

A GUIDE TO THE NJ-SAFE, NJ-FLA & FMLA¹

Prepared by Armando V. Riccio, Esq.

(609) 634-2784; avriccio@gmail.com

NJ-SAFE	NJ-FLA	FMLA
<p>Employer coverage:</p> <p>Private sector: 25 or more employees (25 -49 employees, only SAFE)</p> <p><i>Public sector: 1 or more.</i></p>	<p>Employer coverage:</p> <p>50 or more employees</p> <p>Division of Civil Rights (DCR) <u>regulations</u> include employees working outside of NJ within this calculation.</p>	<p>Employer coverage:</p> <p>Private sector: 50 or more employees</p> <p>Public sector: 1 or more</p> <p>Employee eligibility: 50 or more, 75 mile radius.</p>
<p>Employed 12 <i>non-consecutive</i> months.</p>	<p>Same.</p>	<p>Same.</p>
<p>1,000 <i>base</i> hours during the prior 12 months. (<i>Worker's Comp. hours count</i>)</p>	<p>Same.</p>	<p>1,250 working hours during the prior 12 months.</p>
<p>20 unpaid days during a 12 month period.</p>	<p>12 weeks of unpaid leave during a 24 month period.</p>	<p>12 weeks of unpaid leave during a 12 month period.</p>
<p>Applicable 12 month period: forward looking.</p>	<p>Applicable 24 month period: rolling, forward looking, calendar year or any fixed period.</p>	<p>Applicable 12 month period: rolling, forward looking, calendar year or any fixed 12 month period.</p>
<p>Care for employee, spouse, child, parent, <i>civil union and domestic partners</i>.</p>	<p>Same, except that:</p> <ol style="list-style-type: none"> 1. No coverage for employee; 2. Definition of parent under DCR <u>regulations</u> includes parent-in-law; 3. Provides other coverage unrelated to NJ-SAFE. 	<p>Same as NJ-SAFE, except that:</p> <ol style="list-style-type: none"> 1. Includes coverage to care for next of kin for service members; 2. Provides other coverage unrelated to NJ-SAFE.
<p>Concurrent coverage with NJ-FLA & FMLA:</p> <ul style="list-style-type: none"> -Recover from physical or psychological injuries; -Psychological or other counseling. 	<p>Provides coverage if qualifies as serious health condition under the Act.</p>	<p>Provides coverage if qualifies as serious health condition under the Act.</p>

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NJ-SAFE	NJ-FLA	FMLA
Enforcement: law suit	Enforcement: law suit and/or N.J. Division on Civil Rights.	Enforcement: law suit and/or Federal Dept. of Labor.
Employer can require certification No second opinion process.	Same, except: scope is different and second/third opinion process applies.	Same, except: scope is different and second/third opinion process applies.
Notice: as far in advance as reasonable and practicable.	Notice: 30 days if foreseeable; otherwise, reasonable and practicable.	Same as NJ-FLA.
Intermittent Leave: increments of no less than 1 day. No reduced schedule leave.	Intermittent Leave: intervals of at least 1 week. Must be medically necessary & scheduled so as not to unduly disrupt the employer's business. Reduced schedule leave applies.	Intermittent Leave: smallest increment typically used by the employer. Same as NJ-FLA regarding scheduling and reduced schedule leave.
<u>Possible stacking</u> : Employer may require or employee may elect to use accrued paid time off. (Negotiable item)	Same.	Same.
<u>NO STACKING</u> : NJ-SAFE leave <i>shall</i> run at the same time as time off under the FMLA and NJ-FLA. (Non-negotiable)	Possible stacking: An employer <i>may</i> require running NJ-FLA at the same time as other laws/leave entitlements. (Negotiable item)	Same as NJ-FLA.
<u>No</u> key employee restrictions.	Key employee restrictions.	Key employee restrictions.

¹Please note, this chart is limited to comparable provisions related to the above three leave laws. The NJ-FLA and FMLA provide coverage for other leaves unrelated to leave under the NJ-SAFE Act.

This material is provided solely for informational purposes and does not constitute legal advice. For legal advice, contact competent legal counsel.