



# Do You Have Pregnant or Breastfeeding Employees?

## Know Your Responsibilities



Division of  
Human  
Rights

Department  
of Labor

Workers'  
Compensation  
Board

Pregnancy discrimination in the workplace violates federal and New York State law.

### **PREGNANT EMPLOYEES**

New York State employers<sup>1</sup> may not fire an employee because she is pregnant or may become pregnant. As an employer, you may not change an employee's terms, conditions, and privileges of employment because of the employee's pregnancy, childbirth, or related conditions.<sup>2</sup> You also may not refuse to hire or to promote a candidate because she is pregnant.

As an employer, you are required to provide pregnant workers with requested reasonable accommodations for any pregnancy-related conditions, including:

- occasional breaks to rest or drink water,
- a modified work schedule,
- leave for related medical needs,
- available light duty assignments, and
- transfers away from hazardous duty.

You may not require an employee to take leave because she is pregnant. If an employee takes a medical leave due to a pregnancy-related condition or childbirth, you must hold her job for her as long as you do for employees who take medical leave for other reasons. Employees may have other pregnancy and childbirth-related return-to-work rights under the federal Family and Medical Leave Act, the New York State Disability Benefits Law, and the New York State Paid Family Leave Law.

### **BREASTFEEDING EMPLOYEES**

New York State employers may not treat employees differently just because they are breastfeeding. State law guarantees nursing mothers break time to pump breast milk at work.

- As an employer, you must allow breastfeeding mothers to use paid break or meal times or reasonable unpaid break times to pump milk.
- You must provide employees with a private room or other location close to the employees' work area where they can pump breast milk, unless it would be extremely difficult for an employer to do so.
- You cannot discriminate against employees who choose to pump milk at work or retaliate against employee who assert their rights to do so.

<sup>1</sup> For this purpose, the N.Y. Human Rights Law defines employer to include any employer with four or more persons in his or her employ.

<sup>2</sup> The Human Rights Law covers any medical condition related to pregnancy or childbirth that inhibits a person's normal bodily functions or can be demonstrated by medically accepted diagnostic techniques, including lactation, miscarriage, and abortion.

## **PAID FAMILY LEAVE**

In 2016, Governor Cuomo signed into law the nation's strongest and most comprehensive Paid Family Leave policy, giving employers a cost-free mechanism for supporting workers in times of family need.

As of January 1, 2018, most private employers in New York State were required to secure Paid Family Leave insurance coverage, which is fully funded by employees. Public employers may choose to offer Paid Family Leave.

New York's Paid Family Leave provides job-protected, paid time off so employees can:

- **bond** with a newly born, adopted or fostered child;
- **care** for a close relative with a serious health condition; or
- **assist** loved ones when a family member is deployed abroad on active military service.

Employers cannot discriminate or retaliate against anyone for requesting or taking Paid Family Leave or pregnancy and childbirth-related short-term disability. Paid Family Leave has been shown to improve employee morale and retention, which reduces costs.

For more information, visit [ny.gov/pregnancyrights](https://ny.gov/pregnancyrights)  
or text **PREGNANT** to **81336**.

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Any employee that believes they have been discriminated against because of pregnancy, or denied a reasonable accommodation for a medical condition related to pregnancy or childbirth, can file complaint with the New York State Division of Human Rights:  
visit: [dhr.ny.gov](https://dhr.ny.gov) or call **1-888-392-3644**