

KD Alert: New Lactation Requirements for NYC Employers Will Become Effective March 18, 2019

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As of March 18, 2019, New York City employers will be subject to new requirements pertaining to lactation rooms and the rights of nursing mothers. The law will establish new standards for lactation rooms, and will require employers to maintain a written lactation policy.

The new law, which will apply to NYC employers with four or more employees, will add to already-existing requirements under New York State law. State law currently requires employers to provide a room or other private space in close proximity to the employee's work space, containing a chair and a flat surface upon which a breast pump may be placed. The new city ordinance goes further, mandating that the rooms have an electrical outlet and nearby access to running water, and that the employee has access to a refrigerator for storing breast milk in reasonable proximity to her work area.

If a room designated by an employer to serve as a lactation room is also used for another purpose, the room is to be used solely as a lactation room whenever an employee is using it as such. During such use, the employer must notify other employees that the room is given preference for use as a lactation room.

In addition to the above, employers will be required to create and distribute a written policy. This policy should inform employees of their right to request a lactation room and specify how such a request is to be submitted. The policy must require the employer to respond to any such request within five days, and also provide a procedure to follow when two more employees need the lactation room at the same time. The policy should further note that reasonable break time will be provided to employees for the purpose of expressing milk. Finally, the policy should state that if a request for a lactation room poses an undue hardship to the employer, the employer will engage in a cooperative dialogue with the employee.

While the new requirements may seem onerous to some employers, many of whom have been scrambling to keep up with various new mandates under NYS and NYC law, some companies may find, upon review, that their existing practices already meet some of the new requirements – such as providing an electrical outlet and nearby access to running water. Moreover, employers may find that facilitating mothers' ability to express milk at work can ease their return to the workplace after maternity leave, thereby improving retention.

If you have questions about complying with the new lactation laws or need assistance in implementing the new policies, please contact one of the experienced employment attorneys at Kaufman Dolowich & Voluck.