

EARNED SICK LEAVE LAW (M)

1642

M

A. Definitions Relative to Policy and Regulation 1642 and the New Jersey Earned Sick Leave Law (Act)

“Act” means the New Jersey Earned Sick Leave Law – N.J.S.A. 34:11D-1. through 34:11D-11.

“Benefit year” means the period of twelve consecutive months, July 1 through June 30, as established by an employer in which an employee shall accrue and use earned sick leave as provided pursuant to N.J.S.A. 34:11D-2, provided that once the starting date of the benefit year is established by the employer it shall not be changed unless the employer notifies the Commissioner of Labor and Workforce Development of the change in accordance with regulations promulgated pursuant to the Act. The Commissioner shall impose a benefit year on any employer the Commissioner determines is changing the benefit year at times or in ways that prevent the accrual or use of earned sick leave by an employee.

“Certified Domestic Violence Specialist” means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals.

“Child” means a biological, adopted, or foster child, stepchild or legal ward of an employee, child of a domestic partner or civil union partner of the employee.

“Civil union” means a civil union as defined in N.J.S.A. 37:1-29.

“Commissioner” means the Commissioner of Labor and Workforce Development.

“Department” means the Department of Labor and Workforce Development.

“Designated domestic violence agency” means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Child Protection and Permanency in the Department of Children and Families and is under contract with the division for the express purpose of providing the services.

“Domestic or sexual violence” means stalking, any sexually violent offense, as defined in N.J.S.A. 30:4-27.26, or domestic violence as defined in N.J.S.A. 2C:25-19, and N.J.S.A. 17:29B-16.

“Domestic partner” means a domestic partner as defined in N.J.S.A. 26:8A-3.

“Employee” means, for the purposes of Policy and Regulation 1642, 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 with 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.

“Employer” means, for the purposes of Policy and Regulation 1642, 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.

“Family member” means a child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a spouse, domestic partner, or civil union partner of a parent or grandparent of an employee, or a sibling of a spouse, domestic partner, or civil union partner of the employee, or any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.

“Health care professional” means any person licensed under Federal, State, or local law, or the laws of a foreign nation, to provide health care services, or any other person who has been authorized to provide health care by a licensed health care professional, including but not limited to doctors, nurses, and emergency room personnel.

“Parent” means a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of the employee’s spouse, domestic partner, or civil union partner, or a person who stood in loco parentis of the employee or the employee’s spouse, domestic partner, or civil union partner when the employee, spouse or partner was a minor child.

“Retaliatory personnel action” means denial of any right guaranteed under the Act and any threat, discharge, including a constructive discharge, suspension, demotion, unfavorable reassignment, refusal to promote, disciplinary action, sanction, reduction of work hours, reporting or threatening to report the actual or suspected immigrant status of an employee or the employee’s family, or any other adverse action against an employee.

“Sibling” means a biological, foster, or adopted sibling of an employee.

“Spouse” means a husband or wife.

B. Provision of Earned Sick Leave – N.J.S.A. 34:11D-2

1. The employer shall provide earned sick leave in accordance with the Act for each employee working for the employer.
2. For every thirty hours worked, the employee shall accrue one hour of earned sick leave. **The employer [will ___ will not]** provide an employee their 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 Act.
3. The **employer [will ___ will not]** 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.
 - a. 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 on February 26, 2019 after the employee commences employment.
 - b. 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

Select one option below:

Option 1 - beginning on the 120th calendar day after the employee commences employment.

OR

___ Option 2 - ___ days after employment commences, but no longer than 120 calendar days after employment commences.]

4. 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.
5. The employer shall pay the employee for earned sick leave at the same rate of pay with the same benefits as 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.

6. Upon the mutual consent of the employee and employer, an employee may voluntarily choose to work additional hours or shifts during the same or following pay period, in lieu of hours or shifts missed, but shall not be required to work additional hours or shifts or use accrued earned sick leave. The employer may not require, as a condition of an employee using earned sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned sick leave.
7. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, then the employee shall be entitled to all earned sick leave accrued at the prior division, entity, or location, and shall be entitled to use the accrued earned sick leave as provided in the Act.
8. If an employee is terminated, laid off, furloughed, or otherwise separated from employment with the employer, any unused accrued earned sick leave shall be reinstated upon the re-hiring or reinstatement of the employee to that employment, within six months of termination, being laid off or furloughed, or separation, and prior employment with the employer shall be counted towards meeting the eligibility requirements set forth in N.J.S.A. 34:11D-2.
9. The employer may choose the increments in which its employees may use earned sick leave, provided that the largest increment of earned sick leave an employee may be required to use for each shift for which earned sick leave is used shall be the number of hours the employee was scheduled to work during that shift.

C. Permitted Usage of Earned Sick Leave – N.J.S.A. 34:11D-3

1. The employer shall permit an employee to use the earned sick leave accrued pursuant to the Act for any of the following:
 - a. Time needed for 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 for the employee;
 - b. Time needed for the employee to aid or care for a family member of an employee 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;

- c. Absence necessary due to circumstances resulting from the employee, or a family member of an employee, being a victim of domestic or sexual violence, if the leave is to allow the employee to obtain for the employee or the family member: medical attention needed to recover from physical or psychological injury or disability caused by domestic or sexual violence; services from a designated domestic violence agency or other victim services organization; psychological or other counseling; relocation; or legal services, including obtaining a restraining order or preparing for, or participating in, any civil or criminal legal proceeding related to the domestic or sexual violence;
- d. Time during which the employee is not able to work because of:
 - (1) A closure of the employee's workplace, or the school or place of care of a child of an employee, by order of a public official or because of a state of emergency declared by the Governor of New Jersey, due to an epidemic or other public health emergency;
 - (2) The declaration of a state of emergency by the Governor of New Jersey, or the issuance by a health care provider or the New Jersey Commissioner of Health or other public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others;
 - (3) A state of emergency declared by the Governor of New Jersey, or upon the recommendation, direction, or order of a healthcare provider or the New Jersey Commissioner of Health or other authorized public official, the employee undergoes isolation or quarantine, or cares for a family member in quarantine, as a result of suspected exposure to a communicable disease and a finding by the provider or authority that the presence in the community of the employee or family member would jeopardize the health of others; or
- e. Time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, function or other event requested or required by a school administrator, teacher, or other professional staff member responsible for the child's education, or to attend a meeting regarding care provided to

the child in connection with the child's health conditions or disability.

2. If an employee's need to use earned sick leave is foreseeable, the employer [**X** will **may**] require advance notice, not to exceed seven calendar days prior to the date the leave is to begin, of the intention to use the leave and its expected duration, and shall make a reasonable effort to schedule the use of earned sick leave in a manner that does not unduly disrupt the operations of the employer. If the reason for the leave is not foreseeable, the employer will require an employee to give notice of the intention as soon as practicable, if the employer has notified the employee of this requirement.
 - a. The employer may prohibit employees from using foreseeable earned sick leave on certain dates provided reasonable notice of these dates is provided to employees and the employer will require reasonable documentation if sick leave that is not foreseeable is used during those dates.
 - b. For earned sick leave of three or more consecutive days, the employer will require reasonable documentation that the leave is being taken for the purpose permitted under N.J.S.A. 34:11D-3.a. and C.1. above.
 - c. If the leave is permitted under N.J.S.A. 34:11D-3.a.(1) and C.1.a. above or N.J.S.A. 34:11D-3.a.(2) and C.1.b. above, documentation signed by a health care professional who is treating the employee or the family member of the employee indicating the need for the leave and, if possible, number of days of leave, shall be considered reasonable documentation.
 - d. If the leave is permitted under N.J.S.A. 34:11D-3.a.(3) and C.1.c. above because of domestic or sexual violence, any of the following shall be considered reasonable documentation of the domestic or sexual violence: medical documentation; a law enforcement agency record or report; a court order; documentation that the perpetrator of the domestic or sexual violence has been convicted of a domestic or sexual violence offense; certification from a certified Domestic Violence Specialist or a representative of a designated domestic violence agency or other victim services organization; or other documentation or certification provided by a social worker, counselor, member of the clergy, shelter worker, health care professional, attorney, or other professional who has assisted the employee or family member in dealing with the domestic or sexual violence.

- e. If the leave is permitted under N.J.S.A. 34:11D-3.a.(4) and C.1.d. above, a copy of the order of the public official or the determination by the health authority shall be considered reasonable documentation.
 - f. If the leave is permitted under N.J.S.A. 34:11D-3.a.(5) and C.1.e. above, tangible proof of the reasons outlined in N.J.S.A. 34:11D-3.a.(5) and C.1.e. above shall be considered reasonable documentation.
3. Nothing in the Act shall be deemed to require the employer to provide earned sick leave for an employee's leave for purposes other than those identified in N.J.S.A. 34:11D-3, or prohibit the employer from taking disciplinary action against an employee who uses earned sick leave for purposes other than those identified in N.J.S.A. 34:11D-3.

Option – Must Select One Option Below

4. **[Option 1 - X The employer will not pay an employee for unused earned sick leave at the end of the benefit year pursuant to N.J.S.A. 34:11D-3.c.]**

[Option 2 - ___ The employer will provide an offer to an employee for payment of unused earned sick leave in the final month of the employer's benefit year. The employee shall choose, no later than ten calendar days from the date of the employer's offer, whether to accept a payment or decline a payment. If the employee does not accept the employer's offer within ten calendar days from the date of the employer's offer, the employee is deemed to have declined the employer's offer.

- a. If the employee agrees to receive a payment, the employee shall choose a payment for the full amount of unused earned sick leave or for fifty percent of the amount of unused earned sick leave. The payment amount shall be based on the same rate of pay that the employee earns at the time of the payment.
- b. If the employee declines a payment for unused earned sick leave, or agrees to a payment for fifty percent of the amount of unused sick leave, the employee shall be entitled to carry forward any unused or unpaid earned sick leave to the proceeding benefit year as provided pursuant to N.J.S.A. 34:11D-2.a. and B.1., B.2., and B.3. above.
- c. If the employee agrees to a payment for the full amount of unused earned sick leave, the employee shall not be entitled to carry

forward any earned sick leave to the proceeding benefit year pursuant to N.J.S.A. 34:11D-2.a. and B.1, B.2., and B.3. above.]

[Option – Required Only if the Employer Provides an Employee with their Full Complement of Earned Sick Leave for a Benefit Year is Selected in Option B.2. Above.]

5. If the employer provides an employee with the full complement of earned sick leave for a benefit year on the first day of each benefit year as indicated in B.2. above, then the employer shall

Must Select Option 1 Below if Option C.4. – Option 1 Above is Selected.

Must Select Option 2 Below if Option C.4. – Option 2 Above is Selected.

Option 1 - permit the employee to carry forward any unused sick leave to the next benefit year.

Option 2 - provide to the employee a payment for the full amount of unused earned sick leave in the final month of the employer's benefit year in accordance with C.4. above. The employer may pay the employee the full amount of unused earned sick leave in the final month of a benefit year pursuant to B.2. above and N.J.S.A. 34:11D-3 only if the employer forgoes, with respect to that employee, the accrual process for earned sick leave during the next benefit year.]

6. Unless the employer's policy or a collective bargaining agreement provides for the payment of accrued earned sick leave upon termination, resignation, retirement, or other separation from employment, an employee shall not be entitled under N.J.S.A. 34:11D-3 to payment of unused earned sick leave upon the separation from employment.
7. Any information the employer possesses regarding the health of an employee or any family member of the employee or domestic or sexual violence affecting an employee or employee's family member shall be treated as confidential and not disclosed except to the affected employee or with the written permission of the affected employee.

D. Retaliation, Discrimination Prohibited – N.J.S.A. 34:11D-4 and N.J.S.A. 34:11D-12

1. 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.

- a. The employer shall not count earned sick leave taken under the Act as an absence that may result in the employee being subject to discipline, discharge, demotion, suspension, a loss or reduction of pay, or any other adverse action.
2. There shall be a rebuttable presumption of an unlawful retaliatory personnel action under N.J.S.A. 34:11D-4 whenever the employer takes adverse action against an employee within ninety days of when that employee:
 - a. Files a complaint with the Department or a court alleging a violation of any provision of N.J.S.A. 34:11D-4;
 - b. Informs any person about the employer's alleged violation of N.J.S.A. 34:11D-4;
 - c. Cooperates with the Department or other persons in the investigation or prosecution of any alleged violation of N.J.S.A. 34:11D-4;
 - d. Opposes any policy, practice, or act that is unlawful under N.J.S.A. 34:11D-4; or
 - e. Informs any person of his or her rights under N.J.S.A. 34:11D-4.
 3. Protections of N.J.S.A. 34:11D-4 shall apply to any person who mistakenly but in good faith alleges violations of the Act.
 4. Any violator of the provisions of N.J.S.A. 34:11D-4 shall be subject to relevant penalties and remedies provided by the "New Jersey State Wage and Hour Law," N.J.S.A. 34:11-56a et seq., including the penalties and remedies provided by N.J.S.A. 34:11-56a24, and relevant penalties and remedies provided by N.J.S.A. 2C:40A-2, for discharge or other discrimination.
 5. The employer shall not, during the Public Health Emergency and State of Emergency declared by the Governor of New Jersey in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic, terminate or otherwise penalize an employee if the employee requests or takes time off from work based on the written or electronically transmitted recommendation of a medical professional licensed in New Jersey that the employee take that time off for a specified period of time because the

employee has, or is likely to have, an infectious disease, as defined in N.J.S.A. 26:13-2, which may infect others at the employee's workplace.

- a. The employer shall not, following that specified period of time as per D.5. above, refuse to reinstate the employee to employment in the position held when the leave commenced with no reduction in seniority, status, employment benefits, pay, or other terms and conditions of employment.

E. Violations; Remedies, Penalties, Other Measures – N.J.S.A. 34:11D-5

1. Any failure of the employer to make available or pay earned sick leave as required by the Act, or any other violation of the Act, shall be regarded as a failure to meet the wage payment requirements of the "New Jersey State Wage and Hour Law," N.J.S.A. 34:11-56a et seq., or other violation of the New Jersey State Wage and Hour Law, as the case may be, and remedies, penalties, and other measures provided by the New Jersey State Wage and Hour Law, N.J.S.A. 34:11-58, and N.J.S.A. 2C:40A-2 for failure to pay wages or other violations of the New Jersey State Wage and Hour Law shall be applicable, including, but not limited to, penalties provided pursuant to N.J.S.A. 34:11-56a22 and 34:11-56a24, and civil actions by employees pursuant to N.J.S.A. 34:11-56a25, except that an award to an employee in a civil act shall include, in addition to the amount provided pursuant to N.J.S.A. 34:11-56a25, any actual damages suffered by the employee as the result of the violation plus an equal amount of liquidated damages.

F. Retention of Records, Access – N.J.S.A. 34:11D-6

1. The employer shall retain records documenting hours worked by employees and earned sick leave accrued/advanced, used, paid, and paid out and carried over by/to employees, for a period of five years, and shall, upon demand, allow the Department access to those records to monitor compliance with the requirements of the Act.
 - a. If an employee makes a claim the employer has failed to provide earned sick leave required by the Act and the employer has not maintained or retained adequate records documenting hours worked by the employee and earned sick leave taken by the employee or does not allow the Department access to the records, it shall be presumed the employer has failed to provide the earned sick leave, absent clear and convincing evidence otherwise.
2. In addition, the penalties provided by the "New Jersey State Wage and Hour Law," N.J.S.A. 34:11-56a et seq. for violations of the requirements of the New Jersey State Wage and Hour Law regarding the maintaining

and disclosure of records shall apply to violations of the requirements of N.J.S.A. 34:11D-6.

G. Notification to Employees – N.J.S.A. 34:11D-7

1. The employer shall provide notification, in a form issued by the Commissioner, to employees of their rights under the Act, including the amount of earned sick leave to which they are entitled and the terms of its use and remedies provided by the Act to employees if the employer fails to provide the required benefits or retaliates against employees exercising their rights under the Act.
 - a. The employer shall conspicuously post the notification in a place or places accessible to all employees in each of the employer's workplaces.
 - b. The employer shall also provide each employee with a written copy of the notification: not later than thirty days after the form of the notification is issued; at the time of the employee's hiring, if the employee is hired after the issuance; and at any time, when first requested by the employee.
 - c. The Commissioner shall make the notifications available in English, Spanish, and any other language that the Commissioner determines is the first language of a significant number of workers in the State and the employer shall use the notification in English, Spanish, or any other language for which the Commissioner has provided notifications and which is the first language of a majority of the employer's workforce.

H. Provisions Preemptive; Construction of Act – N.J.S.A. 34:11D-8

1. No provision of the Act, or any regulations promulgated to implement or enforce the Act, shall be construed as:
 - a. Requiring the employer to reduce, or justifying the employer in reducing, rights or benefits provided by the employer pursuant to the employer's policy or a collective bargaining agreement which are more favorable to employees than those required by the Act or which provide rights or benefits to employees not covered by the Act;
 - b. Preventing or prohibiting the employer from agreeing, through a collective bargaining agreement or employer policy, to provide rights or benefits which are more favorable to employees than

those required by the Act or to provide rights or benefits to employees not covered by the Act;

- c. Prohibiting the employer from establishing a policy whereby an employee may donate unused accrued earned sick leave to another employee or other employees; or
- d. Superseding any law providing collective bargaining rights for employees, or in any way reducing, diminishing, or adversely affecting those collective bargaining rights, or in any way reducing, diminishing, or affecting the obligations of the employer under those laws.

- 2. Employees or employee representatives may waive the rights or benefits provided under the Act during the negotiation of a collective bargaining agreement.
- 3. With respect to employees covered by a collective bargaining agreement in effect on October 29, 2018, no provision of the Act shall apply until the stated expiration of the collective bargaining agreement.

I. Severability – N.J.S.A. 34:11D-9

- 1. The provisions of the Act shall be deemed to be severable and if any section, subsection, paragraph, sentence or other part of the Act is declared to be unconstitutional, or the applicability thereof to any person is held invalid, the remainder of the Act shall not thereby be deemed to be unconstitutional or invalid.

Adopted:

EVERY STUDENT SUCCEEDS ACT COMPLAINTS (M)

2415.20

M

The Every Student Succeeds Act (ESSA) requires the Board of Education to adopt a policy and written procedures that offer parent(s), public agencies, other individuals, or organizations a method for receipt and resolution of complaints alleging violations in the administration of the ESSA programs.

A. Complaint Procedure Alleging a Violation by a School, School District, or Other Agency Authorized by the School District or the New Jersey Department of Education (NJDOE)

1. A complaint is an allegation submitted in writing (mail or email) by an individual or organization that a school, school district, or other agency authorized by the school district has violated the law in the administration of education programs required by the ESSA.
2. A complaint must identify at a minimum the following:
 - a. The alleged ESSA violation;
 - b. A description of previous steps taken to resolve the matter;
 - c. The facts supporting the alleged violation as understood by the complainant at the time of submission; and
 - d. Any supporting documentation (e.g., letters, emails, logs, agenda, meeting minutes).
3. A complaint must be submitted to the Executive County Superintendent for the county where the school, school district, or other authorized agency is located.
4. When a written complaint is received by the Executive County Superintendent, the Executive County Superintendent will issue a Letter of Acknowledgement to the complainant within ten calendar days of receipt of the complaint. This letter will contain the following information:
 - a. The date the complaint was received;
 - b. A brief statement of the manner in which the Executive County Superintendent will investigate the complaint;
 - c. If necessary, a request for additional information regarding the complaint;
 - d. A resolution date within forty-five calendar days from the date the written complaint was received by the Executive County Superintendent; and
 - e. The name and telephone number of a contact person for status updates.

5. The Executive County Superintendent will coordinate the investigation of a complaint.
6. When the investigation is complete, the Executive County Superintendent will notify the complainant in writing regarding the outcome of the investigation.
 - a. If the Executive County Superintendent determines a violation has occurred, the Executive County Superintendent will identify and impose the appropriate consequences or corrective actions as required in accordance with statute and/or regulation to resolve the complaint.
 - b. If the complainant is not satisfied with the determination that is made by the Executive County Superintendent, the complainant may submit a written request for review of that determination to the Assistant Commissioner, Division of Learning Supports and Specialized Services via email at

essa@doe.nj.gov

with subject line “ESEA Complaint Decision Review” or via hard copy at the following address:

New Jersey Department of Education
Assistant Commissioner
Division of Learning Supports and Specialized Services
P.O. Box 500
Trenton, New Jersey 08625-0500

- B. Complaint Procedure Alleging a Violation by the New Jersey Department of Education (NJDOE)
1. A complaint is a written allegation the NJDOE has violated the law in the administration of education programs required by the ESSA.
 2. A complaint must identify at a minimum the following:
 - a. The alleged ESSA violation;
 - b. A description of previous steps taken to resolve the matter;
 - c. The facts supporting the alleged violation as understood by the complainant at the time of submission; and

- d. Any supporting documentation (e.g., letters, emails, logs, agenda, meeting minutes).
3. To initiate a complaint alleging the NJDOE has violated the administration of an ESEA program, a complainant must submit a written complaint to the New Jersey Department of Education – Assistant Commissioner, Division of Learning Supports and Specialized Services via email at essa@doe.nj.gov with subject line “ESEA Complaint or via hard copy sent to the following address:

New Jersey Department of Education
Assistant Commissioner
Division of Learning Supports and Specialized Services
P.O. Box 500
Trenton, New Jersey 08625-0500

4. When a written complaint is received by the NJDOE, an Assistant Commissioner will assign the investigation of this complaint to the appropriate office. The NJDOE will issue a Letter of Acknowledgement to the complainant within ten calendar days of receipt of the complaint. This letter shall contain the following information:
 - a. The date the complaint was received;
 - b. A brief statement of the manner in which the NJDOE will investigate the complaint;
 - c. If necessary, request for additional information regarding the complaint;
 - d. A resolution date within forty-five calendar days from the date the complaint was received; and
 - e. The name and telephone number of a contact person for status updates.
 5. The NJDOE Office assigned by the Assistant Commissioner to investigate a complaint concerning an alleged violation by the NJDOE will coordinate the investigation of the complaint. When the investigation is complete, the Assistant Commissioner will notify the complainant in writing regarding the outcome of the investigation.
 - a. If the NJDOE Office assigned by the Assistant Commissioner of Education determines a violation by the NJDOE has occurred after conducting an investigation, the Assistant Commissioner will identify and impose appropriate consequences or corrective action

in accordance with the statute and/or regulation to resolve the complaint.

- b. If the complainant is not satisfied with the NJDOE’s decision, the complainant may request a review of the NJDOE’s decision to the Secretary of the United States Department of Education (USDOE). The complainant may send the request, reasons supporting the request, and a copy of NJDOE’s resolution to the following address:

Secretary, United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4611

New Jersey Department of Education – Every Student Succeeds Act (ESSA) in New Jersey ESEA Complaint Policy and Procedures

Adopted:

ADMINISTRATION OF MEDICAL CANNABIS (M)

5330.01

M

A custodial parent or person having legal custody of a student requesting the administration of medical cannabis to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event must comply with the procedures and requirements of N.J.S.A. 18A:40-12.22 and N.J.S.A. 24:6I-1 et seq. and this Regulation.

A. Definitions

For the purposes of Policy and Regulation 5330.01:

1. “Cannabis” has the meaning given to marijuana in Section 2 of the “New Jersey Controlled Dangerous Substances Act,” N.J.S.A. 24:21-2.
2. “Commission” means the Cannabis Regulatory Commission established pursuant to N.J.S.A. 24:6I-24.
3. “Designated caregiver(s)” means a resident of New Jersey who:

- a. Is at least eighteen years old;
 - b. Has agreed to assist with a registered qualifying student patient's medical use of cannabis, is not currently serving as a designated caregiver(s) for more than one other qualifying patient, and is not the qualifying student patient's health care practitioner;
 - c. Is subject to the provisions of N.J.S.A. 24:6I-4.c.(2), has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date [Oct. 1, 2010] of N.J.S.A. 24:6I-1 et seq. and was for a violation of Federal law related to possession or sale of cannabis that is authorized under N.J.S.A. 24:6I-1 et seq. or N.J.S.A. 18A:40-12.22 et seq.;
 - d. Has registered with the Commission pursuant to N.J.S.A. 24:6I-4 and, except in the case of a designated caregiver(s) who is an immediate family member of the qualified student patient, has satisfied the criminal history background check requirement of N.J.S.A. 24:6I-4; and
 - e. Has been designated as designated caregiver(s) by the qualifying student patient when registering or renewing a registration with the Commission or in other written notification to the Commission.
4. "Health Care Practitioner" means a physician, advanced practice nurse, or physician assistant licensed or certified pursuant to N.J.S.A. 45 who:
- a. Possesses active registrations to prescribe controlled dangerous substances issued by the United States Drug Enforcement Administration and the Division of Consumer Affairs in the Department of Law and Public Safety;
 - b. Is the health care practitioner responsible for the ongoing treatment of a qualifying student patient's qualifying medical condition, the symptoms of that condition, or the symptoms associated with the treatment of that condition, provided; however, that the ongoing treatment shall not be limited to the provision of authorization for a patient to use medical cannabis or consultations solely for that purpose; and
 - c. If the qualifying student patient is a minor, a pediatric specialist.
5. "Medical use of cannabis" means the acquisition, possession, transport, or use of cannabis or paraphernalia by a registered qualifying student patient

as authorized by N.J.S.A. 24:6I-1 et seq. and N.J.S.A. 18A:40-12.22 et seq.

6. “Parent” means the custodial parent or person who has legal custody of a qualifying student patient who may also be the designated caregiver(s) registered with the Commission by the New Jersey Department of Health to administer medical cannabis to a student in accordance with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A 24:6I-4.
7. “Qualifying student patient” for the purpose of Policy and Regulation 5330.01 means a resident of the State who is a student enrolled and attending school in this school district who has been authorized for the medical use of cannabis by a health care practitioner in accordance with the provisions of N.J.S.A. 18A:40-12.22 and N.J.S.A 24:6I-41 et seq.
8. “Registration with the Commission” means a person has met the qualification requirements for, and has been registered by the Commission as, a registered qualifying patient, designated caregiver(s), or institutional caregiver(s). The Commission shall establish appropriate means for health care practitioners, health care facilities, medical cannabis dispensaries, law enforcement, schools, facilities providing behavioral health services or services for persons with developmental disabilities, and other appropriate entities to verify an individual’s status as a registrant with the Commission.

B. Registration – Qualifying Student Patient and Designated Caregiver(s)

1. A qualifying student patient must be authorized to engage in the medical use of cannabis and the designated caregiver(s) must be authorized to assist the qualifying student patient with the medical use of cannabis pursuant to the provisions of N.J.S.A. 24:6I-1 et seq.
2. A qualifying student patient and their designated caregiver(s) must complete the registration process in accordance with the provisions of N.J.S.A. 24:6I-4 and any other requirements of the Commission.
3. The qualifying student patient’s parent shall be responsible to immediately inform the Principal of any change in the status of the student’s registration with the Commission that would deem the registration with the Commission null and void due to any reason outlined in N.J.S.A. 24:6I-1 et seq.
4. The qualifying student patient’s designated caregiver(s) shall be responsible to immediately inform the Principal of any change in the status of any designated caregiver(s)’s current registration with the

Commission that would deem the registration with the Commission null and void due to any reason outlined in N.J.S.A. 24:6I-1 et seq.

C. Submission for Authorization for Administration of Medical Cannabis

1. A parent of a qualifying student patient requesting the administration of medical cannabis to the student while on school grounds, aboard a school bus, or attending a school-sponsored event must submit a written request to the Principal with proof of current registration with the Commission for the qualifying student patient and the designated caregiver(s) and a copy of the health care provider's order or prescription indicating dosage information and the method of administration for the medical cannabis to the qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event.

The Principal may request the parent provide additional documentation from the health care provider that the medical cannabis must be administered during the time of the day when the student is on school grounds, aboard a school bus, or attending a school-sponsored event and the medical cannabis cannot be administered and/or will not be effective during alternate times when the student is not on school grounds, aboard a school bus, or attending a school-sponsored event.

- a. The parent's written request and all supporting documentation must be submitted to the Principal at least five school days before the first day of the requested administration.
2. The Principal shall review the proof of current registration with the Commission and supporting documentation submitted by the parent with the school physician, the school nurse, and the Superintendent of Schools.
 3. Upon review and approval of the documentation submitted by the parent, the Principal will inform the parent or designated caregiver(s), if the parent is not the designated caregiver(s), in writing with the following information:
 - a. The location (school, office, etc.) where the designated caregiver(s) shall report to administer the medical cannabis;
 - b. The school staff member(s) who the designated caregiver(s) must see to coordinate the administration of medical cannabis;
 - c. The time the designated caregiver(s) shall report to administer the medical cannabis;

- d. The specific location where the medical cannabis shall be administered to the student; and
 - e. A copy of Policy and Regulation 5330.01 – Administration of Medical Cannabis.
- 4. In the event the Principal, after consultation with the school nurse, school physician, and Superintendent, has a question or concern regarding the current registration with the Commission or supporting documentation submitted by the parent, the Principal or school physician will contact the parent with the question or concern.
 - 5. The administration of medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event, pursuant to N.J.S.A. 18A:40-12.22, will only be authorized after the approval required by Policy and Regulation 5330.01.

D. Administration of Medical Cannabis

- 1. Medical cannabis shall only be administered by the designated caregiver(s) and at the approved location, times, and method as indicated in the parent's request that was approved in writing by the Principal.
- 2. In accordance with the provisions of N.J.S.A. 18A:40-12.22.b.(5), medical cannabis cannot be administered to a qualifying student patient while on school grounds, aboard a school bus, or attending a school-sponsored event by smoking or other form of inhalation.
- 3. Prescribed medical cannabis must always be in the possession of the designated caregiver(s) and may not be in the possession of the qualifying student patient at any time on school grounds, aboard a school bus, or at a school-sponsored event.
- 4. The Principal, after consultation with the school nurse, school physician, and the Superintendent, will determine a specific location for the administration of the medical cannabis to the qualifying student patient.
 - a. The Principal will designate a private area, if possible, for the designated caregiver(s) to administer the medical cannabis to the qualifying student patient. The amount of privacy provided for the administration will depend on the approved method of administration and the designated location. The location may be a nurse's office, a private office, a private restroom facility, or any other location appropriate for the approved method of administration.

5. The designated caregiver(s) shall report to the approved location prior to the scheduled time for the administration of medical cannabis to the qualifying student patient. The designated caregiver(s) must show proof of current registration with the Commission and a second form of identification which shall be a photograph identification.
6. The Principal or supervising school staff member of a school-sponsored event may designate a school staff member to escort the designated caregiver(s) to the qualifying student patient at the designated time to the designated location for the administration.
7. The Principal may designate a school staff member to observe the administration of the medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event.
8. The designated caregiver(s) shall assist in the administration of medical cannabis to the qualifying student patient in accordance with the method and dosage prescribed by the health care practitioner and included in the parent's request to the Principal.
9. The qualifying student patient shall return to his/her class or event as soon as possible after the administration.
10. The designated caregiver(s) will be escorted outside the school building, away from the school bus, or away from the school-sponsored event, if applicable, by a school staff member after the administration.
 - a. The qualifying student patient and/or designated caregiver(s) may be asked to remain at the location of the administration by the school staff member in the event the student needs some additional time after the administration and before returning to their class or event.
11. The designated caregiver(s) shall be responsible for the security of the medical cannabis on school grounds, aboard a school bus, or at a school-sponsored event before, during, and after the administration. At no time shall the qualifying student patient have the medical cannabis in their possession except during the administration process by the designated caregiver(s).

Adopted:

LEAD TESTING OF WATER IN SCHOOLS (M)

M

The Board of Education shall assure the availability of potable drinking water through sanitary means in school facilities or upon school grounds and shall test the school drinking water quality in accordance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 and the Planning and Construction Standards for School Facilities, N.J.A.C. 7:10 and N.J.A.C. 6A:26-6.

The school district shall conduct lead sampling and analysis in all drinking water outlets to which a student or staff member has, or may have, access in each school facility, other facility, or temporary facility in accordance with the provisions of N.J.A.C. 6A:26-12.4.

A. Testing of Drinking Water**1. Schedule**

a. Sampling shall be conducted in accordance with a lead sampling plan, which shall include:

(1) A plumbing survey for each facility that identifies how water enters and flows through each facility, the types of plumbing materials used in the facility, such as the service line, piping, solder, fixtures, drinking water outlets where students or staff have or may have access, and point of use treatment, such as drinking water filters;

(2) The names and responsibilities of all individuals involved in sampling; and

(3) The following sampling procedures:

(a) Samples shall be taken after water has sat undisturbed in the school pipes for at least eight hours, but no more than forty-eight hours before the sample is taken.

(i) 24-hour school facilities shall collect first-draw samples at drinking water outlets following a stagnation time that would likely result in the longest standing time;

(b) At least eight hours prior to sampling, signs shall be posted to indicate that water shall not be used and

access to the buildings subject to the sampling shall be restricted to all but authorized staff members;

- (c) Existing aerators, screens, and filters shall not be replaced or removed prior to or during sampling; and
- (d) All samples shall be collected in pre-cleaned high-density polyethylene (HDPE) 250 milliliter (mL) wide-mouth single-use rigid sample containers that are properly labeled.

2. Analysis of Samples

a. Analysis of samples shall be conducted as follows:

- (1) Analysis shall be conducted by a certified laboratory to analyze for lead in drinking water;
- (2) The laboratory shall use an approved analytical method pursuant to the Federal Safe Drinking Water Act at 40 CFR 141.23(k)(1); and
- (3) Sample analysis shall be conducted in accordance with a Quality Assurance Project Plan (QAPP), which shall be signed by the Board, the certified laboratory, and the individual responsible for conducting the sampling. The QAPP shall include the identification of analytical methods, chain of custody procedures, data validation and reporting processes, detection limits, reporting to three significant figures, field blanks, and quality control measures required by the certified method.

b. The Superintendent or designee may utilize a technical guidance manual, which will be developed by the New Jersey Department of Education (NJDOE), in consultation with the Department of Environmental Protection (DEP), to assist in the school district's compliance with the sampling and analysis requirements of this Regulation.

3. Designated Statewide Required Testing

a. Notwithstanding the results or date of any prior testing, the Board shall continue to test drinking water outlets as provided in A.2.a. above in the designated Statewide required testing year, which shall be every third school year beginning with the 2021-2022

school year and subsequently occurring in the 2024-2025 school year:

- (1) By no later than June 30 of the designated Statewide required testing year, the Board shall test all drinking water outlets. Sampling shall be prioritized, such that buildings and facilities that previously had outlets with results above the action level or identified in the plumbing profile as high risk for lead shall be sampled first in accordance with the sampling plan; and
 - (2) The Board shall sample for lead after the replacement of any drinking water outlet or any other alteration to plumbing or service lines that may impact lead levels at the outlet.
- b. If the Board tests drinking water outlets for lead more frequently than the three-year cycle set forth in A.3.a. above, the notification requirements set forth in B.2.b. below shall apply.
- (1) If drinking water outlets are tested more frequently in accordance with A.3.b. above, the Board shall make the most recent results for each facility available on the Board's website.

4. Statement of Assurance

- a. The Board shall submit to the NJDOE by June 30 each year a statement of assurance that lead testing was completed, that notifications were provided, and that alternate drinking water continues to be made available in accordance with N.J.A.C. 6A:26-12.4.

5. Exception from Testing Requirements

- a. The Board may request an exemption from the testing requirements set forth in A.2. above if they can demonstrate that they do not use any drinking water outlets for consumption or food preparation in any of their facilities.
- b. The Board shall submit an application to the NJDOE documenting that no drinking water outlets are used in their facilities and the provisions for an alternative source of drinking water.
- c. If the school district receives an exemption from the NJDOE from testing, the Board shall make available for public inspection at the

school facility and on the Board's website, if applicable, confirmation that the school district is exempt from testing.

- d. No later than June 30 of each Statewide required testing school year set forth in A.3. above, the Board shall either begin testing procedures in accordance with section A.3.a. above or reapply for an exemption under section A.5.

B. Water Testing – Laboratory Results

1. The Superintendent or designee shall complete a review of final laboratory results within seventy-two hours of receipt.
2. Within twenty-four hours after the Superintendent or designee has reviewed the final laboratory results, the Superintendent or designee shall:
 - a. Make the test results of all water samples publicly available at the school facility in accordance with section B.3. below and make the results from the most recent required Statewide testing available on the Board's website; and
 - b. If any results exceed the permissible lead action level, provide written notification to the parents of all students attending the facility, facility staff, and the Department of Education. This written notification shall be posted on the Board's website and shall include a description of the following:
 - (1) Measures taken by the Board or its designee, to immediately end use of each drinking water outlet where water quality exceeds the permissible lead action level;
 - (2) Any additional remedial actions taken or planned by the Board;
 - (3) The measures taken to ensure that alternate drinking water has been made available to all students and staff members at the school(s) where the water outlet(s) is located; and
 - (4) Information regarding the health effects of lead.
3. Test results of all water samples shall remain publicly available in accordance with the timeline established by the Department of the Treasury in the Records Retention Schedule.

C. Reimbursement

1. The Board shall be eligible to be reimbursed for the water supply testing and analysis conducted pursuant to section A.3. above after July 1, 2021, as approved by the NJDOE and subject to available funds.
2. To be eligible to receive reimbursement, the Board shall complete and submit to the NJDOE a reimbursement application on a form, or in a format, supplied by the NJDOE.
 - a. The NJDOE will make the reimbursement application available on its website.
3. If the school district conducts additional testing in a year other than the Statewide required testing school year as set forth in A.3. above, the district shall not be eligible for reimbursement.

D. Failure to Comply

1. Failure to comply with any requirement of N.J.A.C. 6A:26-12.4 and Policy and Regulation 7425 may result in any of the following:
 - a. Board's disqualification for reimbursement pursuant to C. above;
 - b. The NJDOE's initiation of an investigation by the Office of Fiscal Accountability and Compliance; and
 - c. The Commissioner's withholding of State aid pursuant to N.J.A.C. 6A:2-1.2.

Adopted: