

4151.3/4251.3 FAMILIES FIRST CORONAVIRUS RESPONSE ACT LEAVE POLICY

Statement of Purpose:

In accordance with the Federal Families First Coronavirus Response Act (FFCRA), which includes the Emergency Family and Medical Leave Expansion Act (EFMLEA) and the Emergency Paid Sick Leave Act (EPSLA), the Franklin Lakes Board of Education ("Board") will permit eligible employees to take leaves of absence due to certain qualifying events.

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. All requests by eligible employees for a leave of absence that qualify under the EFMLEA and EPSLA or both, are subject to this policy.

Scope and Effective Date:

This policy applies to all Board employees eligible for leave under the EFMLEA or the EPSLA and will apply to all applications for a leave of absence pursuant to the EFMLEA and/or the EPSLA made on or after the date of adoption of this policy. This policy shall be in effect for so long as the pertinent provisions of the EPSLA and EFMLEA are in effect.

Nonwaiver of Rights:

The interaction between the EFMLEA, EPSLA, FMLA, and the New Jersey Family Leave Act (NJFLA), and other applicable laws is complicated and may need to be reviewed on a case-by-case basis. Employees will receive that to which they are entitled by law. This policy will not serve to grant any greater rights or waive any right that the Board may have under the law.

Eligibility and Qualifying Events:

Emergency Family and Medical Leave Expansion Act

An employee is eligible for leave under the EFMLEA where the employee has been employed by the Board for at least thirty calendar days.

Leave pursuant to the EFMLEA is available where the employee faces a "qualifying need related to a public health emergency," which requires that the employee is unable to work (or telework) due to a need for leave 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. For this purpose:

- "Public Health Emergency" means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.
- "Child care provider" means a provider who receives compensation for providing child care services on a regular basis.

- “School” means an elementary school or secondary school.

Emergency Paid Sick Leave Act

An employee must be an eligible employee and choose to take a paid leave of absence pursuant to the EPSLA because of one or more of the qualifying events described below:

- 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 COVID-19 symptoms and is seeking a medical diagnosis.
- 4) The employee is caring for an individual who is subject to an order as described above at (1) or self-quarantine as described above at (2). The individual in the employee’s care must be the employee's immediate family member, a person who regularly resides in the employee's home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined.
- 5) The employee is caring for the employee’s son or daughter whose school or place of child care is closed, or the child care provider is unavailable, due to COVID-19 related reasons.
- 6) The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

Duration of Leave and Rate of Pay:

Emergency Family and Medical Leave Expansion Act

An eligible employee may take up to twelve (12) work weeks of leave pursuant to the EFMLEA. The duration of leave for which the employee is eligible is identical to that for which the employee is eligible pursuant to the FMLA (calculated pursuant to Policy 4151.2/4251.2, “Family Leave and Medical Leave Policy) at the time at which leave is taken.

The first ten days of leave taken pursuant to the EFMLEA shall be unpaid. An eligible 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. An employee generally may not use sick leave under N.J.S.A. 18A:30-1 for this purpose. However, an employee receiving sick leave under the provisions of N.J.S.A. 18A:30-1 may 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.

The remaining period of leave shall be paid at two-thirds of the employee’s regular rate of pay, for the number of hours for which the employee would otherwise ordinarily be scheduled to work. For employees with schedules which vary week to week to the extent

that the Board cannot determine with certainty the number of hours which the employee would ordinarily be scheduled to work, the employee shall be paid for either:

- 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 leave, including hours for which the employee took leave of any type; or
- if the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

In no event shall pay for leave pursuant to the EFMLEA exceed \$200.00 per day and \$10,000.00 in the aggregate.

Emergency Paid Sick Leave Act

A full-time employee (an employee who is normally scheduled to work at least 40 hours per week) may take up to 80 hours of EPSLA leave over a two-week period.

A part-time employee (an employee who is normally scheduled to work fewer than 40 hours per week) may take EPSLA leave for a number of hours equal to the number of hours that such employee works, on average, over a two-week period. For employees with schedules which vary week to week to the extent that the Board cannot determine with certainty the number of hours which the employee would ordinarily be scheduled to work, the employee shall be paid for either:

- 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 leave, including hours for which the employee took leave of any type; or
- if the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

Leave taken for qualifying purposes #1-3 described above shall be paid at the higher of the employee's regular rate of pay or the applicable minimum wage, subject to a limitation of \$511 per day or a total of \$5,110.

Leave taken for qualifying purposes #4-6 described above shall be paid at the higher of two-thirds of the employee's regular rate of pay or the applicable minimum wage, subject to a limitation of \$200 per day or a total of \$2,000.

Advance Notice:

In all cases, an employee requesting leave must complete an application for a leave of absence form as soon as practicable in advance of taking leave. If the need for the leave of absence is unforeseeable, the employee must notify the Board as soon as possible following the commencement of leave. If the employee does not complete the required forms, or if he or she fails to give the required notice, the Board may deny the leave request or delay the commencement of the leave.

For leave taken pursuant to the EFMLEA and/or EPSLA for the purpose of the employee's providing care for their child, the employee shall provide to the Board 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.

For leave taken for any other purpose pursuant to the EPSLA, the employee shall provide to the board the date(s) 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.

Exhaustion of Statutory and Contractual Paid Leave:

A leave of absence under the EFMLEA and/or EPSLA is paid leave, excluding the first ten days of EFMLEA leave. No employee shall be required to exhaust any amount of accrued paid leave prior to taking leave pursuant to the EFMLEA and/or EPSLA.

No Retaliation:

No employee shall be retaliated against for having exercised his or her rights under the EFMLEA and/or the EPSLA nor be discouraged from the use of such leave.

Employee Acknowledgement:

Each employee or prospective employee shall be given a copy of this policy. He/she must acknowledge receipt and understanding of the policy as a condition of employment by signing an acknowledgement form.

Adopted:

NJSBA Review/Update:

Readopted:

NJSBA Review:

Key Words

Legal References

P.L. 116-127: Families First Coronavirus (COVID-19) Response Act

Possible Cross References:

*4151/4251 Attendance patterns

*4151.1/4251.1 Personal illness and injury/health and hardship

*4151.2/4251.2 Family leave and medical leave policy

*Indicates policy is included in the Critical Policy Reference Manual.

Franklin Lakes School District