

Workplace Lactation Rights



Employment law protections

In 2018, New Jersey passed new legislation that amended the Law Against Disability (LAD), the state's civil rights law, to include workplace protections for breastfeeding individuals. Those protections apply to both private and public (state and local) employers.

It is an unlawful employment practice for an employer to discriminate against an individual because they are breastfeeding. This includes refusal to hire, termination of employment, and discrimination in compensation or in other terms, conditions, or privileges of employment.

It is also unlawful for an employer to retaliate against an employee who exercises their rights under the law, for example for requesting or utilizing breastfeeding accommodations.

Accommodations at work

Employees can request a reasonable accommodation from their employer that allow the employee reasonable break time to breastfeed or express milk during the workday. New Jersey law does not circumscribe the right to request this accommodation to a certain amount of time within the birth of the child. The accommodation request can only be legally denied if the employer can demonstrate that the accommodation would cause an undue hardship on business operations. When the request is made, the employer must engage in a good faith interactive process with the employee to discuss the request and the parameters of the accommodation.

The law specifies that the employer must provide a suitable room or other private location that is not a toilet stall to an employee who has an accommodation to breastfeed or express breast milk. That location must be in close proximity to the employee's work area. It does not have to be a space that is solely dedicated as a lactation room, but it must be made available to the employee during their breaks and it must be private (preferably, able to be locked from the inside).

The breaks provided must be reasonable in length. The law does not specify a precise allotment of time for those breaks. During the good faith interactive process, the employer and employee should discuss the break times and scheduling. The employer must treat the break time for breastfeeding or expressing milk in the same manner it does other types of breaks, particularly when it comes to compensation.



Lactation Policies in Schools

The New Jersey Department of Education (NJ DOE) is required to release an annual report reporting on lactation-related policies implemented in schools. The NJ DOE's 2020 Lactation Room Policy Report is located [here](#). NJ DOE reports that no 8-12 grade level schools had a designated lactation room policy in place at the time of the report. 14.64% of the reporting schools accommodated breastfeeding staff, and 17.31% accommodated lactating students.¹

¹It is unclear from the report why the NJ DOE's statistics only include 8-12 schools, and not K-12.