

POLICY ON THE RIGHTS OF EMPLOYEES TO EXPRESS MILK IN THE WORKPLACE

INTRODUCTION AND PURPOSE

Section 206-c of the New York State Labor Law gives all employees in New York the right to express milk in the workplace. This law applies to all public and private employers in New York State, regardless of size or the nature of their business.

The New York State Department of Labor has developed the official policy on expressing milk in the workplace as required by the law, ensuring that all employees know their rights and all employers understand their responsibilities. This policy is the minimum required standard, but employers are encouraged to include additional accommodations tailored to their workplace.

With the information provided below, employees will learn how much time they are allowed for milk expression, the kind of space employers are required to provide for milk expression, how to notify employers about the need to express milk in the workplace and how to notify the Department of Labor if these rights are not honored.

Employers are required to provide this policy in writing to all employees when they are hired and again every year after. Employers are also required to provide the policy to employees as soon as they return to work following the birth of a child.

USING BREAK TIME FOR EXPRESSING MILK

[Name of Organization] will provide thirty minutes of paid break time for employees to express milk when the employee has a reasonable need to express milk. Employees will be permitted to use existing paid break or mealtime if they need additional time for milk expression beyond the paid thirty minutes. This time will be provided for up to three years following childbirth. **[Name of Organization]** will provide paid break time as often as an employee reasonably needs to express milk. The number of paid breaks an employee will need to express milk is unique to each employee, and **[Name of Organization]** will provide reasonable break times based on the individual. **[Name of Organization]** will not discriminate in any way against an employee who chooses to express milk in the workplace.

[Name of Organization] will not require an employee to work before or after their normal shift to make up for any time used as paid break time to express milk.

[Name of Organization] 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 milk. For additional information regarding what constitutes a meal period or a break period under state and federal law, please see the following resources:

- NY Department of Labor Website on Day of Rest, Break Time, and Meal Periods:
dol.ny.gov/day-rest-and-meal-periods

- NY Department of Labor FAQs on Meal and Rest Periods: dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf
- U.S. Department of Labor FLSA FAQ on Meal and Rest Periods: dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked
- U.S. Department of Labor FLSA Fact Sheet on Compensation for Break Time to Pump Breast Milk: dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers

While **[Name of Organization]** will not require that an employee work while expressing milk, Labor Law 206-c does not otherwise prevent an employee from voluntarily choosing to do so if they want to.

Paid breaks provided for the expression of milk will be thirty minutes. An employee will be allowed to use regular break or mealtime to take a longer paid break if needed. Employees may also opt to take shorter paid breaks.

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

MAKING A REQUEST TO EXPRESS MILK AT WORK

An employee who wants to express milk at work must give the **[Name of Organization]** reasonable advance notice, generally before returning to the workplace if the employee is on leave. This advance notice will allow **[Name of Organization]** the time to find an appropriate location for the employee to express milk and adjust schedules if needed.

Employees wishing to request a room or other location to express milk in the workplace should do so by submitting a written request to their direct supervisor or individual designated by **[Name of Organization]**. The employee's supervisor or designee will respond to this request in writing within five days. **[Name of Organization]** will also notify all employees in writing through email or printed memo when a room or other location has been designated for expressing milk.

Lactation Room Requirements

In addition to providing necessary break time during the workday, **[Name of Organization]** will provide a private room or alternative location for the purpose of expressing milk. **The space provided for milk expression will not be a restroom or toilet stall.**

The room or location will:

- Be close to the 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, counter or other flat surface

There will not necessarily be a separate lactation room for every employee who is lactating. Should there be more than one employee at a time needing access to a lactation room, **[Name of Organization]** may dedicate a centralized location to be used by all employees.

Any space provided for milk expression will be close to the work area of the employee(s) using the space. The space will be within walking distance, and the distance to the lactation room will not significantly extend an employee's needed break time.

If there is not a separate room or space available for lactation, **[Name of Organization]** may use a vacant office or other available room on a temporary basis. This room will not be accessible to the public or other employees while an employee is using it for milk expression.

As a last resort, an available cubicle may be used for 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 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 will 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, **[Name of Organization]** will utilize a sign advising the space is in use and not accessible to other employees or the public.

If the workplace has a refrigerator, **[Name of Organization]** will allow employees to use it to store expressed milk. However, **[Name of Organization]** is not responsible for ensuring the safekeeping of expressed milk stored in any refrigerator at the workplace.

Employees are required to store all expressed milk in closed containers and bring milk home each evening.

The space designated for expressing milk will be maintained and clean at all times.

If **[Name of Organization]** experiences an undue hardship in providing a space with the above requirements, it will 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 milk in private and 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, [Name of Organization] will not deny an employee the right to express milk in the workplace due to difficulty in finding a location.**

NEW YORK STATE DEPARTMENT OF LABOR RESOURCES

If an employee believes that they are experiencing retaliation for expressing milk in the workplace, or that their employer is in violation of this policy, they should contact the New York State Department of Labor’s Division of Labor Standards at [1-888-52-LABOR](tel:1-888-52-LABOR) or LSAsk@labor.ny.gov, or visit the nearest Labor Standards office to personally file a complaint. A list of offices is available at dol.ny.gov/location/contact-division-labor-standards. *Complaints are confidential.*

FEDERAL RESOURCES

The federal PUMP Act went into effect in 2023, expanding protections for almost all employees expressing milk at work. Under the PUMP Act, any covered workers not provided with breaks and adequate space for up to a year after the birth of a child are able to file a complaint with the U.S. Department of Labor or file a lawsuit against their employers. For more information, please visit dol.gov/agencies/whd/pump-at-work.