



Photo credit: United States Breastfeeding Committee (USBC)

LACTATION ACCOMMODATIONS

What NYC Employers Need to Know

An employee's decision to breastfeed a baby and/or to pump or express breast milk after returning to work from parental leave is a personal health choice. In the United States, more than 81% of birthing parents begin breastfeeding their babies at birth – but many stop earlier than is recommended, according to the 2016 Breastfeeding Report Card by the Centers for Disease Control and Prevention. New York City is striving to change work culture surrounding lactation accommodations to reduce stigma, educate employers, support employees, and normalize pumping at work. Not everyone with a baby is able to or chooses to breastfeed, but for those who do, workplace accommodations can be critical to ensuring they are able to carry out that choice.

Under the New York City Human Rights Law, employers must provide reasonable accommodations for employees to pump and/or express breast milk at work. Each person's experience breastfeeding and pumping is unique, and employers must accommodate those unique needs. There is strong medical evidence that breast milk provides many health benefits. The American Academy of Pediatrics recommends that babies are fed only breast milk for the first six months of life, and that babies continue to receive breast milk along with solid food for at least one year or longer, as desired by the parent and baby. Breast milk provides vitamins and nutrients that a baby needs, which help build a baby's immune system and aid in brain development. Breastfed babies are at lower risk for asthma, obesity, diabetes, sudden infant death syndrome (SIDS), and

infections. Breastfeeding and/or pumping can help lower an employee’s risk of high blood pressure, diabetes, ovarian cancer, and breast cancer.

Providing accommodations to employees who pump and/or express breast milk is not only the law, but there are economic benefits to employers as well. Economic benefits to employers include: retention of experienced employees; reduction in sick time taken by employees for children’s illnesses; and lower healthcare and insurance costs.

Employers must understand how to meet the needs of their employees who need lactation accommodations. This document provides employers with information about the basic needs of employees who need to pump and/or express breast milk. Additional resources are available at the [NYC Commission on Human Rights](#) website regarding your employers’ obligations, including a model lactation accommodation policy and request form; and at the [NYC Department of Health](#) website.

Employees Who Pump Have Specific Physical Needs

Employees who pump do not stop producing milk when they are away from their child. An employee who pumps and who is separated from their baby must empty the milk from their breasts on roughly the same schedule as the baby feeds in order to avoid complications and health risks. This is usually done through the use of a “breast pump,” and the process of removal of breast milk with a pump, which is commonly known as “pumping.” Failure to fully empty the breast can be extremely uncomfortable and can cause breast engorgement or swelling. This may lead to an inflammation of the breast tissue, infection, abscess, pain, fever, severe illness and even hospitalization. Failure to pump with enough frequency or to fully empty the breast can decrease the amount of milk that the breasts produce, which may cause an employee having to stop breastfeeding and/or pumping earlier than they planned because they cannot meet their baby’s nutritional needs.

There are physical and psychological benefits to breastfeeding and/or pumping for both the parent and baby. As a result, failing to accommodate an employee who pumps after they return to work can have a significant negative physical and/or emotional impact on the employee. Stress caused by discrimination, harassment, or a failure to provide necessary accommodations can cause a decrease in an employee’s milk supply, and can force an employee to stop breastfeeding and/or pumping earlier than one plans.

The Term “Pumping” Refers to Use of a Breast Pump to Express Breast Milk

A breast pump is a device, typically either electrical (requiring an outlet, a battery, or a USB charger) or manual, that is used for drawing milk from a person’s breasts by suction. These devices can be large and/or heavy. Manual pumps take far longer to use than electric ones. Employees often use pumps when they return to work so they can continue producing breast milk. Breast milk is collected in specialized bottles or bags.

Breast Milk Requires Refrigeration or Other Cooling

Breast milk is food. Freshly expressed breast milk should be placed in a refrigerator or a cooling device with ice packs as soon as possible to prevent it from spoiling. Refrigerated or chilled breast milk may last up to a few days, whereas breast milk at room temperature may remain unspoiled for only approximately four to six hours.

Employees Need Break Time to Pump for as Long and as Frequently as Needed

Employees need time during the workday to pump or otherwise express breast milk. Generally, during an 8-hour shift, an employee may require two to three breaks of 15-30 minutes of pumping time, plus additional time to travel to/from the pumping space, set up the pump, clean the pump parts, and store the milk. Frequency of pumping and of breaks to pump depends on the baby’s age and other factors. Usually, the younger the infant, the more frequently an employee needs to pump.

Under NYS Labor Law § 206-c, employers must provide 30 minutes of paid break time, and shall further permit an employee to use existing paid break time or meal time for time in excess of 30 minutes for an employee to pump. An employer must not limit the amount of time or the frequency an employee pumps unless the employer can show that such additional time poses an undue hardship, and there is no exception or undue hardship allowance to the obligations to provide 30 minutes of paid break time or to allow employee use of existing paid break and meal time in excess of 30 minutes obligation. Further, there is no limit to how many years an employee may need to pump. For example, many will pump and breastfeed for a year or longer; and others will breastfeed a toddler until they are two years old or older. The decision to continue breastfeeding and/or pumping, and the decision when to stop doing so, varies from person to person. NYS Labor Law § 206-c’s paid break time requirements extend to up to three years following child birth.

Employees Have a Right to a Clean and Private Space to Pump

Employees have the right to pump at work shielded from others' view and free from intrusion by coworkers and members of the public. Breast milk is not easily expressed if the employee is not relaxed. Stress or embarrassment can cause an employee to stop breastfeeding and/or pumping. A private space helps ensure that the employee can continue to pump while at work. The space must also be clean.

Identifying a space to pump that is free from intrusion may not be an issue for employees who have a private office or workspace, or where dedicated lactation spaces already exist. However, many employers will have to identify or create a lactation space, or authorize the use of a multi-purpose space as a suitable pumping location. Such locations must have the amenities the employee needs to pump, such as nearby running water for cleaning pump parts and washing hands prior to pumping. The better and more convenient the lactation space, the easier it will be for the employee to promptly return to their duties after pumping.

Some employees will prefer not to use a private lactation space, but instead, for convenience, comfort, or efficiency, prefer to pump at their workspace. An employee who wishes to pump at their usual workspace shall be permitted to do this so long as it does not create an undue hardship for the employer, regardless of whether a coworker, client, or customer expresses discomfort. Employers may not require an employee to use a particular type of pump or method of expression.

Other Accommodations May be Required

Some employees who pump, either because of the nature of their job or their unique physical needs, may require support beyond break time and space. For example, workers whose job duties normally expose them to chemicals, radiation, smoke, or other toxins may need to avoid exposure during the time they are breastfeeding. Others with medical complications stemming from breastfeeding, like *mastitis* (inflammation of the breast that sometimes involves an infection), may require a brief time off from work or a change in work duties while they recover. And in the rare instance that a job is simply incompatible with breastfeeding or pumping, a temporary reassignment or transfer to another position may be necessary. Employers must engage in a cooperative dialogue with their employees to identify appropriate accommodations that meet their needs.