



EARNED SICK LEAVE

WHAT EMPLOYEES NEED TO KNOW

Most New Jersey employees now have the right to earned sick leave so they can:

- Care for their own, or a family member's, physical or mental health or injury
- Address domestic or sexual violence against themselves or a family member
- Attend a child's school-related meeting, conference, or event
- Take care of their children when school or child care is closed due to an epidemic or public health emergency

This sheet will be updated as additional information becomes available; note the revision date in the footer.

For more details or to read the law and proposed rules, go to nj.gov/labor/earnedsick.

Note: If your employer has an existing sick leave policy allowing employees to use sick leave, it must meet or exceed the requirements of the law.

WHO'S COVERED BY THE LAW?

Employers must provide earned sick leave to full- and part-time employees. Employers are not required to provide earned sick leave to the following workers:

- Individuals employed in the construction industry under a union contract
- Per diem health care employees
- Public employees who are provided with sick leave at full pay under any other NJ law or rule
- Independent contractors who do not meet the definition of an employee under NJ law

NOTICE OF EMPLOYEE RIGHTS

If you are a covered employee, your employer must give you written notice of your right to earned sick leave. You have a right to the notice in English, and if available on the NJDOL website, your primary language. Keep a copy of the notice; you can download it at nj.gov/labor/earnedsick.

EARNED SICK LEAVE ACCRUAL & USE

You accrue (earn) 1 hour of earned sick leave for every 30 hours worked, up to a maximum of 40 hours of leave per benefit year. For example, if you work 40 hours a week, you will earn 5.33 hours of earned sick leave in 4 weeks. Alternatively, your employer can provide you with 40 hours of earned sick leave up front. "Benefit year" means any regular and consecutive 12-month period of time determined by your employer. The Notice of Employee Rights must state the benefit year.

Rate of Accrual	Date Accrual Begins	Date Earned Sick Leave Available for Use
1 hour for every 30 hours worked	October 29, 2018 or the first day of employment, whichever is later	February 26, 2019 or 120 days after first day of employment, whichever is later

With your employer's consent, you can work additional hours to make up for hours of work missed rather than use earned sick leave. However, your employer cannot require this, or require you to use earned sick leave.

Your employer cannot require you to search for or find a replacement worker to cover the hours during which you will use earned sick leave, as a condition of using the leave. Keep a copy of all documents that show your amount of earned sick leave accrual and use.

PAYMENT OF EARNED SICK LEAVE

Your rate of pay for earned sick leave must be your regular hourly rate, but no less than the state minimum wage. If your pay fluctuates, you have two or more jobs for the same employer, you're paid for piecework, or your pay includes gratuities, food, or lodging, your rate of pay for sick leave is calculated by adding together your total earnings, exclusive of overtime pay, for the seven most recent workdays. Divide that sum by the total hours of work during that seven-day period. If you're paid by commission, whether base wage plus commission or commission only, your rate of earned sick leave pay is the hourly base wage or the state minimum wage, whichever is greater.

DEFINITION OF FAMILY MEMBERS

The law recognizes the following individuals as "family members" for the purposes of earned sick leave use:

- Child (biological, adopted, or foster child; stepchild; legal ward; child of a domestic partner or civil union partner)
- Grandchild
- Sibling
- Spouse
- Domestic partner or civil union partner
- Parent
- Grandparent
- Spouse, domestic partner, or civil union partner of an employee's parent or grandparent
- Sibling of an employee's spouse, domestic partner, or civil union partner
- Any other individual related by blood to the employee
- Any individual whose close association with the employee is the equivalent of family

DOMESTIC OR SEXUAL VIOLENCE

If you or your family member have been a victim of domestic violence or sexual violence, you can use earned sick leave for treatment, counseling, or to prepare for legal proceedings.

ADVANCE NOTICE

If your need for earned sick leave can be planned in advance, your employer can require up to seven days' advance notice of your intention to use earned sick leave. If your need for earned sick leave cannot be planned in advance, your employer may require you to give notice as soon as it is practical.

DOCUMENTATION

Your employer can require reasonable documentation if you use earned sick leave on three or more consecutive workdays, or on certain dates specified by the employer.

UNUSED EARNED SICK LEAVE

You may carry over up to 40 hours of unused earned sick leave into the next benefit year. However, your employer is required only to let you use up to 40 hours of leave per benefit year. Alternatively, your employer can offer to pay you for your unused earned sick leave at the end of the benefit year.

RETALIATION

Your employer cannot retaliate against you for requesting or using earned sick leave, filing a complaint with NJDOL, communicating with any person about a violation of the law, participating in an investigation regarding an alleged violation of the law, or informing another person of their potential rights under the law. Retaliation includes threat, discipline, discharge, demotion, suspension, or reduction in hours, or any other adverse action against you for exercising or attempting to exercise any right guaranteed under the law.

COMPLAINTS

- File a complaint online. Visit nj.gov/labor, click *Wage & Hour*, then *File a Wage Claim*.
 - Download a complaint form at nj.gov/labor/earnedsick
 - Contact NJDOL by email at wage.hour@dol.nj.gov or call 609-292-2305 between 8:30 a.m. and 4 p.m.
- TTY users can contact this department through NJ Relay: 7-1-1