

New Lactation Room Laws In New York City

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The New York City Council just passed two bills that will require employers to provide lactation rooms to breastfeeding employees, as well as develop a lactation policy and processes for employees to request accommodations for nursing.

The first bill, [Int. No. 879-A](#), amends the administrative code of the City of New York to require employers to provide a “lactation room” for employees needing to express breastmilk. The lactation room must be a sanitary place, other than a restroom, where employees can express breastmilk “shielded from view and free from intrusion.” At a minimum, the room must include an electrical outlet, a chair, a surface on which a breast pump and other personal items can be placed, and nearby access to running water. In addition, both the lactation room and a refrigerator suitable for breast milk storage should be in reasonable proximity to the breastfeeding employee(s)’ work area.

While the lactation room may be an existing room that is used for other purposes, its sole function must be as a lactation room while an employee is using it to express breastmilk. If an employee is using the room to express milk, the employer is required to notify other employees that the room is given preference for use as a lactation room. If providing a lactation room poses an “undue hardship” for an employer, the employer must engage in a cooperative dialogue with the breastfeeding employee. This dialogue, whether orally or in writing, is intended to determine what alternative accommodation(s) might be available. The cooperative dialogue process should result in a written final determination given to the employee identifying any accommodation(s) that were granted or denied.

The second of the two bills, [Int. No. 905-A](#), requires that employers implement a written lactation room policy and provide a copy to all new hires. The policy must notify employees that they have the right to a lactation room, and describe a process by which employees may request use of a lactation room. Notably, the bill does not require that the policy be distributed to current employees.

The process for requesting the use of a lactation room must:

1. Specify the means by which an employee may submit such a request
2. Require the employer to respond 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 room at the same time, including contact information for any required follow up
4. State that the employer shall provide reasonable break time for an employee to express breast milk pursuant to Section 206-c of the New York 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 bill instructs the New York City Commission on Human Rights to develop a model lactation room accommodation policy, in addition to a model lactation room request form, to assist employers in complying with the new law.



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Both of these new laws will become effective 120 days after the Mayor signs the bills, which he is expected to do in the near future.

Employers in New York City should review their policies and procedures in order to ensure compliance with these new laws. And the city's laws provide a reminder for employers throughout the country to make sure that their policies and procedures satisfy the Affordable Care Act's [protections for nursing mothers](#), as well as any applicable state or local law.

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