

# New Jersey Guidance on Employee Return to Work Scenarios for the 2020-2021 School Year

## 1. Disability or CDC High Risk Category Accommodation Request (for Employee's condition only)

- a. Employee to complete Disability Accommodation Request form and **submit with Physician's Certification**.
- b. If approved via Interactive Process with employee, employee granted an accommodation employee is compensated as governed by the existing CBA.
- c. If not approved due to it causing an undue hardship on the employer, Employee may be eligible for CBA sick leave or NJ Paid Sick leave (if applicable.) Possibly FMLA entitlement (see # 2 below) depending on the seriousness of the health condition. Otherwise job abandonment. Employee is not eligible for unemployment benefits.
- d. Employers are not required to provide a reasonable accommodation if doing so would cause an undue hardship which as defined:
  - \* means that an accommodation would be unduly costly, extensive, disruptive or would fundamentally alter the nature or operation of the business

## 2. Leave Request (for Employee's own health condition including advisement by healthcare provider or public health authority to quarantine)

- a. Employee to complete FMLA/NJFLA application and submit medical certification. Medical certifications are REQUIRED for all Medical Leave Requests.
- b. If approved, the employee is eligible for up to 80 hrs. Paid leave under the Federal Emergency Paid Sick Leave Act or FEPSL (prorated for PT employees) in ADDITION to regular 12 weeks of FMLA/NJFLA (running consecutively or concurrently depending on CBA or board policy).

The FEPSL is payable from day one of employment at the employee's full wage subject to a maximum of \$511/day and a total maximum of \$5110. An employee can opt to use existing sick leave before or after this FEPSL pay period. Benefits are retained during the leave periods with normal contributions. An employee would apply directly for NJFLI benefits.

- c. Non-represented employees (those ineligible for sick days under 18A) may be eligible for NJ Earned Sick Leave in place of CBA bargained sick leave.

## 3. Leave Requests (for Childcare)

- a. Complete Form.
- b. Employee is eligible for Federal Emergency Paid Sick Leave and FMLA Emergency Childcare Leave. NJ Family Leave is not available unless the leave begins within one year of the date the child is born or placed with the employee. Otherwise NJFLA for care of the child is only for the child's serious health condition. FMLA and NJFLA run consecutively or concurrently as applicable. FEPSL is in addition to the other leaves. The FEPSL is payable from day one at 2/3 of the employee's wages with a maximum of \$200/day and a total maximum of \$2000. The Emergency Childcare Leave benefit under FMLA does not extend the maximum 12 weeks and it requires an employee to have been employed for at least 30 calendar days however it does require the employer to pay the employee. The payment under ECL is 2/3 of the employees' wages with a maximum of \$200/day or \$10,000 maximum. The first two weeks are unpaid under ECL, followed by up to 10 weeks paid. Benefits are retained during the Leave periods with normal contributions.

**4. Leave Requests (For Care of a Covered Family Member with a Serious Health Condition)**

- a. Employee to complete FMLA/NJFLA application and **submit medical certification**. Certification REQUIRED for all Medical Leave conditions.
- b. If approved, the employee is eligible for 80 hrs. Paid leave under the Federal Emergency Paid Sick Leave Act (prorated for PT employees) in ADDITION to the regular 12 weeks of FMLA/NJFLA (running consecutively or concurrently as applicable). Note: eligible employees are those that have worked in the prior 12 months/1250 hours of employment. The FEPSL is payable from day one at the full wage with a maximum of \$511/day and a total maximum of \$5110. Benefits are retained during the leave periods with normal contributions. Employee would apply directly for NJFLI benefits.

**5. Leave Requests (For Care of a Loved one for coronavirus quarantine, illness or symptoms)**

- a. Complete FMLA form. **Medical certification or Public Health Authority advisement required.**
- b. Employee is eligible for Emergency Paid Sick Leave for up to 80 hrs. The payment under ECL is 2/3 of the employees' wages with a maximum of \$200/day or \$2,000 maximum available from day one of employment Standard FMLA rules apply

for the remainder of the 10 weeks provided the employee is eligible for those weeks. Benefits are retained during the Leave periods with normal contributions.

- c. Note: NJFLA does not currently extend to self-quarantining unless advised by a healthcare provider or public health authority.

- 6. Self-Quarantining** – Current (7/16/20) state guidelines call for advisements to self-quarantine for various scenarios relating to out of state travel, potential exposures to those having traveled out of state, etc. Since these guidelines are advisories and not orders there are currently no enforcement provisions in place. Districts are advised to negotiate or adopt board policies or procedures on how to treat “voluntary” self-quarantine requirements in terms of required documentation, refusals to allow employees physically back to work, possible accommodations and compensation rules such as use of sick and personal days.

**NOTE:** The Families First Coronavirus Response Act provides the Emergency Childcare Leave and Federal Emergency Paid Sick Leave benefits only through December 31, 2020.