

**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-A – IN RELATION TO REQUIRING
LACTATION ROOMS IN CERTAIN PUBLIC SPACES**

July 12, 2016

The Sex and Law Committee¹ of the New York City Bar Association supports the passage of Int. 1063-A as a vital step to remedy the lack of appropriate accommodations for women needing to express breast milk in certain public spaces. The proposed legislation recognizes the critical importance of providing lactation facilities in public spaces while also affirmatively protect nursing mothers from being unnecessarily required to utilize such facilities should they choose to express milk in public. However, our committee urges you to 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.

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.² However, by not providing a breastfeeding student with the time, space, 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

¹ The Sex and Law 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. Our testimony is based on the expertise of our members.

² N.Y. Publ. Health L. § 2505-a.

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.³ 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. We support the inclusion of language in the proposed legislation that requires the Department of Education to submit yearly reports on their policies surrounding lactation room access. We are hopeful that these reports will help provide much needed data concerning available access to lactation rooms and usage thereof and will encourage compliance in public schools. However our committee continues to urge the City Council to include public schools in the list of public spaces required to provide lactation rooms. 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.

By including public schools in the list of public spaces required to provide lactation rooms, the City will finally ensure that both breastfeeding students and those stakeholders in the community involved with public schools will have access to a private, sanitary space where they can adequately express breast milk. We look forward to continuing to work with the City Council on this issue.

Sex and Law Committee
Katharine Bodde, Chair
Melissa Lee, Member

³ Cal. Educ. Code § 222.