



New York Guarantees Right of Mothers to Express Milk in the Workplace

June 12, 2008

New York State Law allows nursing mothers to reasonable unpaid break time, or to use a paid break and meal periods to express breast milk for up to three years following childbirth. N.Y. Labor Law § 206-c. Employers should provide notice of this right immediately, and should notify employees annually or provide specific notice to affected employees.

Employees are entitled to the following

Upon request, any employee who has given birth in the last three years and is breastfeeding should be provided break periods approximately every three hours for periods of approximately twenty minutes each to express milk. If a private room designated for this purpose is not in close proximity to the employee's work station, each break shall be no less than thirty minutes. Employees may elect to take shorter breaks for this purpose. These break periods can run concurrently with regularly scheduled breaks such as coffee breaks and meal times. An employer may ask an employee to postpone such a break for a maximum of thirty minutes if she cannot be spared from her duties until appropriate coverage arrives.

The employee is entitled to make up the amount of time used during the unpaid breaks before or after her shift, so long as the additional time is within the employee's normal work hours.

Employees are required to give employers advanced notice that they intend to avail themselves of this benefit, preferably before return to work following childbirth.

Employers are prohibited from discriminating against employees who choose to express milk in the workplace.

Lactation Room Specifications

Employers are required to make reasonable efforts to provide a private room or location for purposes of expressing breast milk. "Reasonable effort" means that the employer will provide such a space unless it is significantly impractical, inconvenient or expensive. Rooms should be well lit and windows should be covered to ensure privacy. The room should contain, at a minimum, a chair, and a small table or desk. Employers are encouraged to provide an outlet, clean water and access to refrigeration to store the milk. The employer must maintain the cleanliness of the room. The employer may dedicate one room and establish a schedule to

accommodate the needs of multiple employees.

Employers within close proximity to one another may establish and maintain joint lactation rooms.

The room may not be a restroom or toilet stall

If an employer is unable to provide a dedicated lactation room or location, the employer may allow the expression of milk in a vacant office or other room on a temporary basis, provided that the room is not publicly accessible to the public or other employees when the employee is expressing milk. As a last resort, an employer may provide a cubicle which is fully enclosed with partitions which are at least seven feet tall and is not otherwise accessible to the public or other employees. Employees may not be denied this benefit because of difficulty in providing a room.

If you have any question about this post or any labor or employment-related issue, please contact us at [516-357-3700](tel:516-357-3700).

Practices

- Labor and Employment

Attorneys

- Gerard Fishberg