

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

FOR NEW JERSEY EMPLOYERS WITH 500 OR MORE EMPLOYEES

Presented by



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

Employee subject to government quarantine order

Up to 40 hours or 1 week of paid leave using earned sick leave accrued under NJESL

In addition, if the employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may be available for up to 12 weeks if the quarantine was due to the employee's illness

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

NJLAD prohibits firing workers based on real or 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 have or are perceived to have a disability related to COVID-19 or who report COVID-19 related harassment or discrimination.

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

Up to 40 hours or 1 week of paid leave using earned sick leave accrued under NJESL

In addition, if the employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may 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 family member subject to government quarantine order or advised by health care provider to self-quarantine

Up to 40 hours or 1 week of paid leave using earned sick leave accrued under NJESL. In addition, if the employee is caring for a family member, employee may elect to use accrued NJESL leave concurrently or after NJFLA or if ineligible for NJFLA

If caring for a family member for 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 and may run concurrently with FMLA

In addition, if the employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may be available and may run concurrently with NJFLA

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

Up to 40 hours or 1 week of paid leave using earned sick leave accrued under NJESL

In addition, 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

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 generally uncomfortable about returning to work

If working remotely is not practical, 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

Employer's business closed due to public health emergency

Employee may elect to use up to 40 hours or 1 week of accrued NJESL leave

\*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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### Defined Terms

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

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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