

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN 2010-02**

Section 21.12

MAY 2010

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TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Changes to Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place

The guidelines issued by the New York State Department of Labor regarding Section 206-c of the Labor Law on rights of nursing mothers to express breast milk in the workplace have been revised.

This memorandum is a result of discussions with the Governor's Office of Employee Relations and provides guidance on the changes to those guidelines. The information contained in this document summarizes our understanding of the changes to the guidelines and should be read in conjunction with Policy Bulletin 2008-01 (PB 08-01). The two significant changes are in bold and discussed below.

Using Unpaid Break Time (page 2 of PB 08-01)

Upon election of the employee, an employer shall allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) for the expression of breast milk so long as such additional time requested falls within the employer's normal work hours.

However, regular unpaid meal periods used for the purpose of expressing breast milk cannot be made up, by working additional time, since they are not part of the employee's normal work day.

An employee who elects to make up time should be deemed to be on an individualized work schedule as described in Section 20.1 of the Attendance and Leave Manual. The schedule adjustment should not be used to shorten an unpaid meal period.

Location to Express Breast Milk (page 3 of PB 08-01)

The room or location provided by the employer for this purpose cannot be a restroom or toilet stall.

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Role of Agency Section 206-c Coordinator (page 5 of PB 08-01)

Agencies are reminded that when contacted by a nursing mother regarding this benefit, the Section 206-c Coordinator is expected to collect pertinent information concerning the employee's request, consult with the Attendance and Leave Unit of this Department regarding each individual case and work with the agency and the employee to identify the best options for scheduling time and designating a location for expressing breast milk.

Agencies should also note that the recently enacted Federal Patient Protection and Affordability Care Act (Public Law No. 111-148) amended certain provisions in the Fair Labor Standards Act regarding expressing breast milk in the work place. NYS Labor Law 206-c is consistent with the Federal law and provides the same or more generous provisions for nursing mothers.

A link to the Department of Labor's guidelines pertaining to Labor Law 206-c is provided below:

<http://www.labor.ny.gov/workerprotection/laborstandards/pdfs/guidelinesexpressionofbreastmilkfinal.pdf>

Agencies with questions should contact the Attendance and Leave Unit of this Department at 518-457-2295.