

# LABOR AND LEAVE REVIEW

## NJSBA Legal and Labor Relations Department

August 19, 2020

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# Families First Coronavirus Response Act (FFCRA)

- Covered employers include school districts
- Became effective on April 1, 2020; expires December 31, 2020
- Provides for two types of leave
  - Emergency paid sick leave
  - Expanded Emergency Family and Medical Leave
- Reasonable notice



# FFCRA – Emergency Paid Sick Leave

- 2 weeks (up to 80 hours) of paid sick leave when employee unable to work because:
  - Employee is quarantined and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
  - Need to care for individual subject to quarantine; or
  - Need to care for minor child whose school or child care provider is closed or unavailable for COVID-related reason; or
  - Experiencing substantially similar condition



# FFCRA – Emergency Paid Sick Leave (cont'd)

- Rates of pay
  - When quarantined or experiencing COVID-19 symptoms, regular rate of pay up to \$511 per diem
  - When taken for other listed reason, at 2/3 rate of pay up to \$200 per diem



# FFCRA – Emergency Paid Sick Leave (cont'd)

Other requirements:

- Employee must be unable to work or telework
- Applies to all employees of covered employers
- Pro-rated for part-time employees



# FFCRA – Emergency Paid Sick Leave (cont'd)

- Protections and Penalties
  - Employer cannot require use of other paid leave before using the EPSL
  - Employee cannot discriminate against employee who takes the paid sick leave
  - Failing to provide sick leave or discriminating for taking leave - FLSA violations
  - Must post notice of employees' rights



# FFCRA – Expanded Emergency FMLA

- Provides 12 total weeks of expanded FMLA leave (2 weeks unpaid/10 weeks paid)
- To care for child whose school or child care provider is closed or unavailable due to a COVID-19-related reason
- At 2/3 rate of pay
- Must be employed for 30 calendar days





# NJ Family Leave Act

- Amended March/April 2020
- Added reason that employee may take leave to “provide care made necessary by reason of”:
  - “in the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease,” provided other conditions are met . . .



# NJFLA (cont'd)

- Must also:
  - Require in-home care or treatment of a child b/c of closure of school or child care, by order of public official; or
  - Prompt public health authority to determine measures (like quarantine) b/c of communicable disease, where family member would jeopardize others' health
  - Result in healthcare provider recommending that family member needing care voluntarily undergo self-quarantine



## NJFLA (cont'd)

- Employer can require that leave for COVID-related reason be supported by certification
- Permits COVID-related leave to be taken intermittently, provided two conditions are met



# Sick Leave for (Most) School Employees

- N.J.S.A. 18A:30-2 grants min. of 10 sick days to steadily employed school employees
- May be taken for the following reasons:
  - Personal disability due to illness or injury
  - Employee excluded from school by district's medical authorities b/c contagious disease or being quarantined for such



# Earned Sick Leave Law (Some Employees)

- Leave allowed when employee can't work b/c:
  - Closure of employee's workplace, or a child's school or childcare, b/c of order of public official or Governor-declared state of emergency due epidemic or other public health emergency
  - Governor-declared state of emergency or issuance by health care provider or public health authority of determination that presence in community of employee or family member needing care would jeopardize others' health



# Earned Sick Leave Law (cont'd)

- Leave allowed when employee can't work b/c (cont'd):
  - During Governor-declared state of emergency or upon order, etc. of healthcare provider, employee is isolated or quarantined, or family member needing care is isolated or quarantined, b/c of suspected exposure and a finding by provider/authority that presence jeopardizes others' health



# NJ Temporary Disability and Family Leave Insurance

- Expanded definition of a “serious health condition”
- Allows qualifying employees access to benefits if must take time off b/c:
  - Diagnosed with or suspected exposure to communicable disease
  - Care for family member diagnosed with or suspected of exposure to communicable disease



# OTHER RELATED ISSUES

- Return-to-Work
  - Returning from Leave
  - Nondiscrimination
  - Health and safety guidance
- Unemployment benefits
- Others?





# QUESTIONS?

