



GUIDANCE FOR EARNED SICK LEAVE POLICIES

An employer's earned sick leave policy must meet or exceed the requirements of New Jersey's Earned Sick Leave Law. In addition to providing employees with the Notice of Employee Rights in English and, if applicable, in their primary language, employers that choose to require any of the following must include the requirement in their written earned sick leave policies:

1. **Minimum daily increment.** Employers may set a minimum amount of earned sick leave that employees must use in a day. Employees should be notified of this minimum daily increment in the employer's written earned sick leave policy.
2. **Advance notice requirement.** Employers may require that an employee provide up to seven (7) days of advance notice, in writing, of their need to use earned sick leave for foreseeable reasons. If the need for earned sick leave is unforeseeable, the employer may require an employee to give notice as soon as practicable. The procedures for employees to give notice must be included in the employer's written earned sick leave policy.
3. **Documentation requirement.** Employers may require an employee to provide documentation only after an employee uses more than three (3) consecutive workdays as earned sick leave or if the employee needs to use earned sick leave for a foreseeable reason on certain dates specified by the employer.

For treatment or recovery for mental or physical illness, or preventative medical care, for the employee or employee's family member, employers may require documentation from a licensed medical provider attesting to the need for sick leave and its duration if possible. For situations involving domestic or sexual violence, employers may require reasonable documentation from a medical provider, social service provider, attorney, court, law enforcement, or clergy member.

Employers may not require that the documentation specify the reason for earned sick leave. When the employer's business closes due to a public health emergency or the employee need to care for a child whose school or care provider closed due to a public health emergency, a copy of the order of the public official or health authority can be required. To attend school-related events or meetings regarding the employee's child's, employees may require tangible proof.

4. **Advancing Sick Leave.** If employers elect to advance earned sick leave so that all employees start the employer's benefit year with 40 hours of earned sick leave, they should include it in their written earned sick leave policy.
5. **Payout of unused earned sick leave.** An employer's payout policy (if applicable) should be included in the written earned sick leave policy. An employer can choose to pay an employee for unused earned sick leave at the end of the benefit year or the employee will carry over up to 40 hours of unused earned sick leave.
6. **Donation of unused earned sick leave.** Employers who permit employees to donate earned sick leave to other employees should include procedures for how to do this in their written earned sick leave policies.
7. **A note about other leave policies.** If an employer provides employees time off for other purposes, such as vacation or personal leave, the employer does not have to provide additional time designated for earned sick leave if employees can use that time off for earned sick leave and the employer's policies meet the other requirements of the Earned Sick Leave Law. Employers in this situation still have to provide employees with the Notice of Employee Rights and may want to attach a memo that explains how employees can use their time off for earned sick leave.