

DETERMINING COVID-19 LEAVES OF ABSENCE THROUGH DECEMBER 31, 2020

FOR NEW JERSEY EMPLOYERS WITH FEWER THAN 500 EMPLOYEES

Presented by



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WHAT IS THE REASON FOR THE COVID-19-RELATED LEAVE REQUEST?

Employee subject to government quarantine order

Two (2) weeks of FFCRA emergency paid sick leave at regular rate (or minimum wage, if higher) up to a maximum of \$511 per day (\$5,110 in total) if employer has work and employee is unable to work or telework

In addition, employee may elect to use accrued NJESL leave after FFCRA emergency paid sick leave or if ineligible for FFCRA emergency paid sick leave

If employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may also be available

After exhausting all leaves above, consider unpaid leave of absence as a reasonable accommodation if employee still unable to return to work

Employee caring for individual subject to government quarantine order or advised by health care provider to self-quarantine

Two (2) weeks of FFCRA emergency paid sick leave at 2/3 regular rate (or minimum wage, if higher) up to a maximum of \$200 per day (\$2,000 in total) if unable to work or telework

In addition, if caring for a family member with illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease, up to 12 weeks of NJFLA may be available

If the employee is caring for a family member, employee may elect to use accrued NJESL leave after FFCRA emergency paid sick leave and NJFLA or if ineligible for FFCRA emergency paid sick leave or NJFLA

If employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may also be available

Employer's business closed due to public health emergency

Employee may elect to use accrued NJESL leave

Employee caring for child whose school or child care provider is closed or unavailable

Two (2) weeks of FFCRA emergency paid sick leave at 2/3 regular rate (or minimum wage, if higher) up to a maximum of \$200 per day (\$2,000 in total)

+
Ten (10) weeks of FFCRA emergency paid FMLA leave up to a maximum of \$200 per day (\$10,000 in total)

(FFCRA provides up to 12 weeks of emergency leave that counts against FMLA entitlement, not in addition to)

In addition, if caring for a child due to the closure of the school or place of care of the child, employee may elect to use accrued NJESL leave after FFCRA emergency paid sick leave and emergency paid FLMA leave or if ineligible for FFCRA emergency paid sick leave or emergency paid FMLA leave

If leave is needed for in-home care or treatment of a child due to closure of the school or place of care of the child of the employee, then the employee may be eligible for 12 weeks of NJFLA leave to be taken concurrently with emergency paid FMLA

Employee experiencing symptoms and seeking medical diagnosis or advised by health care provider to self-quarantine

Two (2) weeks of FFCRA emergency paid sick leave at regular rate (or minimum wage, if higher) up to a maximum of \$511 per day (\$5,110 in total) if unable to work or telework

In addition, employee may elect to use accrued NJESL leave after FFCRA emergency paid sick leave or if ineligible for FFCRA emergency paid sick leave

If employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may also be available

After exhausting all leaves above, consider unpaid leave of absence as a reasonable accommodation if employee still unable to return to work

Employee generally uncomfortable about returning to work

Engage in cooperative dialogue with employee, determine whether concerns are the result of a protected disability and consider if unpaid leave of absence or another accommodation may be required

NJLAD prohibits firing workers based on perceived coronavirus symptoms. Further, employers are required to take reasonable action to stop related harassment between employees. Employers may not terminate or otherwise retaliate against employees who are perceived to have a disability related to COVID-19 or who report COVID-19 related harassment or discrimination

Defined Terms

FFCRA = Families First Coronavirus Response Act
FMLA = Family and Medical Leave Act
NJFLA = New Jersey Family Leave Act
NJESL = New Jersey Earned Sick Leave Law
NJLAD = New Jersey Law Against Discrimination

*Note that in addition to the above leave entitlements, there may also be compensation entitlements available under New Jersey Temporary Disability Insurance, New Jersey Family Leave Insurance, workers' compensation and/or unemployment benefits.

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This document is intended for general information purposes only and does not address all contingencies, including employer policies that may provide for more generous benefits. It does not constitute legal advice or create an attorney-client relationship. Employers should consult with counsel when considering any COVID-19 related leave request. This document is based on information at the time it was prepared and is subject to change without notice. Laws and/or other circumstances may have changed since the publication.



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