

Family and Medical Leave

The New Jersey Family Leave Act and the Federal Family Leave Act

Family leave is a broad phrase that impacts almost every business in New Jersey. What many businesses fail to recognize is that there are two acts to follow, not one. New Jersey has legislation called the New Jersey Family Leave Act ("NJFLA"). Federally, there is the Family and Medical Leave Act (FMLA). Most businesses that employ 50 or more employees working 20 or more weeks during the year need to follow both acts, and although there are similarities, it is most important to know the differences.

NJFLA Provisions

Employees who work for companies and organizations that fall under the NJFLA are generally permitted up to 12 weeks of job protected leave in a 24-month period. In order to qualify for Family Leave, the employee must have been employed for at least twelve (12) months and at least 1,000 hours during the year immediately prior to taking the leave. Additionally, employees are required to comply with specific notice provisions set forth in the statute unless the situation involves an emergency, in which case employees should give the employer as much notice as possible.

Entitlement to leave includes the birth, adoption or foster placement of a child or the serious health condition of a family member. It is important to recognize that unlike the federal FMLA statute, the New Jersey statute does not provide for leave for oneself in the event of serious medical condition – leave is limited to the care of a parent (or parent-in-law), child (under the age of 18), spouse or civil union partner.

Under the NJFLA, employers are prohibited from retaliating against employees who exercise their leave rights. The statute requires employers to return the employee to the same position they held prior to the leave or an equivalent position in terms of status, pay and benefits.

In some situations, employees may fall under both the NJFLA and the FMLA. Should this be the case, the employee will only be entitled to up to 12 weeks of leave in a 12-month period.

FMLA Provisions

To be eligible for leave under the FMLA, the employee must have been working for the employer for at least twelve (12) months and have worked 1,250 hours in the preceding 12 months. Entitlement to leave under the FMLA includes the birth, adoption or foster care placement of a child, care for a family member with a serious health condition, or care for oneself because of a serious health condition.

Similar to the NJFLA, Federal law requires the employer to reinstate the employee to the same or an equivalent position when returning from leave and health insurance benefits must be maintained during the leave period. When the need for leave is foreseeable, employees are also required to comply with the statute's notice requirement. However, in some cases the need for leave may be unforeseeable. In these situations, the Federal law requires an employee to give an employer reasonable notice as soon as practicable under the circumstances.

Contact Our New Jersey Employment Lawyers as Soon as Possible

Navigating the specific provisions of the Federal Family Medical Leave Act and the New Jersey Family Leave Act can be challenging for both employers and employees. If you have questions about these acts or need assistance in dealing with a specific family leave matter, we encourage you to [contact](#) a New Jersey employment lawyer at our firm.