

Legal Update Article

New Jersey Department of Labor Issues Final Regulations for COVID-19 Job Protection Law

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The New Jersey Department of Labor and Workforce Development (NJDOL) has issued final regulations related to the [COVID-19 job protection act](#) signed into law on March 20, 2020.

The law generally protects employees from adverse actions when they take or request time off at the written or electronic recommendation of a medical professional licensed in New Jersey, because they have or are likely to have an infectious disease that may infect others in the workplace.

The regulations define “medical professional licensed in New Jersey” broadly to include, among others, registered nurses licensed by the State of New Jersey.

The law’s effectiveness is expressly [tied to Executive Order 103](#) and, therefore, presumably sunsets following the expiration or revocation of the Order.

The law further provides employees with reinstatement rights and protections for seniority, status, benefits, pay, and other conditions of employment. An aggrieved individual may pursue a claim through the NJDOL or initiate an action in a court of competent jurisdiction with potential remedies that include reinstatement and a \$2,500 fine for each violation.

Additionally, the regulations provide that, upon expiration of a protected leave, the employer must reinstate the employee to the same position with no reduction in seniority, status, employment benefits, pay, or other terms of employment. However, if the employer had filled the position, the employee must be reinstated to an equivalent position. The regulations provide for an exception where the employee lost the position due to a reduction in force or layoff where the individual would have lost the employment in any event.

Finally, the Division of Wage and Hour Compliance, Wage Collection Section, will process all claims and conduct any necessary hearings pursuant to the statute. The NJDOL will utilize the “ABC Test” to determine whether an individual qualifies as an “employee” entitled to the protections under the law.

Although COVID-19 infection and transmission rates in the state decreased significantly since passage of the law, employers should ensure that proper protocols are in place to maintain compliance.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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