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Yes, I need time-off

New Jersey FMLA

Public and Private Sector Employers:

New Jersey's Family Leave Act (FLA) is similar to the federal FMLA, but is generally regarded as more comprehensive. Employees in New Jersey are allowed to combine entitlements under both state and federal laws to maximize their amount of leave.

Definitions

As used in the following descriptions, the terms below are defined by New Jersey:

- "eligible employee" - one who has been employed by the same employer for 12 months or more. "Employed" persons in New Jersey include those who perform some work or maintain a base of operations in the state.
- "employ" - includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment.
- "child" - a biological, adopted or foster child; stepchild; legal ward; a child with whom the employee has a "parent-child relationship" as defined by law, or child for whom the employee has joint legal or physical custody, care, guardianship or rights of visitation. Must be under 18 or older but incapable of self-care because of a mental or physical impairment.
- "parent" - a biological, adoptive, foster or step-parent; parent-in-law; legal guardian; a person who has a "parent-child relationship" as defined by law, or a person with sole or joint legal or physical custody, guardianship, or visitation rights with a child.
- "spouse" - a person to whom the employee is lawfully married as defined by New Jersey law.
- "partner" - a partner in a civil union as defined by New Jersey law.
- "care" - is (but not limited to) physical care, emotional support, visitation, assistance in treatment, transportation, assistance with essential daily living matters and personal attendant services.
- "serious health condition" - an illness, injury impairment or physical or mental condition requiring either inpatient care or



continuing medical treatment or continuing supervision by a health care provider.

Covered and Eligible Employees

The FLA applies to all public and private-sector employers with 50 or more employees (the FLA does not require those 50 or more to be employed within a 75 mile radius of the employee seeking leave, nor do they need to be in the state of New Jersey).

An FLA-eligible employee is one who has worked 1,000 hours or more (including overtime) during the preceding 12 months. Hours for which the employee was paid workers compensation benefits may be included in the 1,000 hours to establish eligibility. At the employer's option, other types of paid leave may also be counted toward FLA eligibility.

Note – Under the FLA, employers may deny family leave to only certain highly paid employees (highest-paid 5% of salaried employees), and only if the leave will cause "substantial and grievous economic injury" to the employer's operations.

Duration of Leave

Eligible employees may take family leave for up to 12 weeks within any 24-month period, provided the employee makes a reasonable effort to schedule the leave so as to not unduly disrupt the employer's operation. Public employees may use a voluntary furlough of up to 30 work days for FLA or FMLA purposes. The furlough may not be applied to sick or unpaid disability leave, but may be used for parenting or family care, and a 60-day furlough extension is available for education or family care needs.

Intermittent leave may be taken in intervals of no less than a full week for up to 12 workweeks within a 12-month period. Reduced-schedule leave is leave taken in increments of not less than one workday, but no more than one workweek at a time, for up to 12 workweeks within a 12-month period.

Family Leave

The New Jersey act does not allow an employee to take leave for his or her own serious medical condition, but it may be taken for:

- The birth or adoption of a child, within a year after the birth or adoption placement.
- The serious health condition of a family member (child, parent, spouse or partner) of the employee

The N.J. Family Leave Act forbids employees on leave from performing services full-time for any employer for whom the employee did not provide those services before beginning FLA leave. An employee on FLA leave may work part-time, but not for more than half as many hours weekly as the employee regularly works for the leave-granting employer. Employers may not forbid such part-time work.

Substitution of Paid Leave

Public employees may, at their option, substitute paid vacation, sick or administrative leave for all or part of unpaid family leave, but must meet the usual requirements for use of that leave.

Paid Leave

The Paid Family Leave Act (PFLA) gives eligible employees up to six weeks of paid leave in any 12-month period to care for a newborn or a newly adopted child within 12 months of birth or placement, or to care for a sick family member.

- Eligible employees' paid benefit is two-thirds of their regular weekly salary, capped at \$524/week.
- The PFLA applies to all employers who meet the definition of a covered employer under the Temporary Disability Benefits Law, or any business entity that employs one or more person(s) and pays that worker at least \$1,000 in a calendar year.
- An eligible employee must have earned at least \$142/week for 20 or more consecutive calendar weeks, or earned at least \$7,200 in the 52 weeks before the start of the leave.
- Paid leave can be paid on an intermittent basis.
- Paid leave can be paid on an intermittent basis.
- Legal guardians, biological, foster, adoptive and step-parents are the only eligible employees who can qualify for paid leave to care for a newborn or a newly adopted child. Eligible employees qualify for paid leave to care for a spouse, civil union or domestic partner, parent or child who suffers from a serious health condition.
- Employees seeking paid leave to care for a family member must provide medical certification.

Employee / Employer Notification

A request for leave for the birth or adoption of a child must be made at least 30 days in advance or as soon as possible. If the leave is for a serious health condition of a parent, child, or spouse, notice must be given 15 days in advance or also as soon as possible.

Employers in New Jersey are required by law to designate leave as FLA-qualified. As a result, an employer may require an employee requesting leave to sign a document certifying that the leave is for a purpose covered by the FLA. The employer may also require medical certification from a health care provider.

Maintenance of Benefits & Reinstatement

Employers are required to maintain an employee's coverage under any group health insurance policy or health care plan at the level and under the coverage that would have been provided if the employee had not taken leave.

An employee returning from authorized family leave must be reinstated to the same or similar position, unless he or she is a key employee, or the company experiences a layoff during the employee's leave and he or she would have been laid off had they not been on leave. An employer does not have to permit an employee to return to work before the prearranged expiration of FLA leave if it would cause undue hardship on the employer.

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