

TEANECK BOARD OF EDUCATION HUMAN RESOURCE MANAGEMENT



YOUR GUIDE TO COVID-RELATED ACCOMMODATIONS AND LEAVES

Accommodations for High Risk Employees

Reluctance to work due to a fear of contracting the COVID-19 does not qualify an employee for a workplace accommodation or leave of absence. There are circumstances that may entitle an employee to a workplace accommodation. Below please find this information for your consideration.

Do I qualify for a workplace accommodation?

- Having one of the identified high risk conditions, or a condition that presents a possible increased risk, does not automatically entitle an employee to a work from home arrangement, nor does it entitle an employee to time off from work.
- An employee who suffers from one of these conditions must still submit to the employer *appropriate documentation from a medical professional* in order to request a workplace accommodation.
- Employees with any of these conditions should speak with their health care professionals and obtain supporting documentation to submit to Human Resource Management.
- Once the request for accommodation is submitted to Human Resource Management on the appropriate form(s), a virtual appointment will be held to review the documentation and discuss the details of possible workplace accommodations.

Who is considered to be of “high risk” if they contract COVID-19?

The Center for Disease Control (CDC) considers individuals over the age of 65 and individuals of any age with the following conditions to be at an increased risk for serious complications should they contract COVID-19:

- Cancer
- Chronic kidney disease
- COPD
- Weakened immune system from solid organ transplant
- Obesity
- Serious heart conditions
- Sickle cell disease
- Type 2 diabetes

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According to the CDC, the following conditions **may** cause an increased risk:

- Moderate to severe asthma
- Cerebrovascular disease
- Cystic fibrosis
- Hypertension
- Compromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, and other blood conditions.
- Neurologic conditions
- Liver disease
- Pregnancy
- Pulmonary fibrosis
- Smoking
- Thalassemia
- Type 1 diabetes

It is important to note that both lists will be updated as more information about COVID-19 becomes available.

If a member of my household is high risk, can I work from home?

The American Disabilities Act (ADA) and New Jersey Law Against Discrimination (NJLAD) only address an individual's own disability. These laws do not provide you with an accommodation to allow you to stay home simply because you have a family member who is in a COVID-19 high risk category. With that being said, you can make a request for a workplace accommodation as stated above.

Families First Coronavirus Response Act

The Family First Coronavirus Response Act (FFCRA) created two new emergency leave requirements in response to the global pandemic. The first one is the *Emergency Family and Medical Leave Expansion Act* (EFMLEA) which amends portions of FMLA to permit eligible employees to take up to 12 weeks of leave to care for his/her child. The second one is the *Emergency Paid Sick Leave Act* (EPSLA) which provides an employee with up to two weeks (80 hours) of paid leave for specified reasons related to COVID-19.

****The paid leave entitlements under the FFCRA are currently set to expire on December 31, 2020.**

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Generally, the Act provides that employees of covered employers are eligible for:

- i. Two weeks (up to 80 hours) of **paid sick leave** at the regular rate of pay where the employee is unable to work or telework because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a healthcare provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- ii. Two weeks (up to 80 hours) of **paid sick leave** at two thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a healthcare provider), or to care for his/her child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and
- iii. Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for his/her child whose school or child care provider is closed or is unavailable for reasons related to COVID-19.

Qualifying Reasons for Leave Under FFCRA

Under the FFCRA, an employee qualifies for 80 hours or 10 school days of paid sick time if the employee is unable to work (**or unable to telework**) because the employee:

- i. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- ii. has been advised by a health care provider to self-quarantine related to COVID-19;
- iii. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- iv. is caring for an individual subject to an order described in (i) or self-quarantine as described in (ii);
- v. is caring for his/her child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19;
- vi. or is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

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Duration of Leave

For reasons i, ii, iii, iv, vi listed above: A full-time employee is eligible for 80 hours or 10 school days of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

For reason v listed above: A full-time employee is eligible for up to 12 weeks of leave at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

Calculation of Pay

For leave reasons i, ii, or iii listed above: employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

For leave reasons iv or vi listed above: employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

For leave reason v listed above: employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period).

COVID-19 Leave Request Procedure

- The employee must send communication (email or letter) to Human Resource Management requesting a family leave.
 - This communication must be accompanied by one of the following:
 1. a note from the doctor confirming a positive COVID-19 test for the employee
 2. a note from the doctor stating exposure to a cohabiting family member or significant other *in the household* who has tested positive
 3. a note explaining a childcare situation relating to COVID-19.

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- The employee's return to work is based upon his/her health condition and proof of a recent negative COVID-19 test.
- The employee must submit his/her request for leave as soon as possible.
- The leave may be Board approved at the next Board of Education meeting.
- If an employee seeks to extend the leave beyond the Board approved dates, you must notify Human Resource Management as soon as possible. This request will then be brought to the Board of Education.

Other Leave Options

FMLA Basics - [Family Medical Leave Act](#) (Federal statute)

Employers covered under the FMLA include:

- private employers with 50 or more employees working 20 or more workweeks in the current or preceding calendar year and
- **all public sector employers.**

To be eligible as an employee, the employee must have been:

- employed for 12 months;
- worked 1250 hours in the preceding 12 months;
- worked at a worksite where 50 or more employees are working within a 75-mile radius.

The circumstances warranting leave are as follows:

- Birth/adoption/foster care placement of child
- Care for spouse/child/parent with "serious health condition"
- Care for oneself in the event of a "serious health condition"

If an employee qualifies, he or she may be eligible for up to 12 weeks of unpaid leave within 12 months. This leave may be taken *consecutively, intermittently, or as reduced leave*. Group health insurance benefits must be maintained during leave and reinstatement to the same/comparable position at the conclusion of leave is mandated by the Act. The FMLA offers an expansion of 26 weeks of unpaid leave within a 12-month period to care for a service member with a serious injury or illness. This definition includes spouse, parent, child, and "next of kin." Military exigency leave under the FMLA also provides for 12 weeks of unpaid leave during a 12 month period for short-notice deployments and other exigencies, but unlike the military caregiver expansion, "next of kin" is not included within this definition.

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NJFLA Basics - New Jersey Family Leave Act (State statute)

Employers covered under the NJFLA include all employers with 50 or more employees (out of state employees are counted) working 20 or more calendar workweeks in the current or preceding calendar year. To be considered eligible under the Act, the employee must have been:

- employed for 12 months;
- worked 1000 hours in the preceding 12 months.

The circumstances warranting leave are as follows:

- Birth/adoption/foster care placement of child
- Care for spouse/child/parent with “serious health condition”
- Care for parent-in-law with “serious health condition”

It is important to note that the *NJFLA does not offer leave to care for oneself* or military leave. If an employee qualifies, he or she may be eligible for 12 weeks of unpaid leave within 24 months. Like the FMLA, consecutive, intermittent and reduced leave is available under the NJFLA. Group health insurance benefits must be maintained during leave and reinstatement to the same/comparable position at the conclusion of leave is mandated by the Act.

***The FMLA/NJFLA may be counted concurrently only if the leave is covered by both laws.*

NJFLI - New Jersey Family Leave Insurance (It is like disability for educators in NJ).

Family Leave Insurance provides New Jersey workers cash benefits for up to 12 weeks (60 work days) to bond with a newborn, newly adopted, newly placed foster child, or to provide care for a seriously ill or injured family member. While most New Jersey workers who take family leave are covered under the State’s family leave program, some employers provide Family Leave Insurance through a plan with a private insurance carrier instead. If you are not sure about your coverage, ask your employer.

You are responsible to pay your contribution of your medical/dental benefits while on family leave.

- If the employee meets the criteria for NJFLA, he/she can apply for NJFLI.

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- Maximum benefits payable to eligible employees $\frac{2}{3}$ of your salary up to \$860 per week.
- NJFLA can be used once in a 24-month period.

NJFLI Application Details

Complete online application (Parts A, B, C, and D) to the Division of Temporary Disability Insurance address on the first date of your New Jersey Leave (most often on your first UNPAID day).

- Forms must be completed no more than 30 days after the 1st day of your NJFLI leave.
- Please note: Only submit Part E if taking Intermittent Leave.

Unpaid Leave of Absence

- If more time is needed, an employee can request an unpaid leave of absence with no benefits.
- Each request is brought to the Board of Education for approval.
- The employee will be given an option to pay for benefits at the full cost through COBRA.
- If you plan to take a full year of unpaid leave of absence, you will not receive sick/personal days or salary guide movement for that year.