



Commissioner Colleen Crawford Gardner
New York State Department of Labor
W. Averell Harriman State Office Campus, Building 12
Albany, NY 12240

March 2, 2011

Dear Commissioner Gardner:

We write to commend the Department on its efforts to support working mothers who choose to breastfeed their children after returning to work, and to seek your cooperation expanding awareness and enforcement of the important rights guaranteed to nursing mothers in New York State.

New York has one of the strongest laws in the country to protect nursing mothers at work. Labor Law Section 206-c is central to promoting public health, fairness in the workplace for women, and better work-family balance for new mothers. The law, which was passed in 2007, preceded and helped to inspire recent changes to federal law on this topic. In March 2010, with passage of health care reform, employers across the country became responsible for providing reasonable unpaid break time and a safe space for nursing mothers to express breast milk at work. In December, President Obama directed federal agencies to provide workplace accommodations for employees who are nursing mothers. And just last month the United States Surgeon General issued a "Call to Action to Support Breastfeeding," urging employers to remove barriers that prevent working mothers from providing milk to their infants.

Despite widespread recognition of the importance of breastfeeding, and the robust law supporting it in New York, too many people in our state do not know about their rights and responsibilities in this area. In 2008, your Department issued excellent guidelines explaining the rights of nursing mothers to express breast milk and advising employers and employees on how successfully to implement the law's requirements. However, neither these guidelines, nor the law they clarify, are easy to reference through your website. And accessibility is even more of a problem for individuals reading at a low literacy level.

In an effort to improve public education about New York Labor Law Section 206-c, we have created materials to inform employees and employers about their rights and responsibilities. The New York City Bar Association's Sex and Law Committee has released a flyer outlining the provisions of the law and what is required for compliance, and intends to distribute it as broadly as possible to employees and employers alike. (A



copy of that flyer is enclosed for your reference.) A Better Balance has created, in collaboration with the What to Expect Foundation, a tri-fold brochure for new mothers explaining their rights in basic terms. The brochure draws on the information in the DOL guidelines and includes a list of the Department's Division of Labor Standards offices as a resource for women seeking help. (See enclosed brochure.)

In advance of distributing the enclosed materials, we called each of your regional offices to see how they would respond to a question from a woman about her rights to breastfeed at work. Unfortunately, we encountered confusing caller prompts, extended waits, and, in two cases, incorrect and incomplete information from the Department staff who answered our calls. One person answering questions about minimum wage and other labor laws did not know at all about nursing mothers' rights to express breast milk at work under state law. Another recommended asking for an accommodation to pump breast milk at work, and, if denied, filing a claim with the state Division of Human Rights alleging discrimination based on sex. We are concerned that women who want to report their employers or seek information about their rights will be misdirected and misinformed.

We are prepared to disseminate our materials widely throughout the state, but seek your help in making sure they are as effective as possible. We would like to meet with you or appropriate staff to discuss how the Department responds to inquiries about breastfeeding rights and how it enforces the law. We are eager to work with you to make sure that nursing mothers in New York know about their rights and are empowered to exercise those rights.

We look forward to speaking with you.

Sincerely,

Dina Bakst, Co-President
Phoebe Taubman, Staff Attorney
A Better Balance: The Work and Family
Legal Center

Rachel L. Braunstein
New York City Bar Association,
Committee on Sex and Law

Enclosures (2)

CC: Assemblymember RoAnn M. Destito