

NEW JERSEY EMPLOYMENT LAW Employee Leave Laws – Overview



Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. Employers have some flexibility when it comes to establishing or negotiating employee leave policies. However, federal laws such as the Family and Medical Leave Act (FMLA) require covered employers to provide employees with leave in certain situations.

In addition to federal leave laws, New Jersey has employee leave laws regarding:

- **Jury duty leave;**
- **Military leave;**
- **Family leave;**
- **Domestic and sexual violence leave;**
- **Emergency responders leave;** and
- **Paid sick leave (effective Oct. 29, 2018).**

This Employment Law Summary includes a chart that provides a high-level overview of New Jersey’s employee leave laws and suggests compliance steps for employers.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty Leave	Employers must allow employees to take unpaid leave for time spent complying with a jury summons. An employer may not discharge, penalize, threaten or otherwise coerce an employee because he or she is required to attend court for jury service.
Military Leave	In addition to USERRA, New Jersey law provides reemployment rights to U.S. or state military service members. The law protects any employee who leaves work, other than a temporary position, to do any of the following: <ul style="list-style-type: none"> • Complete military service for the U.S. armed forces; • Participate in military assemblies or annual training; • Attend service schools conducted by the U.S. armed forces for up to three months in a four-year period.

STATE RESOURCES

New Jersey Department of Labor and Workforce Development
<http://nj.gov/labor/>

FAQs

The Department has published these [answers](#) to frequently asked questions on family leave insurance.

Poster

Employers can use this model [poster](#) to satisfy their posting requirements under the NJFLA.

Paid Sick Leave

[Text of Paid Sick Leave Act](#)

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<p>Military Leave (Cont'd)</p>	<p>Following active duty, an employee must be reinstated to the same or similar position he or she previously held. If this is not possible, the employee must be restored to any available position for which he or she is qualified, upon request. The employee may not be discharged without cause for one year after reemployment.</p> <p>In general, an employee must apply for reemployment within 90 days after completing military service, and must provide a certificate of completion from an officer of the military force. However, employees who participate in annual training, military assemblies or service schools must apply for reemployment within 10 days after completing the training or service school.</p>
<p>New Jersey Family Leave Act (NJFLA)</p>	<p>In addition to the federal FMLA, the New Jersey Family Leave Act (NJFLA) entitles eligible employees to take time off for family and medical reasons. All employers with 50 or more employees must comply with the NJFLA for their New Jersey employees. To be eligible for leave under the NJFLA, an employee must:</p> <ul style="list-style-type: none"> • Be employed in New Jersey by a covered employer; • Have been employed for at least 12 months for the employer; and • Have worked 1,000 hours in the 12 months prior to the leave. <p>An eligible employee may take 12 weeks of family leave within any 24-month period for the birth of the employee’s child, a child’s placement for adoption with the employee or the serious health condition of an employee’s family member.</p> <p>Leave may be paid, unpaid or a combination. Employers may require employees to exhaust accrued paid leave, if required for other types of leaves.</p> <p>Leave for birth or adoption may be taken intermittently or on a reduced-leave schedule only if agreed to by the employee and the employer. The 24-month period may be measured as:</p> <ul style="list-style-type: none"> • Two calendar years; • A fixed 24-month period starting on a specified date, such as the employer’s fiscal year or the anniversary of the employee’s date of hire; • The 24-month period beginning on the first day of the employee’s first NJFLA leave; or • A rolling 24-month period, measured backward from the date of any NJFLA leave. <p>When leave is covered by both the FMLA and the NJFLA, the leaves run concurrently.</p>
<p>New Jersey SAFE Act</p>	<p>The New Jersey Security and Financial Empowerment (SAFE) Act requires a covered employer (one with 25 or more employees) to provide an eligible employee with unpaid leave following any incident of domestic violence or sexually violent offense against the employee or the employee’s child, parent, spouse, domestic partner or civil union partner. To be eligible for leave under the SAFE Act, employees must have:</p> <ul style="list-style-type: none"> • Been employed for at least 12 months; and • Worked no less than 1,000 hours during the preceding 12-month period. <p>An employee is entitled to take up to 20 days of unpaid leave within one year of the qualifying event in order to get medical attention, obtain services from victim services organizations, obtain psychological or other counseling, safety planning (such as relocation), seek legal assistance, or to attend or participate in preparation for court</p>

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	<p>proceedings.</p> <p>An employer may require documentation of the domestic violence or sexually violent offense. Employees must give as much advance notice to employers for the need to take leave as is reasonable.</p> <p>Employees may elect, or employers may require, use of accrued paid leave, if required for other leaves. If the leave qualifies under both the NJFLA and FMLA, the leaves will run concurrently.</p>
<p>Emergency Responders Employment Protection Act</p>	<p>An employer may not terminate, dismiss or suspend any employee who is absent from work due to service in his or her volunteer capacity as a volunteer emergency responder. Volunteer emergency responders include any active member in good standing of a:</p> <ul style="list-style-type: none"> • Volunteer fire company; • Duly incorporated first-aid, rescue or ambulance squad; or • County or municipal volunteer Office of Emergency Management (provided the member’s official duties include responding to a fire or emergency call). <p>Leave is unpaid; there is no limit on the amount an eligible employee can take. However, if leave exceeds one workday, daily notice from the incident commander is required. Employees must give their employers at least one-hour advance notice of their absence from work to fulfill emergency services in response to a declared state of emergency or emergency alarm. In addition, employees must provide their employers with documentation verifying their absence was related to volunteer emergency services.</p>
<p>Paid Sick Leave</p>	<p>Effective Oct. 29, 2018, all New Jersey employers must provide employees with paid sick leave. The paid sick leave law pre-empts all existing and future local ordinances that regulate paid sick leave. Employers must only comply with the statewide law.</p> <p>Employees must accrue at least one hour of paid sick leave for every 30 hours worked, up to 40 hours per year. The benefit year is any consecutive 12-month period as established by the employer.</p> <p>Employees begin accruing paid sick leave Oct. 29, 2018. Employees who are hired after Oct. 29, 2018, begin accruing paid sick leave upon hire. In both situations, employers may require employees to wait 120 calendar days after the employee’s hire date to use any accrued paid sick leave. Employees who were employed with an employer for 120 or more calendar days as of the act’s effective date may use paid sick leave as it is accrued.</p> <p>Employees must be permitted to use up to 40 hours of paid sick leave per year for any of the following reasons:</p> <ul style="list-style-type: none"> • Preventive medical care for the employee or for diagnosis, care, treatment or recovery from an employee’s own mental or physical illness, injury or other adverse health condition; • Time needed for the employee to care for his or her family member during diagnosis, care, treatment or recovery from the family member’s mental or physical illness, injury or other adverse health condition or for the family member’s preventive medical care; • Time off needed due to the employee, or an employee’s family member, being a victim of domestic or sexual violence to allow the victim to obtain certain services,



	<p>including medical attention, counseling or legal services;</p> <ul style="list-style-type: none">• Time off when the employee cannot work due to the closure of the employee’s workplace or the closure of the employee’s child’s school or place of care due to a public health concern; or• Time off to attend certain school-related conferences, meetings or functions for the employee’s child. <p>Employees using paid sick leave must be paid the same rate of pay, with the same benefits that they normally earn, so long as the pay rate is not less than the applicable minimum wage.</p> <p>If an employee uses paid sick leave for three or more consecutive days, an employer may require reasonable documentation that the leave is being used for a reason that is permitted by the law.</p> <p>Employers are not required to pay employees for unused paid sick leave upon separation from employment. Employer notice, recordkeeping and anti-retaliation provisions apply.</p>
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SPECIAL NOTE: Under the Family Leave Insurance provision (sometimes referred to as the Paid Family Leave law) of the New Jersey Temporary Disability Benefits law, cash benefits may be payable for up to six weeks to an employee in order for the employee to bond with a newborn or newly adopted child or to provide care for a seriously ill family member. All employers subject to New Jersey Unemployment Compensation laws are covered. Eligible employees are entitled to up to six weeks of benefit payments from the state or private plan at two-thirds of the employee’s weekly wage up to a maximum per week. The program is a wage replacement program funded by worker payroll deductions and is separate from the federal FMLA or NJFLA leave laws, which govern the terms of employee and family medical leaves.

COMPLIANCE STEPS

It is important for New Jersey employers to understand when their employees are entitled to take time off from work and the legal protections associated with such leaves. Employers that violate state or federal leave law requirements may be subject to government investigations, fines, employee lawsuits, and significant penalties, fees and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review, employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.