

## Lactation Accommodations

<b>Objective:</b>	To provide employees with a room or space to privately breastfeed or express breastmilk as required under Federal and State law.	<b>Policy/Procedure Number:</b>	02-47
<b>Reference:</b> (All applicable federal, state, and local laws)	New York State Labor Law, Section 206-c; Department of Labor Fair Labor Standards Act, Section 7; Federal PUMP Act of 2023	<b>Effective Date:</b>	September 19, 2023
<b>Legislative Policy Statement:</b>	Tompkins County provides a supportive environment where employees may express breast milk during work hours for up to three years following childbirth. Employees who choose to express breast milk in the workplace will not be discriminated against in any way.	<b>Responsible Department:</b>	Human Resources
<b>General Information:</b>		<b>Modified Date (s):</b>	
		<b>Resolution No.:</b>	2023-208
		<b>Next Scheduled Review:</b>	September 2028

**I. Definitions:**

**Interactive Process or Accommodation Discussion** - A required informal discussion and information exchange between an employee and their Department Head or designee to determine mutually acceptable and appropriate accommodations.

**Undue Hardship** - Causes significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the County.

**II. Policy:**

**A.** Employees must be provided with time and adequate space to privately express breastmilk for up to three (3) years after the birth of a child.

**B.** Employees shall be allowed a flexible schedule and to use their normal breaks and mealtimes to breastfeed or express breast milk during work hours. Additionally, employees must be provided reasonable unpaid time when needed to express breastmilk. Unpaid time shall be allotted at least every three (3) hours at the request of an employee.

**C.** Employees may be permitted to work before or after their normal shift to make up any time used as unpaid time to express breast milk if this time falls within the department's normal work hours. However, an employee is not required to make up their unpaid time used for this purpose.

**D.** The County shall make a reasonable effort to provide a room or space that is close to an employee's work area where they can privately breastfeed or express breastmilk that does not cause undue hardship on the County or departments. A restroom or toilet stall is not considered an adequate space for the purpose of expressing breastmilk. If the County can demonstrate undue hardship in providing a space, the County must still provide a room or other location - other than a restroom or toilet stall - that is near the work area where an employee can express breast milk in privacy, that meets as many of the requirements as possible. The County may not deny an employee the right to express breast milk in the workplace due to difficulty in finding a location.

**E.** The County shall provide this policy in writing to all employees at time of hire and annually thereafter.

### **III. Procedure:**

#### **A. Flexible and Reasonable Breaktimes**

1. Time provided shall be no less than twenty (20) minutes. If the designated lactation area is not within proximity of the employee's workstation, time should be no less than thirty (30) minutes.
2. For time beyond usual break times, employees may use personal leave or may make up the time as agreed upon with their Department Heads or their designee. If possible, this time should run concurrently with any break time already provided to an employee.
3. All requests for time above and beyond normal lunch and breaks are subject to approval by the Department Head or their designee based on operational needs.
  - a. *Employees in departments with 24/7 minimum staffing requirements are to participate in the interactive process or accommodation discussion with Department Heads or their designee to arrive at mutually acceptable and appropriate accommodations.*
4. Departments are not required to provide time above and beyond normal lunch and breaks if to do so would unduly disrupt the department's operation.
5. Employees who work remotely have the same rights to unpaid time off for the purpose of expressing breast milk as all other employees who perform their work in-person.

#### **B. Privacy**

1. The provided room or space must be an area other than a toilet stall or restroom, that is close to an employee's work area. The private location must be sanitary, contain at minimum a chair and a small table or other flat surface, be well-lit, have an electrical outlet and nearby access to clean running water.
2. Employees may breastfeed or express breast milk in their own private offices or in other comfortable locations agreed upon with their Department Heads or their designee. Should there be more than one (1) employee at a time needing access to a lactation room, a centralized location to be used by all employees may be designated by the County.
3. If there is not a separate room or space available for lactation, a vacant office or other available room may be utilized on a temporary basis. This room must not be accessible to the public or other employees while in use for breast milk expression.

4. A fully enclosed cubicle that is not otherwise accessible to the public or other employees while being used for breast milk expression, may be used for breast milk expression as a last resort. Partitions or walls must be at least seven (7) feet tall to ensure employee privacy.
5. If the lactation room has a window, it must be covered with a curtain, blinds or other covering. In addition, the lactation space should have a door equipped with a functional lock. If this is not possible (such as in the case of a fully enclosed cubicle), as a last resort, a sign must be utilized advising the space is in use and not accessible to other employees or the public.

### **C. Breastmilk Storage**

1. Employees are allowed to use office or department refrigerators to store breast milk. However, it is the employee's responsibility to label and ensure the safekeeping of expressed milk stored in any refrigerator in the workplace.
2. Breastfeeding employees must provide their own containers and storage units such as small ice chest or thermos from home. When stored in a common refrigerator, the expressed milk container must be placed in a clean plastic box with lid, which has the employee's name on it, and placed on a high shelf in the shared refrigerator, not in the door panel.

### **D. Nursing a Child at the Workplace**

1. An employee may elect to nurse their child during the scheduled time in the designated area. Employees must make necessary arrangements with their Department Heads or their designee and childcare provider. The childcare provider will meet at the designated location and time. It is important that any scheduled time for nursing does not disrupt the operations of the department.

### **E. Responsibilities**

1. *Department Heads or their designee*
  - a. Department Heads or their designee are responsible for providing a copy of this policy to employees prior to returning to work from leave related to the birth of a child.
  - b. Department Heads or their designee shall discuss accommodations and schedule adaptation of space and work schedule with employees prior to their return-to-work date.
  - c. Department Heads or their designee must respond to an employee's request for needing lactation accommodations in writing within five (5) days of receiving the written request.
  - d. Department Heads or their designee must notify all employees in writing through email or printed memo when a room or other location has been designated for breast milk expression.
2. *Employees*

- a. Reasonable advance written notice, (minimum of at least three weeks), shall be provided by an employee to their Department Head or their designee, generally before returning to the workplace if the employee is on leave. Notice should be given to allow time to designate an appropriate location and adjust schedules if needed.
- b. Employees shall keep the location clean after each use and remove all personal items.
- c. Expressed milk must be removed from shared refrigerators at the end of each day.

#### **F. Retaliation**

1. If an employee believes that they are experiencing retaliation for expressing breast milk in the workplace, or that the County is in violation of this policy, they should contact the New York State Department of Labor's Division of Labor Standards. Complaints are confidential.
2. Employees not provided with time and adequate space for up to three (3) years after the birth of a child are able to file a complaint with the U.S. Department of Labor. For more information, please visit <https://www.dol.gov/agencies/whd/pump-at-work>.