

## 0167 PUBLIC PARTICIPATION IN BOARD MEETINGS

The Board of Education recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on school matters of community interest.

In order to permit the fair and orderly expression of such comment, the Board shall set aside a portion of every Board meeting, not to exceed sixty (60) minutes, for public comment on any school or school district issue that a member of the public feels may be of concern to the residents of the school district.

As the Board of Education is responsible for decision-making that affects the entire school district, it welcomes comments from the public. Requests to speak can be made online through the District website at [www.trenton.k12.nj.us](http://www.trenton.k12.nj.us) by clicking on District/Board of Education/Public Participation Request Form. Sign-up through the District website must be completed by 1:30 p.m. on the day of the Board meeting. Members of the public will also be able to sign-up manually in the Board Secretary's Office up to 4:30 p.m. on the day of the Board meeting. Manual sign-up will not be available when the Board is meeting virtually. Parents and relatives of pupils attending District schools and City of Trenton residents, who sign up in accordance with this Policy shall be given preference and will be called upon to speak before any other member of the public.

The opportunity for the Board to hear from the public is when the meeting reaches "Public Comment" on the regular meeting agenda. Members of the Trenton community may address the Board on any item of interest. To ensure timely progression through the agenda, comments are limited to no more than five (5) minutes per person. Signing up to speak with the intent of conceding time to another participant is not permitted. Parent or community groups who have a specific concern may present as a group, but no individual speaker will be allotted more than five (5) minutes.

Public participation shall be governed by the following rules:

1. The Public participation portion of each Board meeting shall not exceed sixty (60) minutes;
2. A participant must be recognized by the presiding officer and must preface comments by an announcement of his/her name, place of residence, whether there is a familial relationship to any District student and group affiliation, if appropriate;
3. Each statement made by a participant shall be limited to five (5) minutes duration.
4. No participant may speak more than once on the same topic until all others who wish to speak on that topic have been heard;
5. No participant may yield his/her time to anyone else;
6. All statements shall be directed to the presiding officer; no participant may address or question Board members individually;

7. The presiding officer may:

- a. Interrupt, warn, or terminate a participant's statement when the statement is too lengthy, abusive, obscene, or irrelevant;
- b. Request any individual to leave the meeting when that person does not observe reasonable decorum;
- c. Request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
- d. Call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action; and
- e. Waive these rules when necessary for the protection of privacy or the efficient administration of the Board's business.

N.J.S.A. 2C:33-8

N.J.S.A. 10:4-12

Adopted: 16 May 2011

Revised: 22 June 2015

Revised: 26 February 2018

7243 SUPERVISION OF CONSTRUCTION

The Board of Education directs that the Facilities Administrator be responsible for the supervision of all building construction in this school district. Supervision shall include field inspection of the construction contractor's operations, administrative review of the activities of the architect relating to the construction, and any other construction matters relating to the interests of the school district.

The Facilities Administrator shall report periodically to the Board on the progress of the work of the construction contractor(s).

The Board shall not employ for pay or contract for the paid services of any person serving in a position which involves regular contact with students unless the Board has first determined, consistent with the requirements and standards of N.J.S.A. 18A:6-7.1 et seq., that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify the individual from being employed or utilized in such capacity or position.

The Superintendent shall direct the School Business Administrator/Board Secretary or designee to act as liaison to all construction contractors for school facility and construction projects to obtain a list of the individuals who will have regular contact with students and will be employed by or working for the contractor on a school district project that will be undergoing a criminal history record check pursuant to the requirements of N.J.S.A. 18A:6-7.1 et seq. The liaison shall provide the list of those contracted employees to the Superintendent or designee and the Human Resources Director. The Superintendent or designee and the Human Resources Director who receive any adverse action correspondence from the New Jersey Department of Education (NJDOE) related to the criminal history record check process shall review the contracted company list in order to determine if the subject of that correspondence is either a school employee or an employee of any contract service provider and take appropriate action. No employee of a contracted service provider shall commence work at a school facility without having first obtained an approval for employment from the NJDOE. Approvals for employment of these contracted employees shall be maintained with the liaison and copies forwarded to the Superintendent's office.

A change order involving additional cost will be submitted to the Board for review and approval.

Upon completion of a building project and a final inspection of all its aspects by the architect, contractors, and school officials, a recommendation for acceptance shall be made to the Board by the School Business Administrator.

N.J.S.A. 18A:6-7.1 et seq.; 18A:18A-16; 18A:18A-43; 18A:18A-44  
N.J.S.A. 18A:54-30 [**vocational districts**]

Adopted:

7424 BED BUGS

The Board of Education is concerned for students who may have bed bugs in their home with the potential for these students to bring bed bugs into the school building. Bed bugs can be transmitted from one location to another in backpacks, clothing, books, and other items. A bed bug infestation is unlikely in a school and the Board adopts this Policy as a proactive action to prevent infestation and to stop bed bugs from spreading within the school setting if a bed bug is transmitted into a school.

Bed bugs are parasitic insects that feed exclusively on blood and are mainly active at night, but are not exclusively nocturnal. A common bed bug prefers human blood and typically feeds on their hosts without being noticed. Bed bugs are not known to transmit disease, but cause reasonable distress and health concerns for many people. The presence of bed bugs in a home does not mean the home is unclean, bed bugs can be found in any home.

Bed bugs typically do not infest people as they hide during the day and come out during the night. Bed bugs are attracted to humans primarily by carbon dioxide, warmth, and by some chemicals. Bed bugs prefer exposed skin, preferably the face, neck, and arms of a sleeping person. Bed bug bites may lead to a range of skin manifestations from no visible effects to prominent blisters. The bite usually produces a swelling with no red spots, but when many bugs feed on a small area, reddish spots may appear after the swelling subsides. Effects also may include skin rashes, psychological effects, and allergic symptoms.

Any staff member who observes what may be bed bug bites on a student shall send the student to the school nurse. The school nurse shall examine the student to determine if there are any bed bugs present on the student or if the bites may be bed bug bites. The school nurse will inform the Principal and contact the student's parent on the results of the examination.

In the event the school nurse observes what appears to be a bed bug on the student or on the student's possessions, the school nurse will inform the Principal who will arrange for a licensed pest management professional to complete an inspection of the student's classroom(s) to determine if bed bugs are present in the classroom area. If a licensed pest management professional cannot complete an inspection within twenty-four hours of the request from the school district, the district custodial staff will vacuum the student's classroom(s) with a vacuum cleaner using a new vacuum cleaner bag and when finished the staff member shall seal the bag and discard it in a receptacle outside the school building. If the vacuum does not have a bag, the contents of the vacuum shall be emptied into a secure plastic bag, sealed, and discarded into a receptacle outside the school building. The Principal shall determine if the classroom(s) should be occupied by staff and students until the inspection by a licensed pest management professional is conducted.

In the event the inspection determines bed bugs are in the school, the area(s) where bed bugs have been found or could be found will be treated by a licensed pest management professional.

The parent of any student who is found to have a live bed bug on them will be contacted by the school nurse and the parent will be required to pick-up their child to arrange for the child to return home to change clothes and to inspect any items the student brings to school. Upon the student's return to school, the student will be required to report to the school nurse who will examine the child and the child's possessions. If there are no signs of bed bugs on the student or in or on the student's possessions, the student will be able to resume their school day. The school nurse may determine to examine the child subsequent to their initial return to school to ensure the student and possessions are free of bed bugs. In the event the nurse finds live bed bugs on the student or in or on the student's possessions upon the student's initial return to school, or upon any subsequent examination by the school nurse, the school nurse will contact the parent and require the parent to pick-up the student from school.

The Principal, in consultation with the school nurse, will determine if the parents of other students should be informed of the presence of bed bugs in an area of the school where their child may have been or is during the school day. This determination will be made on a case-by-case basis. Parents of other students may not be informed if bed bugs are found on a student or in or on the student's possessions, and are not found in the school building. The school district will comply with all notification requirements and other requirements of the New Jersey Pest Management Act, the district's Pest Management Plan, and any other applicable law.

Any student suspected of having bed bugs in their home or on or in their possessions will be treated with discretion, dignity, and respect. The district will offer the student counseling, if needed. The Principal or designee will work sensitively with parents of any student living in an infested home to develop strategies for preventing the further spread of bed bugs.

Adopted:

7425 LEAD TESTING OF WATER IN SCHOOLS

The health, safety, and welfare of the children in the school district are of utmost importance to the Board of Education. The potential exposure to lead-contaminated drinking water poses serious health problems, particularly for children, as well as for teachers and school personnel, since the risk of lead contamination can come from pipe and plumbing fixtures in school facilities or on school grounds. The Board shall assure the availability of potable drinking water through sanitary means in school facilities or on school grounds. The Board of Education shall provide, in accordance with N.J.A.C. 6A:26-12.4, testing for lead in all district sources of drinking water.

The Board shall conduct lead sampling and analysis in all drinking water outlets to which a student or staff member has or may have access in each school facility, other facility, or temporary facility, as soon as practicable, but no later than July 13, 2017, unless the district qualifies for an exemption in accordance with N.J.A.C. 6A:26-12.4(d)(h)(i). This testing shall be conducted with a lead sampling plan in accordance with N.J.A.C. 6A:26-12.4(d)1, 2, and 3, and shall be in accordance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1.

Within twenty-four hours after the Board or designee has completed a review of final laboratory results in accordance with the provisions of N.J.A.C. 6A:26-12.4(e), the test results shall be made publicly available at the school facility and on the Board of Education's website. If any results exceed the permissible lead action level, the Board shall provide written notification to the parents of all students attending the facility, facility staff, and the New Jersey Department of Education. This notification shall include: a description of the measures taken by the Board or designee to immediately end the use of each drinking water outlet where the water quality exceeded the permissible lead action level; the measures taken to ensure that alternate drinking water has been made available to all students and staff members; and information regarding the health effects of lead in accordance with N.J.A.C. 6A:26-12.4(e)1 and 2. After the initial screening, beginning in the 2021-2022 school year, the Board will conduct these lead screenings every three years and shall sample for lead after the replacement of any drinking water outlet or any other alteration to plumbing or service lines that may impact lead levels at the outlet, in accordance with N.J.A.C. 6A:26-12.4(g)1 and 2.

The Board shall submit to the New Jersey Department of Education by June 30 of each year a statement of assurance, that the school district completed lead testing in accordance with N.J.A.C. 6A:26-12.4; that notifications were provided consistent with N.J.A.C. 6A:26-12.4; and that alternative drinking water continues to be made available to all students and staff, if necessary, pursuant to N.J.A.C. 6A:26-12.4(i).

The Board may apply for reimbursement for the costs of any water supply testing and analysis conducted, in accordance with N.J.A.C. 6A:26-12.4(k).

N.J.S.A. 58:12A-1 et seq.  
N.J.A.C. 6A:26-12.4

Adopted:



7440 SCHOOL DISTRICT SECURITY

The Board of Education believes the buildings and facilities of the school district represent a substantial community investment. The Board directs the development and implementation of a plan for school district security to protect the school community's investment in the school buildings and facilities. The Board will comply with the security measures required in N.J.S.A. 18A:7G-5.2 for new school construction and for existing school buildings.

The school district security program will include: maintenance of facilities that are secure against unwelcome intrusion; protection against fire hazards and faulty equipment; and compliance with safe practices in the use of electrical, plumbing, heating, and other school building equipment.

The Board shall provide to local law enforcement authorities a copy of the current blueprints and maps for all schools and school grounds within the school district or nonpublic school. In the case of a school building located in a municipality in which there is no municipal police department, a copy of the blueprints and maps shall be provided to an entity designated by the Superintendent of the New Jersey State Police. The Board shall provide revised copies to the applicable law enforcement authorities or designated entities any time that there is a change to the blueprints or maps.

The Board directs close cooperation of district officials with law enforcement, fire officials, and other emergency agencies.

Each public elementary and secondary school building shall be equipped with at least one panic alarm for use in a school security emergency pursuant to N.J.S.A. 18A:41-10 through 13.

The Superintendent of Schools shall designate a school administrator, or a school employee with expertise in school safety and security, as a School Safety Specialist for the district in accordance with the provisions of N.J.S.A. 18A:17-43.3. The School Safety Specialist shall be required to acquire a New Jersey Department of Education School Safety Specialist certification in accordance with the provisions of N.J.S.A. 18A:17-43.2. The School Safety Specialist shall also serve as the school district's liaison with local law enforcement and national, State, and community agencies and organizations in matters of school safety and security.

Access to school buildings and grounds outside the hours school is in session shall be limited to personnel whose employment requires their presence in the facility. An adequate key control system will be established to limit building access to authorized personnel and guard against the potential of intrusion by unauthorized persons who have obtained access improperly.

In accordance with N.J.S.A. 18A:7G-5.2.b.(15), propping open doors to buildings on school grounds is strictly prohibited and students and staff shall not open a door for any individual. All persons seeking entry into the main building shall be directed to the main entrance.

Building records and funds shall be kept in a safe place and secured as appropriate and necessary.

Protective devices designed to be used as safeguards against illegal entry and vandalism may be installed when appropriate. The Board may approve the employment of school resource officers, school security officers, and/or law enforcement officers in situations in which special risks are involved.

**The school district shall annually conduct a school safety audit for each school building in accordance with the provisions of N.J.S.A. 18A:41-14.**

N.J.S.A. 18A:7G-5.2; 18A:17-43.1; 18A:17-43.2; 18A:17-43.3;  
18A:41-7.1; 18A:41-10; 18A:41-11; 18A:41-12; 18A:41-13; **18A:41-14**  
N.J.A.C. 6A:16-1.3; 6A:26-1.2

7441 ELECTRONIC SURVEILLANCE IN SCHOOL BUILDINGS  
AND ON SCHOOL GROUNDS

The Board of Education authorizes the use of electronic surveillance systems in school buildings and on school grounds to enhance the safety and security for school district staff, students, community members, and other building occupants and to protect the school district's buildings and grounds.

The content produced by the surveillance system under certain circumstances may be considered a student record and if so it will be subject to the Board of Education policy and regulation regarding confidential student records. If the content of the surveillance system becomes the subject of a disciplinary proceeding, it shall be treated like other evidence in the proceeding.

In accordance with the provisions of N.J.S.A. 18A:41-9, if at least one school building of the school district is equipped with video surveillance equipment that is capable of streaming live video wirelessly to a remote location, the Board of Education shall enter into a Memorandum of Understanding (MOU) with local law enforcement authorities providing the authorities with the capacity to activate the equipment and view live streaming video. The MOU shall include the provisions of N.J.S.A. 18A:41-9 and any additional information required by law enforcement officials. In the event the parties to the MOU are unable to reach an agreement regarding any provision required to be included in the MOU as per N.J.S.A. 18A:41-9a, the County Prosecutor shall make the final determination regarding that provision. Nothing in N.J.S.A. 18A:41-9 shall be construed as to require the installation of video surveillance equipment capable of streaming live video wirelessly to a remote site from a school building that does not have the ability to have live streaming video.

The Board of Education shall post signage in a prominent, public place in buildings and on school grounds where electronic surveillance equipment may be used.

In addition to posting, the district shall notify school staff members, parent(s), and students that electronic surveillance may be used in school buildings and on school grounds through publication in student and staff handbooks, school calendars, notice sent home with students, or any other effective means to publish the district's use of electronic surveillance equipment in school buildings and on school grounds.

N.J.S.A. 18A:41-9

Adopted: 16 May 2011

Revised:

### 7450 PROPERTY INVENTORY

The Board of Education recognizes that efficient management and the replacement of lost, damaged, or stolen property depends upon an accurate inventory and properly maintained records.

The district shall maintain a complete inventory by physical count of all district-owned equipment.

For the purpose of this Policy, “equipment” shall mean any instrument, machine, apparatus, or set of articles which meets all of the following criteria and the cost is above \$2,000:

1. It retains its original shape, appearance, and character with use;
2. It does not lose its identity through fabrication or incorporation into a different more complex unit or substance;
3. It is nonexpendable; that is, if the item is damaged or some of its parts are lost or worn out, it is more feasible to repair the item than to replace it with an entirely new unit; and
4. Under normal conditions of use, including reasonable care and maintenance, it can be expected to serve its principal purpose for at least one year.

Unless otherwise bound by Federal, State, or local law, the school district will use the criteria above for their equipment classification decisions.

The School Business Administrator/Board Secretary or designee shall ensure that inventories are systematically and accurately recorded and that property records of equipment are adjusted annually. Major items of equipment shall be subject to annual spot check inventory. A major loss shall be reported to the Board.

Property records of supplies shall be maintained on a continuous inventory basis. An item should be classified as a “supply” if it does not meet all the stated equipment criteria outlined above and the cost is not more than the capitalization threshold of \$2,000.

The School Business Administrator/Board Secretary or designee shall maintain a system of property records that show, as appropriate to the item recorded, description and identification, manufacturer, year of purchase, initial cost, location, condition and depreciation, and current evaluation in conformity with insurance requirements.

N.J.S.A. 18A:4-14

New Jersey Department of Education – “The Uniform Minimum Chart of Accounts for New Jersey Public Schools and Approved Private Schools for Students with Disabilities” 2020-2021 Edition

Adopted:

7481 UNMANNED AIRCRAFT SYSTEMS (UAS also known as DRONES)

The Board of Education is concerned for the safety of all staff members, students, parents, community members, and visitors while on school grounds. The Board of Education recognizes the operation of an unmanned aircraft system (UAS) on school grounds or flying an unmanned aircraft on or over school grounds presents a public safety issue as school grounds are populated many hours of the day by students, staff members, parents, and community members.

An unmanned aircraft system is the unmanned aircraft and all the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc. necessary to operate the unmanned aircraft. The unmanned aircraft is the flying portion of the system by a pilot via a ground control system, or autonomously through the use of an on-board computer, communication links and any additional equipment that is necessary for the unmanned aircraft to operate safely. A model aircraft is considered an unmanned aircraft.

The Board of Education prohibits the operation of an unmanned aircraft system on school grounds, the launching or landing of an unmanned aircraft on school grounds, or the flying of an unmanned aircraft over school grounds at all times.

However, the Board of Education may authorize the use of an unmanned aircraft system on school grounds for an approved school district purpose.

**Accepted Uses**

1. The use of an unmanned aircraft system on school grounds for school district purposes that is owned and operated by a contractor must be approved by the Board of Education. Such request must include documentation (to include: the pilot's certificate, medical certification, aircraft registration, etc.) supporting the contractor's compliance with all applicable Federal Aviation Administration regulations and any State and local laws for the operation of an unmanned aircraft system and proof of insurance coverage for the specific use as required by the Board of Education. The minimum insurance coverage shall be determined by the Board after consultation with the Board's insurance company and Board Attorney.

2. The use of an unmanned aircraft system on school grounds for school district purposes that is owned and operated by the Board of Education or owned and operated by a student and used in an approved school district program must be operated under the supervision of a school district staff member(s). The unmanned aircraft system shall only be operated on school grounds and the unmanned aircraft shall only be launched or landed on school grounds or flown over school grounds. The Superintendent or designee shall approve the specific activity(ies) or event(s) in which an unmanned aircraft system may be used. The Superintendent or designee shall ensure the use of a school district-owned or student-owned unmanned aircraft system is in compliance with all applicable Federal Aviation Administration regulations and State and local laws for the operation of an unmanned aircraft system. In addition, the Superintendent or designee shall ensure the Board of Education has insurance coverage for the use or operation of an unmanned aircraft system. The insurance coverage shall be determined by the Board after consultation with the Board's insurance company and Board Attorney.]

The Board of Education will take appropriate action in accordance with Federal Aviation Administration regulations and/or any State and local laws against any violations of the provisions of this Policy.

Adopted:

District Policy

1649- Federal Families First Covid 19 Response Act

Source: Amendment Date Created: October 2020 Date Edited: October 2020

1649 FEDERAL FAMILY FIRST COVID-19 RESPONSE ACT

The Federal Families First Coronavirus (COVID-19) Response Act (FFCRA) includes the Emergency Family and Medical Leave Expansion Act (EFMLEA) and the Emergency Paid Sick Leave Act (EPSLA). The EFMLEA expands the Federal Family and Medical Leave Act (FMLA) and the EPSLA provides employees with paid sick leave for specified reasons related to COVID-19.

The FFCRA shall apply from April 1, 2020 through December 31, 2020.

A. Emergency Family and Medical Leave Expansion Act (EFMLEA)

1. Definitions - For the purposes of the EFMLEA:

- a. "Eligible employee" means an employee who has been employed for at least thirty calendar days by the employer with respect to whom leave is requested.
b. "Employer" means any employer with fewer than five hundred employees.
c. "Qualifying need related to a public health emergency" means with respect to leave, the employee's need to care for the son or daughter under eighteen years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.
d. "Public Health Emergency" means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.
e. "Child care provider" means a provider who receives compensation for providing child care services on a regular basis, including an "eligible child care provider" (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n)).
f. "School" means an "elementary school" or "secondary school" as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

2. Relationship to Paid EFMLEA Leave

The FFCRA includes the Emergency Family and Medical Leave Expansion Act (EFMLEA) that amended the Federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601) et seq. to provide leave to an eligible employee because of a qualifying need related to a public health emergency with respect to COVID-19 (42 U.S.C. 2612(a)(1)(F)).

a. Leave for Initial Ten Days

- (1) The first ten days of this FMLA leave for an eligible employee shall be unpaid.
(2) If the first ten days of this FMLA leave are unpaid, an employee may elect to substitute any accrued vacation leave, personal leave, or emergency paid sick leave provided by the EPSLA for the initial ten days under the EFMLEA in accordance with 29 U.S.C. 2612(a)(2)(B).
(3) An employee may not use sick leave under N.J.S.A. 18A:30-1 for a qualifying need related to a public health emergency. However, an employee receiving sick leave under the provisions of N.J.S.A. 18A:30-1 may only use sick leave because of personal disability due to illness or injury, or because the employee has been excluded from school by the school district's medical authorities on account of contagious disease or of being quarantined for such a disease in his or her immediate household.

b. Paid Leave for Subsequent Days

- (1) An employer shall provide paid leave for each day of leave under the EFMLEA that an employee takes after taking such leave for ten days.
(2) The paid leave for an employee shall be calculated based on:
(a) An amount that is not less than two-thirds of an employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207c)); and
(b) The number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under A.2.(b)(4) below).

(3) In no event shall such paid leave exceed \$200.00 per day and \$10,000.00 in the aggregate.

(4) Varying Schedule Hours Calculation - In the case of an employee whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave under the EFMLEA, the employer shall use the following in the following instances:

- (a) Subject to A.2.(b)(4) below, a number equal to the average number of hours that the employee was scheduled per day over the six-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.
(b) If the employee did not work over such period, the reasonable expectation of the employer at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

c. Employee Notice to Employer

- (1) In any case where the necessity for leave under the EFMLEA for the purpose of a qualifying need related to a public health emergency is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.

- (a) A request for such leave that is foreseeable shall be submitted to the Human Resources Department prior to commencing the leave.
(b) A need for such leave that is not foreseeable shall be submitted to the Human Resources Department within one business day of the first day of the leave being taken by the employee.
(c) The employer shall provide to the Human Resources Department the name of the employee's child, the name of the school, place of care, or child care provider that has closed or become unavailable, and a statement that no other suitable person is available to care for the child.

d. Restoration to Position

- (1) The employee shall be restored to the same or equivalent position held by the employee when the leave commenced pursuant to 29 CFR 825.214. The requirement to restore the employee to the same or equivalent position held when the leave commenced does not apply to an employee who employs less than twenty-five employees if all four of the following conditions are met:
(a) The employee takes leave under the EFMLEA.
(b) The position held by the employee when the leave commenced does not exist due to economic conditions or other changes in operating conditions of the employer:
i. That affect employment; and
ii. Are caused by a public health emergency during the period of leave.

- (c) The employer makes reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced with equivalent employment benefits, pay, and other terms and conditions of employment.
(d) If the reasonable efforts of the employer under A.2.d.(1)(c) above fail, the employer makes reasonable efforts during the period described in A.2.(2) below to contact the employee if an equivalent position described in A.2.d.(1)(c) above becomes available.

(2) Contact Period

- (a) The period described under A.2.d. above is the one-year period beginning on the earlier of:
i. The date on which the qualifying need related to a public health emergency concludes; or
ii. The date that is twelve weeks after the date on which the employee's leave under the EFMLEA commences.

B. Emergency Paid Sick Leave Act (EPSLA)

The FFCRA includes the EPSLA, which provides paid sick time to an employee to the extent the employee is unable to work (or telework) due to a need related to COVID-19. The paid sick time provided by the EPSLA and outlined in B.1. below cannot be taken with any other paid leave time provided by the employer.

1. Definitions

a. For purposes of the EPSLA and this Policy:

- (1) "Employee" means an individual who is employed by a private employer with fewer than five hundred employees and public employers with at least one employee.
(2) "Employer" means a private person or entity that employs fewer than five hundred employees and public employers that employ at least one employee.

(a) "Covered employer" includes any person engaged in commerce or in any industry or activity affecting commerce that:

- i. In the case of a private entity or individual, employs fewer than five hundred employees; and
ii. In the case of a public agency or any other entity that is not a private entity or individual, employs one or more employees.

(b) "Covered employer" also includes:

- i. Any person acting directly or indirectly in the interest of an employer in relation to an employee within the meaning of such phrase in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)), and
ii. Any successor in interest of an employer; and
iii. Any "public agency" as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(c) "Covered employer" also includes any "public agency" as defined in section 3(o) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(o)).

(3) "Employ" and "State" have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(4) "Health care provider" and "son or daughter" have the meanings given such terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) "Paid sick time" means an increment of compensated leave that:

- (a) Is provided by an employer for use during an absence from employment for a reason described in any paragraph of B.2.a. below; and
(b) Is calculated based on the employee's:
i. \$511.00 per day and \$5,110.00 in the aggregate for a use described in B.2.a.(1), (2), or (3) below; and
ii. \$200.00 per day and \$2,000.00 in the aggregate for a use described in B.2.a.(4), (5), or (6) below.

(6) "Required Compensation" subject to B.1.a.(5)(b) above, the employee's "required compensation" shall be not less than the greater of the following:

- (a) The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).
(b) The minimum wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) at the time the employee is employed.
(c) The minimum wage rate in effect for such employee in the applicable State or locality, whichever is greater, in which the employee is employed.

Subject to B.1.a.(5)(b) above, with respect to any paid sick time provided for any use described in B.2.a.(4), (5), or (6) below, the required compensation shall be two-thirds of the amount described in B.1.a.(6) above.

(7) "Varying Schedule Hours Calculation" means in the case of a part-time employee described in B.3.b.(2) below whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken paid sick time under B.2.a. below, the employer shall use the following in place of such number:

- (a) Subject to clause B.1.a.(7)(b) above, a number equal to the average number of hours that the employee was scheduled per day over the six-month period ending on the date on which the employee takes the paid sick time, including hours for which the employee took leave of any type.
(b) If the employee did not work over such period, the reasonable expectation of the employer at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

2. Paid Sick Leave Requirement

- a. An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:
(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
(4) The employee is caring for an individual who is subject to an order as described in B.2.a.(1) above or has been advised as described in B.2.a.(2) above.
(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

3. Duration of Paid Sick Time

- a. An employee shall be entitled to paid sick time for an amount of hours determined under B.3.b. below.
b. The amount of hours of paid sick time to which an employee is entitled shall be as follows:
(1) For full-time employees, eighty hours.
(2) For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a two-week period.

c. Paid sick time under the EPSLA shall not carry over from one year to the next.

4. Employer's Termination of Paid Sick Time

- a. Paid sick time provided to an employee under the EPSLA shall cease beginning with the employee's next scheduled work shift immediately following the termination of the need for paid sick time under B.2.a. above.

5. Prohibition

- a. An employer may not require, as a condition of providing paid sick time under the EPSLA, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick time.

6. Use of Paid Sick Time

- a. The paid sick time under B.2.a. above shall be available for immediate use by the employee for the purposes described in the EPSLA, regardless of how long the employee has been employed by an employer.
b. Sequencing Leave Time
(1) An employee may first use the paid sick time under B.2.a. above for the purposes described in the EPSLA.
(2) An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time under B.2.a. above.

7. Notice

- a. Each employer shall post and keep posted in conspicuous places on the premises of the employer where notices to employees are customarily posted, notices to be prepared or approved by the Secretary of Labor, of the requirements described in the EPSLA.
b. Not later than seven days after the date of enactment of this Act, the Secretary of Labor shall make publicly available a model of a notice that meets the requirements of B.7.a. above.

8. Prohibited Acts

- a. It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who:
(1) Takes leave in accordance with the EPSLA; and
(2) Has filed any complaint or instituted or caused to be instituted any proceeding under or related to the EPSLA (including a proceeding that seeks enforcement of the EPSLA), or has testified or is about to testify in any such proceeding.

9. Enforcement

- a. Unpaid Sick Leave - An employer who violates B.2. through B.6 of this Policy shall:
(1) Be considered to have failed to pay minimum wages in violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) and
(2) Be subject to the penalties described in sections 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216, 217) with respect to such violation.

b. Unlawful Termination - An employer who willfully violates B.8. above shall:
(1) Be considered to be in violation of section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)), and
(2) Be subject to the penalties described in section 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216, 217) with respect to such violation.

10. Rules of Construction

- a. Nothing in the EPSLA shall be construed:
(1) To in any way diminish the rights or benefits that an employee is entitled to under any:
(a) Other Federal, State, or local law;
(b) Collective bargaining agreement; or
(c) Existing employer policy; or
(2) To require financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for paid sick time under the EPSLA that has not been used by the employee.

11. Guidelines

- a. Not later than fifteen days after the date of the enactment of the EPSLA, the Secretary of Labor shall issue guidelines to assist employers in calculating the amount of paid sick time under the EPSLA.

12. Reasonable Notice

- a. After the first workday (or portion thereof) an employee receives paid sick time under the EPSLA, an employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick time.
b. The request for such leave shall be submitted to the Human Resources Department, who may request documentation from the employer in support of the emergency paid sick leave.
c. The documentation shall include a signed statement containing the following information: the employee's name, the dates for which leave is requested, the COVID-19 qualifying reason for leave, and a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason.
d. An employer requesting that an emergency paid sick leave under the EPSLA or the EFMLEA to care for his or her child must provide the following information: the name of the child being care for, the name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19 reasons, and a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason.

13. Regulatory Authorities

- a. The Secretary of Labor shall have the authority to issue regulations for good cause under sections 553(b)(4) and 553(d)(A) of Title 5, United States Code:
(1) To exempt small businesses with fewer than fifty employees from the requirements of B.2.a.5. when the imposition of such requirements would jeopardize the viability of the business as a going concern; and
(2) As necessary, to carry out the purposes of the EPSLA, including to ensure consistency between the EPSLA and Division C and Division G of the FFCRA.

N.J.S.A. 18A:30-1

HR. 6201: Families First Coronavirus (COVID-19) Response Act

N.J.S.A. 18A:30-1

Adopted: 19 October 2020

