

Workplace Legal Alert



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Paid Lactation Breaks and Prenatal Leave

As previously reported in my [February 2023 Workplace Alert](#), both New York and federal law require that covered employers provide all employees who are nursing with reasonable time and private space (other than a bathroom) to express breast milk for up to three years following childbirth. Until recently, the breaks were unpaid provided the employee is completely relieved of all duties.

Starting June 19, 2024, all employers in New York will be required to provide *paid* 30-minute breaks, and permit an employee to use existing paid break time or meal time for time in excess of 30 minutes, to employees who need to express breast milk for a nursing child. The paid lactation requirement was part of the budget process and it's not yet clear how often the paid 30-minute break must be provided but you can anticipate it will require multiple paid lactation breaks as needed.

Employers must maintain a written lactation policy and provide it to employees at the time of hire, annually and upon an employee's return to work following the birth of a child.

The budget also includes an amendment to the paid sick leave law making pregnant employees eligible for up to 20 hours of paid time off in a 52-week period for doctor appointments, testing, medical procedures or other types of prenatal care. This new law is effective January 1, 2025.

Unlike other forms of paid sick leave, prenatal leave applies to employers of all sizes and is available immediately after hire. This new benefit is in addition to the paid benefits available to employees under New York's safe/sick leave and family leave laws. Prenatal leave benefits may be taken in hourly increments and are paid at the employee's regular rate of pay or the applicable minimum wage rate, whichever is greater.

Employees are not required to be paid unused paid prenatal leave when employment ends. If an employee exhausts paid prenatal leave, they can use accrued paid sick leave for any preventive healthcare appointments including prenatal care.

If you have any questions or concerns, do not hesitate to contact me.

