

# **Breastfeeding Rights and : Lactation Policies in New Jersey**

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## Breastfeeding policies we will cover:

- Breastfeeding in public
- Lactation support in maternity hospitals
- Insurance/Medicaid coverage for lactation support and breast pumps
- Pumping rights in the workplace
- Lactation in child care settings
- Private insurance and Medicaid coverage of donor human milk

# New Jersey public breastfeeding law

*“Notwithstanding any provision of law to the contrary, a mother shall be entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement wherein the mother is otherwise permitted.”*

N.J.S.A. 26:4B-4

Photo: U.S. Dept. of Agriculture, WIC Works Resource System



## Legal remedy if your right to breastfeed in public has been violated:

- Make a complaint in writing to your local board of public health
- Health officer will investigate
- \$\$\$ penalties are possible

### BREASTFEEDING: IT'S YOUR RIGHT IN NJ

New Jersey law\* gives every mother the right to breastfeed her child in any place that is open to the public: restaurants, malls, parks, libraries, etc. Report violations to the local health department. Violators may be subject to fines. \*N.J.S.A. 26:4B-4, -5

New Jersey Breastfeeding Coalition  
breastfeedingnj.org



### AMAMANTAR: ¡ES SU DERECHO EN NJ!

La ley de New Jersey\* le da a cada madre el derecho de amamantar a su bebé en cualquier lugar abierto al público: restaurantes, centros comerciales, parques, etc. Reporte incidentes al departamento de salud local. Los infractores están sujetos a multas. N.J.S.A. 26:4B-4, -5.

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## Lactation spaces in government buildings



NJ law also requires onsite lactation spaces in certain public facilities and offices:

- Certain healthcare facilities,
- Federally qualified healthcare centers,
- One-Stop Career Centers,
- Medical Assistance Customer Centers
- Adoption agencies/ centers operated by the Division of Child Protection and Permanency in the Department of Children and Families
- Other public facilities

N.J.S.A. 26:4C-2, -3, -7

# Lactation support is required in New Jersey maternity hospitals

Since 2014, state hospital licensing regulations have required all New Jersey maternity hospitals and birth centers to support breastfeeding parents and babies

NJAC 8:43G-19.1 et seq.



Photo: World Health Organization

## NJ hospital standards require supportive breastfeeding care in the immediate postpartum period



- Skin to skin care during the first hour after the delivery, unless contraindicated
- Support must be offered on positioning and latching during the first hour of the baby's life
- Support must be skilled, culturally sensitive and in a language understood by the mother.

Photo: U.S. Breastfeeding Committee

# Breastfeeding patients are also entitled to:

- Care from trained staff who can demonstrate breastfeeding competencies
- Evidence-based information
- Teaching in pumping or hand expression within 4 hours of being separated from baby or if breastfeeding has been ineffective
- Referrals for community support upon discharge, including breastfeeding support groups
- Evidence-based practice on formula discharge bags!
- And more.....

Photo: U.S. Breastfeeding Committee





If you did not receive  
required lactation care in  
the hospital:

NJ Department of Health  
Complaints and Hotline  
website:

[https://www.nj.gov/health/healthfacilities/file\\_complaint.shtml](https://www.nj.gov/health/healthfacilities/file_complaint.shtml)

Photo: U.S. Breastfeeding Committee

# Insurance and Medicaid coverage of lactation services and breast pumps

- Federal Affordable Care Act ((ACA) coverage
- New Jersey law requirements for on private insurance coverage
- Medicaid coverage

Photo: U.S. Dept. of Agriculture, WIC Works Resource System



# Federal Affordable Care Act lactation coverage

Requires insurance providers to cover without cost sharing:

- Comprehensive lactation support and counseling
- Cost of a breast pump

Coverage gaps:

- Some insurers will only cover lactation support from a doctor or nurse
- Sometimes only covered manual pumps; other times covered rental pumps or personal pumps but not both
- Classes not always covered



## New Jersey insurance and Medicaid coverage for lactation support and equipment

- Requires many private insurance companies and the State Medicaid Program to cover, without requiring any cost sharing:
  - Comprehensive lactation support, counseling and consultation for the duration of breastfeeding and in conjunction with each birth
  - Costs for renting or purchasing electric or manual breastfeeding equipment

P.L. 2019, c. 343

*Photo: Unsplash, Luiza Braun*

# NJ law's pump coverage details

- Covered pump should be a double electric unless insured requests a manual pump
- Coverage includes pump repair and replacement, 2 pump kits, and proper size flanges
- “Multi-user pump” rental or purchase also covered when recommended by a licensed health care provider



# Types of lactation support to be covered under NJ law

- Lactation consultation in hospital, office and home settings
- In-person, one-on-one lactation counseling
- Telehealth support
- Group lactation counseling covered, in addition to, and not as a substitute for, one-on-one, in-person lactation counseling or lactation consultation



Photo: US Department of Agriculture, WICWorks

Both a “lactation consultation” by an International Board Certified Lactation Consultant and and “lactation counseling” by a lactation counselor are covered under the New Jersey insurance/Medicaid law

Photos: US Department of Agriculture and US Breastfeeding Committee



# Lactation rights in the workplace

## State and federal workplace lactation support laws

- New Jersey Law Against Discrimination
- U.S. Break Time for Nursing Mothers Law +The PUMP Act (Covers all 50 states)

Photo: US Breastfeeding Committee



# Providing Urgent Maternal Protections for Nursing Mothers Act (“PUMP Act”)



Requires almost all employers of all sizes to provide:

- Reasonable break time for employees to express milk (need not be paid)
- A “place other than a bathroom that is shielded from view and free from intrusion from coworkers and the public”
- For up to one year after the birth



## More about the PUMP Act

- Clarifies that if an employee is not relieved from duties to pump, pumping time must be paid and it also counts as time worked when calculating minimum wage and overtime
- Allows employees to file a lawsuit and seek monetary damages against an employer that violates the law



## New Jersey workplace lactation law: NJ Law Against Discrimination

- Found in the NJ Law Against Discrimination (LAD) N.J.S.A. 10:5-1 et seq
- Breastfeeding and pregnancy have been added to LAD's list of protected statuses

Photo: US Breastfeeding Committee

# New Jersey's strong workplace protections

- Employers must provide reasonable accommodations which include:
  - reasonable break time to express milk
  - a private place to pump other than a toilet stall, that is **“in close proximity to the employee’s work area”**
  - no time age limit on the child getting human milk (can pump for > 1 year)
  - applies to all employers regardless of number of employees

Photo: US Dept. of Health and Human Services, Office on Women’s Health



# LAD also bars discrimination and harassment



- LAD makes it illegal for employer to discriminate against or harass a person in employment on the basis of their breastfeeding status.
- Employer must also prevent harassment from other employees or a hostile environment

Graphic: Creative Commons, Pixabay. <https://pixabay.com/illustrations/bully-harassment-workplace-work-3233568/>

# Taking action if pumping rights have been violated:

- First, provide information on the law to your employer and have a conversation about it!

If legal remedies are needed:

- File a complaint within 180 days of the violation with the NJ Division on Civil Rights OR
- File a complaint within 2 years of the violation in NJ Superior Court

Consult an attorney and the NJ Division on Civil Rights for more information



## 5 Things You Should Know About Accommodations for Pregnancy and Breastfeeding at Work

- 1 The New Jersey Law Against Discrimination (LAD) requires your employer to grant you a reasonable accommodation for pregnancy, childbirth, related medical conditions, and breastfeeding to enable you to continue working while maintaining a healthy pregnancy or return to work after giving birth. The LAD is more protective than the federal Pregnancy Discrimination Act in this regard.
- 2 If you are pregnant, your employer must grant you a reasonable accommodation recommended by your doctor, including bathroom breaks, water breaks, rest breaks, assistance with manual labor, job restructuring, modified work schedules, and a temporary transfer to less strenuous or hazardous work, unless your employer can show that doing so would be an undue hardship on its operations.
- 3 If you are breastfeeding, your employer must grant you reasonable break time each day, and a suitable private place (other than a toilet stall) in which to express breast milk, unless your employer can show that doing so would be an undue hardship on its operations.
- 4 Factors to be considered in whether an accommodation would be an undue hardship include the overall size of your employer's business with respect to employees, facilities, and budget; the nature and cost of the accommodation needed; and the extent to which the accommodation would involve waiver of an essential requirement of your job.
- 5 Your employer may not in any way penalize you or retaliate against you for requesting or using an accommodation for pregnancy or breastfeeding.

To find out more or to file a complaint, go to [NJCivilRights.gov](http://NJCivilRights.gov) or call 973-648-2700




NJ Office of the Attorney General  
[NJCivilRights.gov](http://NJCivilRights.gov) **DIVISION ON CIVIL RIGHTS**

8.14.19

# NJBC website: workplace lactation resources

**Usted tiene derecho a extraerse la leche materna en el trabajo en Nueva Jersey**

<p>Su empleador deberá permitirle un tiempo razonable para extraerse la leche materna si usted se lo pide.</p>  <p>La mayoría de las empleadas necesitan entre 15 a 20 minutos para extraerse la leche materna, más el tiempo para lavarse las manos, preparar y almacenar la pompa y la leche. Este tiempo de descanso puede ser sin pago.</p>	<p>Su empleador deberá proporcionar un lugar privado, cerca de su área de trabajo, para que usted pueda extraerse la leche materna QUE NO SEA UN BAÑO.</p>  <p>Deberá tener una silla, una mesa para sostener la pompa, y una puerta que se pueda cerrar desde el interior.</p>	 <p>Es posible que necesite tomar un descanso para extraerse la leche materna al menos cada 3 horas, especialmente si su bebé tiene menos de 6 meses de edad.</p>	 <p>El derecho de extraerse la leche materna en su trabajo dura mientras usted este amamantando a su bebé.</p>
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Si no le han respetado sus derechos, puede presentar una queja en The New Jersey Division on Civil Rights (NJDCR) at [NJCivilRights.gov](http://NJCivilRights.gov) o llamar al 973-648-2700

 Para más información, visite el sitio web del New Jersey Breastfeeding Coalition website: [breastfeedingnj.org/breastfeeding-and-employment/](http://breastfeedingnj.org/breastfeeding-and-employment/)

## 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

<https://breastfeedingnj.org/breastfeeding-and-employment/>

Supporting breastfeeding is not only good for maternal and infant health, but it also benefits early childhood education settings!



Photo: U.S. Breastfeeding Committee



NJ currently lacks written policies that support lactation in child care

Updated regulations to require breastfeeding friendly practices are planned for 2025.

Photo: U.S. Breastfeeding Committee

# Resources and toolkit for breastfeeding-friendly child care at [breastfeedingnj.org](http://breastfeedingnj.org)



# Training is now available for child care staff

NC New Jersey Breastfeeding Coalition

## **Breastfeeding-Friendly Child Care Provider Training**

START COURSE





COMING SOON: Insurance and Medicaid coverage for pasteurized donor human milk

Milk must be obtained from a human milk bank that meets the quality guidelines of the NJ Dept. of Health (NJ DOH)

IMPLEMENTATION OF COVERAGE IS AWAITING  
DOH ADOPTION OF REGULATIONS ON  
ACCREDITING HUMAN MILK BANKS

Photo: U.S. Breastfeeding Committee



## Goals of the Breastfeeding Strategic Plan

To serve as a blueprint to coordinate government efforts and mobilize diverse stakeholders and prioritize actions to improve the state's breastfeeding rates.

To prioritize increasing breastfeeding initiation and duration and increasing statewide lactation support.

To focus on alleviating barriers to breastfeeding among families of color and other underserved populations

# Today's takeaways



- Breastfeeding in public is legal
- NJ regulations require lactation support in maternity hospitals
- Insurance coverage is available for breast pumps and lactation consultations, counseling and education
- Medicaid coverage is available for breast pumps; coverage for lactation support is coming soon
- NJ employers must accommodate lactating employees in the workplace
- Policies are needed to support lactation in child care
- Implementation of the New Jersey Breastfeeding Strategic Plan is beginning

# RESOURCES

- Right to Breastfeed in Public Cards: <https://breastfeedingnj.org/legal-rights/breastfeeding-in-public/>
- 5 Things You Should Know about Accommodations for Pregnancy and Breastfeeding at Work:  
[https://www.nj.gov/oag/dcr/downloads/fact\\_BRST.pdf](https://www.nj.gov/oag/dcr/downloads/fact_BRST.pdf)
- Breastfeeding and Employment in NJ:  
<https://breastfeedingnj.org/breastfeeding-and-employment/>
- New Jersey Hospital Licensing Regulations Related to Breastfeeding:  
<http://breastfeedingnj.org/hospital-breastfeeding-support/>

## More resources

- NJ Department of Health Complaints and Hotline website:  
[https://www.nj.gov/health/healthfacilities/file\\_complaint.shtml](https://www.nj.gov/health/healthfacilities/file_complaint.shtml)
- PUMP Act Resources: <https://dol.gov/agencies/whd/pump-at-work>
- Breastfeeding Friendly Child Care Resources and Toolkit:  
<https://breastfeedingnj.org/breastfeeding-friendly-child-care/>
- Breastfeeding Friendly Child Care Program (training):  
<https://NJCCIS.com> , Event ID 136030 (English version) or Event ID 138799 (Spanish version).
- File a complaint about lactation-related insurance coverage:  
<https://nj.gov/dobi/consumer.htm>

Questions?

**Contact:**  
**NJBreastfeedingCoalition@**  
**gmail.com**

