘Cooperative Dialogue’ Mandate Over Accommodations Requests Starts October 15](#).

Lactation Room Policy

Intro. 905-A, sponsored by Council Member Carlina Rivera (D-Manhattan), will require employers to establish a written lactation room policy that must be given to all employees upon hiring. The policy must include a statement that employees have a right to a lactation room. It also must identify the process by which employees may request use of a lactation room.

The process to request a lactation room must:

- Specify the means by which an employee may submit a request;
- Require that the employer respond to a request within a reasonable time not to exceed five business days;
- Provide a procedure to follow when at least two individuals need to use the room at the same time, including contact information for any follow up required; and
- State that the employer must provide reasonable break time for an employee to express breast milk pursuant to section 206-c of the labor law.

To help employers comply with this requirement, Intro. 905-A directs the City Commission on Human Rights (CCHR) to establish and make available a model lactation accommodation policy for employers to use.

Both Intro. 879-A and Intro. 905-A would expand New York City employers’ duties under New York State law. In August 2007, New York State passed the “New York Nursing Mothers’ Rights at Work” to safeguard nursing mothers’ ability to continue to provide breast milk to their infants upon returning to work. Under New York State Labor Law Section 206-c, employers may not discriminate or retaliate

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against mothers who choose to breastfeed their baby or pump milk at work. These mothers are protected for three years after giving birth.

Intro. 879-A and Intro. 905-A will take effect 120 days after the Mayor signs the bills, which is expected by the end of October. The CCHR, however, may begin any measures necessary to implement both bills, including promulgating rules, before the end of the 120-day period.

For information on other recent New York City developments, please see:

- New York City 'Cooperative Dialogue' Mandate Over Accommodations Requests Starts October 15
- Reminder: New York City Employers Must Distribute Fact Sheet, Post Notice on Sexual Harassment Law by Sept. 6
- New York City Commission on Human Rights Issues Mandatory Sexual Harassment Notice and Fact Sheet
- New York City DCA Issues Guidance on Temporary Schedule Change Amendments to Fair Workweek Law
- Temporary Schedule Change Amendments to New York City Fair Workweek Law Effective July 18

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