

POLICY GUIDE

Northern Region Educational Services Commission

ADMINISTRATION

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Earned Sick Leave Law

1642 EARNED SICK LEAVE LAW

All persons holding any office, position, or employment in local school districts, regional school districts, or county vocational schools of the State who are steadily employed by the Board of Education or who are protected by tenure in their office, position, or employment under the provisions of N.J.S.A. 18A:30-2 or any other law, except persons in the classified service of the civil service under Title 11, Civil Service, of the Revised Statutes, shall be allowed sick leave with full pay for a minimum of ten school days in any school year in accordance with the provisions of N.J.S.A. 18A:30-2.

However, a Board of Education may determine some persons holding an office, position, or employment are not eligible for sick leave in accordance with N.J.S.A. 18A:30-2. These persons shall be covered under the provisions of the New Jersey Earned Sick Leave Law (Act), N.J.S.A. 34:11D-1 through 34:11D-11. Policy and Regulation 1642 outline the provisions of the Act for those persons the Board of Education determines are not eligible for sick leave in accordance with the provisions of N.J.S.A. 18A:30-2 or any rule or law of New Jersey other than the Act.

For the purposes of Policy and Regulation 1642, “employer” means a local school district, regional school district, county vocational school, or charter school of the State who does not provide sick leave with full pay to an employee pursuant to N.J.S.A. 18A:30-2 or any other law, rule, or regulation of New Jersey and is required to comply with the requirements of the Act.

For the purposes of Policy and Regulation 1642, “employee” means an individual engaged in service for compensation to a local school district, regional school district, county vocational school, or charter school of the State who is not provided sick leave with full pay pursuant to N.J.S.A. 18A:30-2 or any other law, rule, or regulation of New Jersey and is eligible to accrue earned sick leave in accordance with the requirements of the Act.

In accordance with the provisions of N.J.S.A. 34:11D-2, for every thirty hours worked, an employee eligible to accrue earned sick leave under the Act shall accrue one hour of earned sick leave commencing no later than October 29, 2018.

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The employer **will not** provide an employee with the full complement of earned sick leave for a benefit year as required under N.J.S.A. 34:11D-2 on the first day of each benefit year in accordance with the provisions of N.J.S.A. 34:11D-2.a.

The employer **will** permit the employee to accrue or use in any benefit year, or carry forward from one benefit year to the next, more than forty hours of earned sick leave.

Unless the employee has accrued earned sick leave prior to October 29, 2018, the earned sick leave shall begin to accrue on October 29, 2018 for any employee who is hired and commences employment before October 29, 2018 and the employee shall be eligible to use the earned sick leave beginning February 26, 2019 after the employee commences employment.

If the employee's employment commences after October 29, 2018, the earned sick leave shall begin to accrue upon the date that employment commences. **The employee shall be eligible to use the earned sick leave beginning on the 120th calendar day after the employee commences employment.**

The employer shall be in compliance with N.J.S.A. 34:11D-2 if the employer offers paid time off to an employee, which is fully paid and shall include, but is not limited to personal days, vacation days, and sick days, and may be used for the purposes of N.J.S.A. 34:11D-3 in the manner provided by the Act, and is accrued at a rate equal to or greater than the rate described in N.J.S.A. 34:11D-2.

The employer shall pay the employee for earned sick leave at the same rate of pay with the same benefits that the employee normally earns, except that the pay rate shall not be less than the minimum wage required for the employee pursuant to N.J.S.A. 34:11-56a4.

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The employer shall permit an employee to use the earned sick leave accrued pursuant to the Act for any of the reasons outlined in N.J.S.A. 34:11D-3.a.

No employer shall take retaliatory personnel action or discriminate against an employee who accrues sick leave under the Act because the employee requests or uses earned sick leave either in accordance with the Act or the employer's own earned sick leave policy for employees covered under the Act. Any complaints alleging a violation of the Act shall be filed in accordance with the provisions of N.J.S.A. 34:11D-4.

In accordance with N.J.S.A. 34:11D-5, failure of the employer to comply with the provisions of the Act shall be regarded as a failure to meet the wage payment requirements of the "New Jersey State Wage and Hour Law."

The employer shall retain records documenting hours worked and earned sick leave taken by employees covered under the Act in accordance with the provisions of N.J.S.A. 34:11D-6.

The employer shall provide notification, in a form issued by the Commissioner of Labor and Workforce Development, to employees of their rights under the Act; post the notification; and provide a copy of the notification to employees eligible to accrue earned sick leave under the Act in accordance with the provisions of N.J.S.A. 34:11D-7.

N.J.S.A. 34:11D-1 through 34:11D-11

Adopted: 14 June 2019