

Employee's Fact Sheet:

Workplace Breastfeeding Rights In New Jersey



Can an employer discriminate against me at work if I am a breastfeeding parent or if I choose to express milk at work? No. Under the New Jersey Law Against Discrimination (N.J.S.A. 10:5-12) (LAD),* it is illegal for an employer to discriminate against an employee or treat that person differently on the basis of their breastfeeding status. It is also unlawful for an employer to harass, to make derogatory comments about, or to interfere with an employee or to permit others to do these things because the employee breastfeeds or chooses to express milk at work.

Which employers are covered? The LAD applies to all employers in New Jersey, including private or state and local government employers, employment agencies and labor unions. There is a narrow exemption for employers who can show that providing the break time would be an undue hardship. See “Are any employees exempted from providing break breaks?” below.

Do I have the right to express milk at work? Yes. The LAD requires employers to accommodate breastfeeding employees who wish to pump milk at work by providing

- “reasonable” break time each day, and
- a suitable room or other location with privacy, other than a toilet stall, in close proximity to the work area.

What is considered reasonable break time? Most employees need 15-20 minutes to express breast milk, plus additional time to wash hands, assemble and store pumping supplies, to store the milk and to get to and return from the pumping location. Though 30 minutes is typical, some employees may need more or less time.

What is a suitable room or other location? The pumping location may not be a toilet stall. It must be a private room or other location in close proximity to the work area. To ensure privacy, the space should have a door that can be locked from the inside. Though a space that is only used for pumping would be ideal, it can be a room or space used for other work functions, like an office, conference room or storage area that is available each time a breastfeeding employee needs it. An employee will need a chair and a small table or shelf for holding the pump. Employers are encouraged to provide a space which also contains an

electrical outlet, a sink and a refrigerator; these items can help keep pumping time to 30 minutes or less.

How long does this right to pump at work last? The New Jersey LAD does not have a time limit. An employee may continue to express milk after the child's first birthday.

How often can I have a pumping break? Most employees will need to pump as often as the baby normally feeds, or at least every 3 hours, especially when their babies are under 6 months of age. How often an employee needs to pump may change as the baby's feeding patterns change or when the baby starts to eat solid foods.

Must this break be paid? Break time to pump need not be paid. However, if the employer already provides paid break time and if the employee chooses to use that break time to express milk, then that break time must be paid. Employers are encouraged to provide flexible scheduling if an employee chooses to make up for unpaid break time.

Are any employers exempted from providing pumping breaks? All employers are required to reasonably accommodate an employee's request for breastfeeding-related accommodations, including breaks and an appropriate space to express breast milk, unless the employer can demonstrate that a specific accommodation would be an undue hardship on its business operations.

Can my employer discriminate or retaliate against me for asking for or taking pumping breaks? No. An employer may not penalize an employee regarding any terms, privileges or conditions of employment for requesting or using workplace accommodations to express their breast milk.

How do I report it if I believe my rights to take breaks to express milk have been violated?

An employee may file a complaint with the New Jersey Division on Civil Rights (DCR) or in the Law Division of the Superior Court of New Jersey.* See <http://www.nj.gov/oag/dcr/filing.html> and DCR Frequently Asked Questions at <http://www.nj.gov/oag/dcr/faq.html> for more information. If the DCR or Superior Court finds the employer to be in violation of the law, remedies may include an order restraining the discriminatory action, back pay, damages for pain and humiliation, and attorney's fees. Punitive damages are available in Superior Court actions.

* http://njleg.state.nj.us/2016/Bills/PL17/263_.PDF