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New York City Mandates Workplace Lactation Rooms

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The New York City Council has passed a package of bills relating to maternal health and family care. Two of the bills – Int. 879-A and Int. 905-A – will amend the New York City Human Rights Law to include provisions requiring employers in New York City with 15 or more employees to provide a lactation room upon request and implement a written lactation room policy.

Mayor Bill DeBlasio is expected to sign the bills into law. The new requirements will take effect 120 days after they are signed into law, likely in February 2019.

Lactation Room Requirement

Int. 879-A adds to the NYCHR a new term – “lactation room.” Under the legislation, 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.

The amendment will require employers with 15 or more employees in New York City to provide, upon request by an employee needing to express breast milk:

- A lactation room in reasonable proximity to such employee’s work area; and
- A refrigerator suitable for breast milk storage in reasonable proximity to such employee’s work area.

While the room designated by the employer as a lactation room may also be used for another purpose, its sole function must be a lactation room while an employee is using the room to express breast milk. Accordingly, if an employer designates a multipurpose room as its lactation room, the employer must provide notice to other employees that the room is given preference for use as a lactation room and must be vacated if needed by an employee to express breast milk.

If providing a lactation room would pose an undue hardship on the employer, the employer must engage in a “cooperative dialogue” with the employees who would otherwise be entitled to the room. For a discussion of an employer’s obligation under City law to engage in a cooperative dialogue, please see our [recent Alert](#) on the subject.

Lactation Room Written Policy

In addition, the legislation requires employers in New York City with 15 or more employees to establish and distribute to all new employees a written policy (i) describing employees’ right to request a lactation room and (ii) including the

process by which an employee can 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 for a lactation room;
- Require that the employer respond to a request for a lactation room within a reasonable amount of time not to exceed five (5) business days;
- Provide a procedure to follow when two or more individuals need to use the lactation room at the same time, including contact information for any follow up required;
- State that the employer shall provide reasonable break time for an employee to express breast milk pursuant to section 206-c of the labor law; and
- State that if the request for a lactation room poses an undue hardship on the employer, the employer shall engage in a cooperative dialogue.

Int. 905-A directs the New York City Commission on Human Rights to develop a model lactation room accommodation policy that conforms to the requirements of the amended law, as well as a model lactation room request form. Additionally, both bills provide that the Commission may take any measure necessary to implement the new amendments, including the promulgation of rules, before the amendments take effect.

Accordingly, even though the amendments do not take effect until 120 days after the Mayor signs them into law and the model policy and model request form are not yet posted on the Commission's website, it is recommended that employers contact counsel to review and revise

their current employee handbooks and/or any lactation accommodation policies to ensure compliance with these new requirements. Once the Commission posts its model policy and form or promulgates any rules, we will update this Alert with further developments.

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