

Employment Counseling & Litigation

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I New Jersey Mandates Statewide Paid Sick Leave

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What You Need To Know:

- Beginning on October 29, 2018, employers are required to provide paid sick leave to each of their New Jersey employees.
- Employees must be permitted to accrue up to 40 hours of paid sick leave per benefit year and use it for specific purposes.
- Employers may satisfy the new law with an existing leave policy so long as it meets (or exceeds) the new law's requirements.

On May 2, 2018, New Jersey adopted one of the most expansive paid sick leave laws in the country, and it is nothing to sneeze at. New Jersey joins the growing number of states requiring employers to provide for the accrual and use of paid sick leave. The new law, effective **October 29, 2018**, preempts the various local laws and ordinances concerning paid sick leave already in effect in New Jersey and prohibits additional local paid sick leave laws and ordinances from being adopted in the future. The state law includes a number of noteworthy provisions, including, but not limited to, the following.

All Employers Must Comply

With very few exceptions, *all* New Jersey employers are subject to the law, **regardless of size**. Specifically, the law does not cover public employers that are required to provide paid sick leave under separate state law. Nor does it cover certain health care and construction workers.

Employers that **already provide paid sick leave** or other paid time off to their employees may be able to satisfy the new law's requirements without making significant changes to their policies.

So long as an employer's current policy meets (or exceeds) the new law's requirements, no modification would be required.

Accrual of Paid Sick Leave

Beginning October 29, 2018, employers must provide one hour of paid sick leave for every 30 hours an employee works, **up to 40 hours** per benefit year. Employers may forego the accrual process by providing employees with at least 40 hours of paid sick leave at the beginning of each benefit year.

Permissible Uses

Unless the employer agrees to an earlier date, employees **become eligible** to use their accrued paid sick leave on the **120th calendar day** after commencing employment. Paid sick leave may be used for any of the following purposes:

- Diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury, or other adverse health condition, or for preventive medical care
- To aid or care for a family member during

diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury, or other adverse health condition, or during preventive medical care for the family member

- Circumstances resulting from the employee or a family member being the victim of domestic or sexual violence
- Closure of the employee's workplace or the school or place of care of a child by order of a public official due to an epidemic or other public health emergency
- To attend a child's school-related conference, meeting, function, or other event requested or required by a school administrator, teacher, etc.

Carryover and Termination of Employment

Employees must be permitted to carry over **up to 40 hours** of unused paid sick leave from one benefit year to the next. However, to prevent excess, employers may place a cap on the number

of hours an employee may use each benefit year, so long as the cap is set at no less than 40 hours. And unless an employer policy states otherwise, employees *shall not* be entitled to payment for any unused paid sick leave at termination of employment.

Notice Posting and Record Keeping

Employers have to maintain records of paid sick leave accrual and usage for at least **five years**. Additionally, employers are required to provide a state-issued notification document to employees and to conspicuously post the notification in the workplace.

We urge all New Jersey employers to review their sick leave policies to ensure compliance with the new paid sick leave law or to prepare to adopt a new policy. We at Lowenstein Sandler routinely review and help craft employer policies, and we will gladly assist as needed.

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