

**WRITTEN TESTIMONY OF  
THE SEX AND LAW COMMITTEE  
OF THE NEW YORK CITY BAR ASSOCIATION**

**NEW YORK CITY COUNCIL  
COMMITTEE ON WOMEN'S ISSUES  
HEARING ON PROPOSED INT. NO. 1063 – IN RELATION TO REQUIRING  
LACTATION ROOMS IN CERTAIN PUBLIC SPACES**

**March 30, 2016**

My name is Melissa Lee, and I am a member of the Sex and Law Committee of the New York City Bar Association. I am testifying today on behalf of the Sex and Law Committee. We thank the Committee on Women's Issues for this opportunity. Our Committee collectively represents a broad cross-section of the legal community including attorneys with expertise in public health law and policy, business law, government law, civil liberties and women's issues. My testimony today is based on the expertise of our members.

We commend the Committee on Women's Issues for taking this vital step to remedy the lack of appropriate accommodations for women needing to express breast milk in certain public spaces. However, our committee urges you to consider addressing two additional issues in the proposed amendment. First, we ask that you consider expanding the public spaces enumerated in the amendment to include public schools so that breastfeeding students may finally be guaranteed access to adequate, sanitary accommodations when needing to express milk. Second, while we recognize the critical importance of providing lactation facilities in public spaces, we ask that the Committee consider including language in the amendment to protect nursing mothers from being *required* to use such facilities when breastfeeding.

**EXPANDING ACCOMMODATION REQUIREMENTS TO PUBLIC SCHOOLS**

While schools, graduate and post-graduate institutions are currently required to provide their employees such accommodations for expressing breast milk pursuant to NY Labor Law § 206-c, they are not currently required under state or city law to provide their students access to the same types of accommodations. Further, in 2009, the New York Legislature passed the Breastfeeding Mother's Bill of Rights, which includes the right to pump breast milk for three years after giving birth.<sup>1</sup> However, by not providing a breastfeeding student with the time, space,

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<sup>1</sup> N.Y. Publ. Health L. § 2505-a.

or sanitary conditions in which to safely and adequately pump milk during the day, schools without such accommodations are effectively rendering these rights meaningless.

Breastfeeding students, both part-time and full-time, are often subject to the same rigorous schedules as those employees NY Labor Law § 206-c seeks to protect. While schools are required to provide private, sanitary space for employees to express milk, students are often left with no assigned space or are forced to use unsanitary bathroom stalls or private bathrooms. In the latter instance, students may have to wait their turn, forcing them to miss or be egregiously late to class on a regular basis. Crucially, removing school-related barriers to breastfeeding may decrease the likelihood that student mothers who choose to nurse will delay or discontinue their pursuit of education.

Notably, last fall, the State of California passed a law requiring schools operated by a school district or a county office of education to provide reasonable accommodations on campus to meet the needs of lactating pupils related to breastfeeding.<sup>2</sup> These reasonable accommodations include both access to an appropriate space for expressing milk and/or breastfeeding, and the time to do so. By enacting such a law, California recognized that lactating mothers share the same needs regardless of whether they are employees or students.

Unfortunately, though, many New York schools needlessly create challenges for their breastfeeding students by not providing baseline accommodations for expressing milk. By including public schools in the list of public spaces proposed in Int. No. 1063, the City may finally ensure that breastfeeding students have access to private, sanitary space where they can adequately express breast milk. Because schools are already required by law to provide reasonable accommodations to their employees, it should not be burdensome for these same institutions to extend those accommodations to their students.

## **ENSURING THAT MOTHERS ARE NOT FORCED TO USE LACTATION FACILITIES**

We further request that the Committee consider including language in the proposed amendment to affirmatively protect nursing mothers from being unnecessarily required to utilize the lactation facilities in any public space. For example, a woman who has her baby with her while waiting in line for her SNAP appointment should not be forced to leave her spot to use the lactation room. If a nursing mother feels comfortable breastfeeding in a public space like a waiting room, then current New York law gives her the right to do so.

While Int. No. 1063 will undoubtedly serve as a meaningful change for all women needing private, sanitary facilities for expressing milk while in public spaces, it is crucial that steps are taken to guard against employee misunderstanding or misuse of the proposed law. Accordingly, city agencies should create materials making clear that passage of the amendment does not preclude women from choosing to breastfeed in an open public space in accordance with their rights.<sup>3</sup>

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<sup>2</sup> Cal. Educ. Code § 222.

<sup>3</sup> N.Y. Civil Rights Law § 79-e (1994).

In conclusion, for the foregoing reasons, the Sex and Law Committee does support the passage of Int. No. 1063. However, we first urge the Committee to consider adding language to the amendment that will finally allow public students access to adequate, sanitary accommodations for the purpose expressing breast milk and language to protect nursing mothers from being unnecessarily required to use lactation facilities in any public space.

Respectfully Submitted,

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