

# New Jersey Citizen Action

## New Jersey Time to Care Coalition



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# Overview of leave taking during the Covid-19 Pandemic and Beyond

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- **Federal Paid Leave related to COVID19**
  - Emergency paid sick days and child care leave
- **State Paid Leave** (not *necessarily* related to COVID19)
  - NJ Earned Sick Days
- **Workplace Anti-Discrimination/Job Protection related to COVID19 and beyond**

# Federal Paid Leave related to COVID19: Emergency Paid Sick Leave & Child Care Leave

- Covers employers with 500 or fewer employees (employers under 50 can seek exemption from providing leave for kids' school closures). Since April 1, covered employers are required to pay 80 hours of paid "sick time" for reasons related to COVID19 when the worker is:
  - caring for a child whose school or place of care is closed (under 18 years)
  - caring for an individual subject to self-quarantine or seeking diagnosis;
  - complying with Federal, State, or local quarantine or isolation order;
  - advised by a health care provider to self-quarantine;
  - experiencing symptoms and is seeking a medical diagnosis.
- Employer pays the regular rate up to a max of **2/3 wage up to \$200 per day/\$2,000 total for family care/school closures**, or **\$511 per day/\$5,110 total for self-care**.
- Under Emergency FMLA → 10 weeks when worker (must be employed < 30 days) unable to work bc child's school or place of care is closed. **Paid at a rate of 2/3 wage, cap of \$12,000 total**.
- Employers will receive 100% payroll tax credit ([www.irs.gov/coronavirus](http://www.irs.gov/coronavirus)) including health coverage - which must continue as if still working

# Emergency Paid Sick Leave & Child Care Leave Cont'

Snapshot: Families First Coronavirus Response Act Emergency Paid Leaves				
Reason for emergency leave	Emergency Paid Sick Leave / 80 hours	Emergency Childcare FMLA / 12 Weeks**	Wage employer pays employee***	Maximum per day
To care for self due to quarantine, illness or symptoms	✓	✗	Full wages	\$511
To care for loved one in case of coronavirus quarantine, illness, or symptoms	✓	✗	2/3 wages	\$200
To care for son/daughter due to lack of school or child care	✓	✓	2/3 wages	\$200

\* The U.S. Department of Labor may grant exemptions to employers with less than 50 employees whose business is jeopardized by providing the leave.

\*\* First two weeks may be unpaid.

\*\*\* Wages are defined as the employee's regular rate of pay, the federal minimum wage, or the state or local minimum wage where they are employed, whichever is greater. New Jersey's minimum wage is \$11/hour as of January 1, 2020.

[www.dol.gov/sites/dolgov/files/WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WH1422_Non-Federal.pdf)

## EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE  
UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

## State Paid Leave: NJ Earned Sick & Safe Days

- Requires all NJ employers to provide 5 job-protected, paid sick days (40 hours) a year, employers can require them to be earned:
  - *30 hr worked = 1 hr ESD*
- Permitted uses include for **one's own health**, **caring for loved ones**, to address issues related to **domestic or sexual violence** for work and school closures bc of **public health emergency** and now for **isolation** or **quarantine** when recommended by a provider or public health official as a result of suspected exposure to a communicable disease, or to care for a family member under recommended or ordered **isolation** or **quarantine**.

# NJ Earned Sick & Safe Days Cont'

mysickdays.nj.gov

[www.nj.gov/labor/forms\\_pdfs/mw565sickleleaveposter.pdf](http://www.nj.gov/labor/forms_pdfs/mw565sickleleaveposter.pdf)

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Earned Sick Leave is now the law  
in New Jersey.

New Jersey Department of Labor and Workforce Development

## New Jersey Earned Sick Leave Notice of Employee Rights

Under New Jersey's Earned Sick Leave Law, most employees have a right to accrue up to 40 hours of earned sick leave per year. Go to <https://nj.gov/labor/> to learn which employees are covered by the law.

New employees must receive this written notice from their employer when they begin employment, and existing employees must receive it by November 29, 2018. Employers must also post this notice in a conspicuous and accessible place at all work sites, and provide copies to employees upon request.

### YOU HAVE A RIGHT TO EARNED SICK LEAVE.

#### Amount of Earned Sick Leave

Your employer must provide up to a total of 40 hours of earned sick leave every benefit year. Your employer's benefit year is:

Start of Benefit Year: \_\_\_\_\_ End of Benefit Year: \_\_\_\_\_

#### Rate of Accrual

You accrue earned sick leave at the rate of 1 hour for every 30 hours worked, up to a maximum of 40 hours of leave per benefit year. Alternatively, your employer can provide you with 40 hours of earned sick leave up front.

#### Date Accrual Begins

You begin to accrue earned sick leave on October 29, 2018, or on your first day of employment, whichever is later.



# Workplace Anti-Discrimination/Job Protection related to COVID19

[www.nj.gov/labor/worker-protections/covid\\_discrimination.shtml](http://www.nj.gov/labor/worker-protections/covid_discrimination.shtml)

[www.nj.gov/oag/dcr/downloads/fact\\_COVID-19.pdf](http://www.nj.gov/oag/dcr/downloads/fact_COVID-19.pdf)

## COVID-19 DOESN'T DISCRIMINATE AND NEITHER SHOULD YOUR EMPLOYER:

NJ Workers are protected against COVID-19 related discrimination at work.



[myworkrights.nj.gov](http://myworkrights.nj.gov)

### BACKGROUND

On March 20, Governor Murphy signed a new law that prohibits an employer from firing or otherwise punishing an employee who requests time off or takes time off from work based on a medical professional's determination that the employee has, or is likely to have, COVID-19. The law only applies during the COVID-19 Pandemic and related Public Health Emergency and State Emergency.

The New Jersey Department of Labor and Workforce Development ("NJDOL") has issued regulations to implement the new law. **N.J.A.C. 12:70 – Prohibited COVID-19 Related Employment Discrimination** explains who is protected by this new law, what protections they are entitled to, what remedies are available to those workers whose rights have been violated, and what penalties may be imposed against employers when they violate the new law.

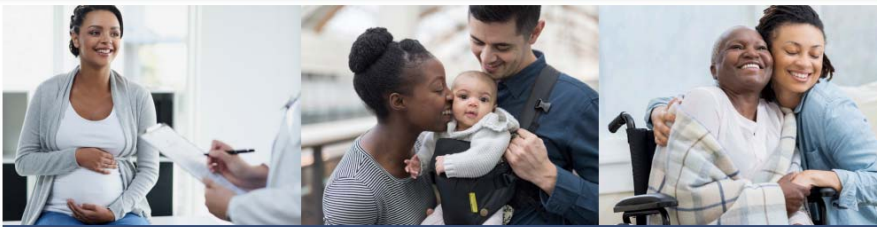


## 5 Things You Should Know About Civil Rights and COVID-19

- 1 The New Jersey Law Against Discrimination (LAD) protects you from discrimination and harassment based on actual or perceived race, national origin, religion, disability, and other protected characteristics in employment, housing, and places of public accommodation (places open to the public, including businesses, schools, medical providers, etc.), including when the conduct at issue is related to COVID-19.**
- 2 The LAD's protections in employment mean, for example,** that your employer cannot fire you because you coughed at work and they perceived you to have COVID-19. And if you have east-Asian heritage and a coworker repeatedly harasses you by calling this "the Chinese virus" or claiming that Chinese people "caused" COVID-19 or were responsible for spreading it, your employer must take reasonable action to stop the harassment if they knew or should have known about it. Finally, if your employer lays off workers because of COVID-19, they cannot select employees to lay off based on race, national origin, religion, age, disability, or any other LAD-protected characteristic.
- 3 Places of public accommodation, like stores and medical facilities,** cannot discriminate based on race, disability, religion, gender identity or expression, or other LAD-protected characteristics in their provision of services. For example, it is unlawful for a medical facility to provide different levels of COVID-19 testing or treatment to Black and white patients because of their race. Additionally, retail stores cannot refuse entry to, remove, or otherwise treat differently a customer who cannot wear a mask because of a medical condition.

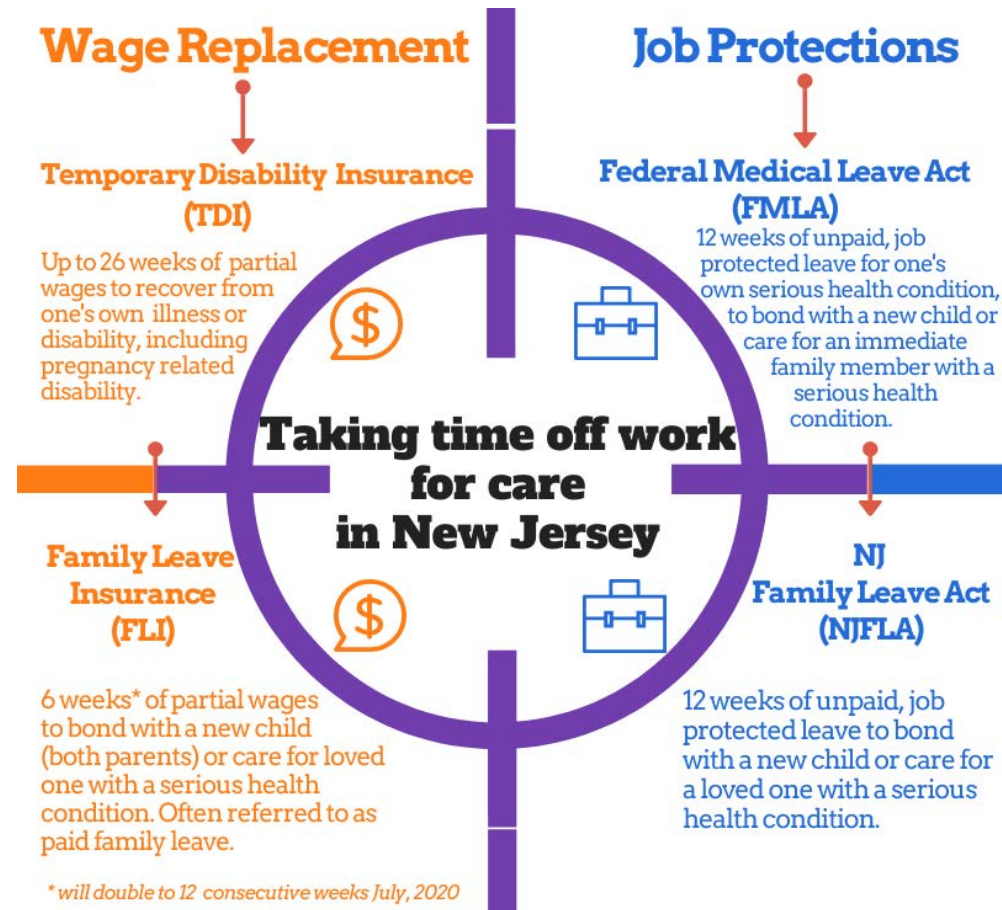
# Job Protection Cont'

[www.njtimetocare.org/njjobprotections](http://www.njtimetocare.org/njjobprotections)



## 5 Things You Should Know About Job-Protected Family Leave

- 1 Under the New Jersey Family Leave Act (NJFLA), if you work for a state or local government agency, or a company or organization with 30 or more employees worldwide, and you have been employed by the company for at least 1 year (and have worked at least 1,000 hours in the past 12 months), you generally can take up to 12 weeks of job-protected leave during any 24-month period:
  - To care for or bond with a child, as long as the leave begins within 1 year of the child's birth or placement for adoption or foster care; or
  - To care for a family member, or someone who is the equivalent of family, with a serious health condition.
- 2 You can take a consecutive block of up to 12 weeks of leave or you can take leave on an intermittent or reduced schedule.
- 3 NJFLA leave is not the same as the Federal Family Medical Leave Act (FMLA), so you will not use up NJFLA leave while taking leave for your own serious medical condition under the FMLA. In some situations, you therefore may be entitled to take up to 12 weeks of FMLA leave for your own condition and 12 weeks of NJFLA leave to care for a family member, in a single 12-month period.
- 4 If you are pregnant or just had a baby, you can take up to 12 weeks for pregnancy and recovery from childbirth under the FMLA, and you can then take an additional 12 weeks of NJFLA leave to bond with or care for your baby after your doctor certifies you are fit to return to work or you have exhausted your FMLA leave (whichever is earlier). Any parent may take leave under the NJFLA to bond with or care for a newborn or a child just placed for adoption or foster care.





# Employers Association of New Jersey



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# CARES Unemployment Provisions

<b>Pandemic Unemployment Assistance (PUA)</b>	<b>Federal Pandemic Unemployment Compensation (FPUC)</b>	<b>Pandemic Emergency Unemployment Compensation (PEUC)</b>
<ul style="list-style-type: none"><li>• Expands eligibility for individuals who are typically ineligible for unemployment benefits.</li></ul>	<ul style="list-style-type: none"><li>• Provides an additional \$600 per week, on top of regular benefits, to all recipients of Unemployment benefits; retroactive to the week ending April 4, 2020.</li></ul>	<ul style="list-style-type: none"><li>• Provides an additional 13 weeks of unemployment benefits to all recipients.</li></ul>

# Pandemic Unemployment Assistance (PUA)

The CARES Act broadens unemployment eligibility standards to include reasons related to the COVID-19 public health emergency declared by the federal government. These reasons include that the individual:

- has been diagnosed with COVID-19 or is experiencing symptoms of the virus and seeking a diagnosis.
- is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19.
- is unable to reach their workplace due to a quarantine that has been imposed related to COVID-19 or because a health care provider has advised the individual to self-quarantine.
- was employed in a workplace that has been closed due to COVID-19
- was scheduled to begin employment, but is unable to reach the job or has lost the job due to COVID-19
- has to quit a job as a direct result of COVID-19
- has become the major supporter of his or her household because the head of the household died due to COVID-19
- It also expands coverage due to family and personal circumstances, including:
  - The individual's child or a person to whom the individual provides care is unable to attend school or other care providers that has been closed due to the COVID-19 outbreak.
  - A member of the individual's household has been diagnosed with COVID-19.

# Partial Unemployment Benefits

**Eligibility** - to be eligible for partial unemployment, an employee can not work more than 80 percent of the hours normally worked in the job.

**Benefits calculation for partial unemployment** - first you would figure out what the employee's weekly benefit rate (WBR) would be if they were on full unemployment.

The WBR is 60% of the employee's average weekly wage (from all jobs with the employer), to a maximum of \$713 in 2020.

Once you have the WBR, you can figure the partial benefit rate (PBR).

**The PBR is 120% of the weekly benefit rate minus any earnings from the employer.**

# Partial Unemployment Benefits Example

## Example:

Employee earns \$20 per hour and typically works a 40 hour workweek ( $\$20 \times 40 \text{ hours} = \$800$  per week).

Their WBR would be \$480 (60% of \$800).

Their PBR would be \$576 (120% of \$480).

This employee would be eligible for partial benefits for any week in which they did not earn \$576 from the employer.

## Scenario A

If the employee worked 4 days for 8 hours per day, the employer would pay them \$640 ( $\$20 \text{ per hour} \times 32 \text{ hours} = \$640$ ).

This is **more than** the \$576 PBR, so they should not be eligible for a partial unemployment benefit for that week.

## Scenario B

If the employee worked 2 days for 8 hours per day, the employer would pay them \$320 ( $\$20 \text{ per hour} \times 16 \text{ hours} = \$320$ ).

This is **less than** their \$576 PBR, so they should be eligible for a partial benefit minus the earnings from the employer =  $\$576 - \$320 = \$256$  partial benefit for this week.

\*Note – anyone collecting unemployment, including those collecting a partial benefit rate, will be eligible for the \$600 additional unemployment compensation per week through the CARES Act, through the end of July.

<https://myunemployment.nj.gov/labor/myunemployment/before/about/calculator/>



# The Unemployment Compensation Dilemma

6% of EANJ respondents say that workers are refusing to return to work because they prefer to collect unemployment.

Employees may make more collecting unemployment than they earn in wages .

Cares Act weekly stimulus of \$600 through July 25, 2020

- **Employer should immediately notify the N.J. Division of UI within 48 hours of an employee's failure to return to work after an offer of employment is made to the employee.**
- **Employers can notify the Division by completing and returning a **Form BC-6 "Notice of Failure to Apply For, or to Accept, Suitable Work."****

# Forms & Publications




Did you get a form or notice from us?

This page lists some of the forms and letters we send, or make available for, employers.


We have also include some informational posters for your employees that you can download, print, and display to comply with applicable laws.

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What we send to you 

What employers can download and print out

BC-6, Notice of Failure to Apply For, or to Accept, Suitable Work 

**BC-6, Notice of Failure to Apply For, or to Accept, Suitable Work:** This form is used to notify the Division of Unemployment Insurance that an employee who filed a claim for unemployment insurance, failed to return to work when notified to do so by the employer. Failure to return to work, or accept an offer of suitable work may be a cause for disqualification of benefits.

<b>1. Check one:</b> <input type="checkbox"/> FAILED TO APPLY <input type="checkbox"/> REFUSED TO ACCEPT	<small>BC-6 (R-12-04)</small> New Jersey Department of Labor and Workforce Development UNEMPLOYMENT INSURANCE <b>NOTICE OF FAILURE TO APPLY FOR, OR TO ACCEPT, SUITABLE WORK</b>	<b>2. Applicant's Social Security No.:</b> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>
<b>3. Applicant's Name and Address:</b> <div style="height: 100px;"></div>	<b>4. Employer's Name and Address:</b> <div style="height: 100px;"></div>	
<div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black; margin: 5px 0;"><b>DATA ON JOB AVAILABLE</b></div> <b>6. Occupation:</b> _____ <b>7. Starting Rate:</b> _____ <b>8. Starting Rate is Increased as Follows:</b> _____ _____ <b>9. Work Period:</b> Hours per Day _____ Days per Week _____ <b>10. Work Shift:</b> <input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Alternating <b>11. Location of Job: (City)</b> _____ <b>12. Starting Date:</b> _____ <b>13. Date of Job Offer:</b> _____ <b>14. Method of Offer:</b> <input type="checkbox"/> in Person <input type="checkbox"/> By Mail <input type="checkbox"/> _____ <b>15. Date of Refusal :</b> _____		<b>5. NJ Employer ID No.:</b> _____ <b>16. Reason for Refusal (if known):</b> <div style="height: 150px;"></div> <p style="text-align: center; font-size: small;">(Continue on reverse side, if necessary)</p>
		Employer's Copy

(SEE INSTRUCTIONS ON REVERSE SIDE)

BC-6

## B-187Q, Unemployment Benefits Charged to Experience Rating Account



B-187Q

This statement provides the names and Social Security numbers of claimants who are collecting benefits against your account, the date they filed their claims, the compensable weeks they have been paid, and the amount paid in each of those weeks.

# Returning to Work: the Fear Factor

***Without precautions, a person with COVID-19 is likely to infect one in three others with close contact. Much higher than the flu - Harvard School of Public Health***

At Gear Motions, a manufacturer that was deemed essential and has stayed open through the shutdown, managers found that they had to deal with a very human concern: fear.

“That’s what we learned early on,” Dean Burrows, the company’s president, said. “Everyone is scared.”

To combat the fear, Mr. Burrows said his company had been sharing information about the virus broadly and quickly, creating a system for sending text messages to every employee. So far, no one at Gear Motions’ factories had tested positive, he said.

*New York Times*, May 10, 2020

# Planning for Sustained Absenteeism

- Before returning to work put a contingency plan into place, determine how you will operate if absenteeism spikes from increases in sick employees
- Plan to monitor and respond to absenteeism at the workplace.
- Implement plans to continue your essential business functions in case you experience higher than usual absenteeism.
- Prepare to institute flexible workplace and leave policies.
- Cross-train employees to perform essential functions so the workplace can operate even if key employees are absent.



# Return to Work Resources— [www.eanj.org](http://www.eanj.org)



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### Model COVID-19 Policy

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Novel Coronavirus (COVID-19) pandemic is a serious health issue and the Company will ensure the health and safety of every employee.

When feasible, you will be directed to work from home. When employees cannot work from home and are required to report to work, the following guidance should be followed:

If you are ill with cold-like symptoms (fever/chills, cough, sore throat, runny nose, shortness of breath, diarrhea), please remain at home. Follow our normal call-in procedures to alert your

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## Employee Safety Pledge

Workplace health and safety is everyone's responsibility. That is particularly true during the current COVID-19 pandemic. Here at \_\_\_\_\_, we commit to providing you a healthy and safe workplace by investing the financial support, management oversight, PPE, tools, and training employees need to do their jobs safely. One of the ways in which you help us do that is by complying with our health and safety policies. Since we are all responsible for, and benefit from, maintaining a healthy and safe workplace, we ask that you pledge to adhere to our health and safety policies to help us identify and reduce the risks of spreading any communicable illness, including but limited to COVID-19, in the workplace. To view our health and safety policy, click [here](#) (or "please see attachment" or "request a copy from \_\_\_\_\_").

I have received and reviewed \_\_\_\_\_'s Health and Safety Policy ("the Policy"). I now pledge to:

- To stay home if I am ill or experience a fever of 100.4 F;
- To disclose immediately to \_\_\_\_\_ (as designated in the Policy) if I experience any COVID-19 symptoms (I understand that the CDC presently has identified those symptoms as cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, and/or new loss of taste or smell); and I further understand that any disclosure I make concerning my health will be treated confidentially;
- To promptly and properly use in the workplace any PPE \_\_\_\_\_ provides;
- To comply with proper handwashing and respiratory hygiene

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