

Employee Return to Work Scenarios- Accommodations & Leaves Related to COVID-19 for use by Public School Employers

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**. Completed medical releases are not required at the time the request is made.
- b. If approved via Interactive Process with employee, employee granted an accommodation employee is compensated as governed by the existing CBA.
- c. If the request is denied because it will cause on an undue hardship on the employer, Employee may be eligible for CBA sick leave and or NJ Paid Sick leave (if applicable.) Employee may be eligible for FMLA (see # 2 below) depending on the seriousness of the health condition. Otherwise could be considered job abandonment, consult with Board attorney regarding the process. Unemployment benefits eligibility would be determined by the DOL
- d. Employers are required to engage in good faith in the interactive process.
- e. Employers are not required to provide a reasonable accommodation if doing so would cause an *undue burden as defined by law*
*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/NJ Paid Sick Leave application and **submit medical certification**. Medical certifications or Healthcare Provider

advisement are REQUIRED for all Medical Leave Requests.

- b. If approved, the employee is eligible for up to 80 hrs. paid leave under the 2020 Federal Emergency Paid Sick Leave Act ("FEPSL") (prorated for PT employees) . Paid sick leave under the FEPSL is in addition to other leave provided under Federal, State, or local laws or collective bargaining agreements and can be used in addition to a typical 12 week FMLA leave. The employee may also be eligible for additional FMLA/NJ Paid Sick Leave (running consecutively or concurrently depending on CBA, past practice 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 \$5,110. Part-time employees are eligible at a pro-rated amount. 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.
- 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 leaves under the FEPSL and FMLA Emergency Childcare Leave ("E-FMLA ") Acts to care for a son or daughter whose school, place of care or childcare is closed or unavailable. 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. The FEPSL is payable from day one for the first two weeks or 80 hours at 2/3 of the employee's wages with a maximum of \$200/day and a total maximum of \$2000. In addition the employee may be eligible for the E-FMLA benefit under FMLA of up to 12 weeks which requires an employee to have been employed for at least 30 calendar days. The E-FMLA requires the employer to pay the employee. The payment under E-FMLA is 2/3 of the employees' wages with a maximum of \$200/day or \$10,000 maximum. The first two weeks are unpaid under E-FMLA, unless paid under the FEPSL, followed by up to 10 weeks paid at the above rate. Benefits are retained during the Leave periods with normal contributions.

- c. Note: E-FMLA does not extend FMLA and the time used for E-FMLA is counted toward the employee's 12 week maximum FMLA.
- 4. **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 Federal Emergency Paid Sick Leave ("FEPSL") for up to 80 hrs. The payment is 2/3 of the employees' wages with a maximum of \$200/day or \$2,000 maximum available from day one of employment for the

first two weeks or 80 hours. Part-time employees are also eligible at a pro-rated basis. The Standard FMLA/NJFLA 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.

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

- 5. **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, 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.